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DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR 1963

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HEARINGS
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
HOUSE OF REPRESENTATIVES
EIGHTY-SEVENTH CONGRESS
SECOND SESSION

SUBCOMMITTEE ON DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE,
THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS

JOHN J. ROONEY, New York, *Chairman*

ROBERT L. F. SIKES, Florida
DON MAGNUSON, Washington
FRED MARSHALL, Minnesota

FRANK T. BOW, Ohio
GLENARD P. LIPSCOMB, California
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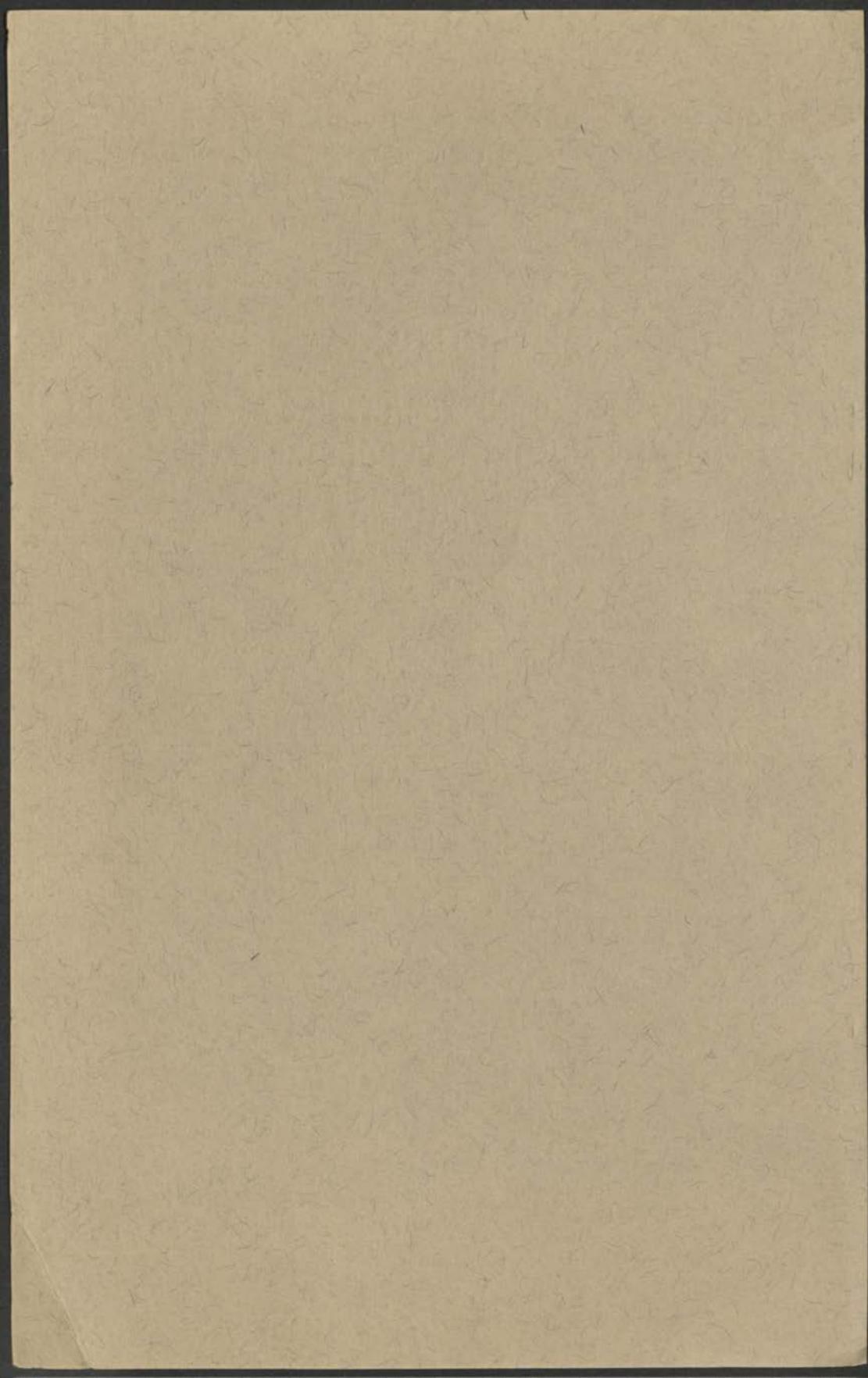
JAY B. HOWE, *Staff Assistant to the Subcommittee*

THE JUDICIARY

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HEARINGS
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DEPARTMENTS OF STATE, JUSTICE, COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR 1963

THE JUDICIARY

MONDAY, JANUARY 15, 1962.

Mr. ROONEY. The committee will please now come to order.

This morning we commence consideration of the 1963 fiscal year appropriations requests for the Departments of State, Justice, Commerce, the Judiciary, and related agencies.

As all of the committee members know, the scope of this subcommittee has been enlarged to include the Department of Commerce and a number of related agencies.

There is presently before the committee a statement of the appropriations for 1962 and the budget estimates for 1963. At the present time these figures are confidential and are to be kept confidential within the subcommittee until President Kennedy delivers his annual budget message.

TOTAL 1963 JUDICIARY REQUEST

Mr. ROONEY. The first item with which we will concern ourselves is the Federal judiciary. The total request for the judiciary for the fiscal year 1963 is in the amount of \$61,235,000. This requested amount is an increase of \$3,439,350 over the amount of the appropriations to date in the current fiscal year, to wit, fiscal year 1962.

SUMMARY OF APPROPRIATIONS, 1962, AND ESTIMATES, 1963

We shall insert at this point in the record pages I, II, and III of the justifications.

(The pages follow:)

Comparative summary of appropriations and appropriation estimates

Court or service	1962 appropriated	1963 estimate	Increase (+) or decrease (-), 1963 compared with 1962
Annual appropriations (general account):			
Supreme Court.....	\$1,982,900	\$2,067,000	+\$84,100
Court of Customs and Patent Appeals.....	359,000	361,000	+2,000
Customs Court.....	895,000	919,000	+24,000
Court of Claims.....	964,500	1,054,000	+89,500
Courts of appeals, district courts, and other judicial services.....	47,014,250	48,794,000	+1,779,750
Total annual appropriations (general account).....	51,215,650	53,195,000	+1,979,350
Appropriations (special account).....	6,580,000	8,040,000	+1,460,000
Grand total.....	57,795,650	61,235,000	+3,439,350

¹ Includes \$38,000 for activities previously carried under "Books for the Supreme Court, Library of Congress."

² Excludes \$370,000 for activities transferred in the estimates to the General Services Administration under "Operating expenses, Public Buildings Service."

Summary of positions

	1961 actual	1962 estimate	1963 estimate
Total number of permanent positions.....	4,382	4,718	4,961
Full-time equivalent of other positions.....	844	914	976
Average number of all employees.....	5,059	5,435	5,806
Number of employees at end of year.....	5,277	5,624	5,952

Comparative summary of obligations by object

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Personal services and benefits:			
11 Personnel compensation:			
Permanent positions.....	\$34,290	\$37,417	\$40,302
Positions other than permanent.....	8,653	9,190	9,678
Other personnel compensation.....	224	130	130
Total personnel compensation.....	43,178	46,737	50,109
12 Personnel benefits.....	2,575	2,815	3,038
13 Benefits for former personnel.....	25	25	25
Total personal services and benefits.....	45,778	49,577	53,172
Contractual services and supplies:			
21 Travel and transportation of persons.....	2,898	3,081	3,529
22 Transportation of things.....	52	51	54
23 Rent, communications, and utilities.....	1,022	1,172	1,425
24 Printing and reproduction.....	445	490	540
25 Other services.....	337	357	411
26 Supplies and materials.....	425	412	438
Total contractual services and supplies.....	5,179	5,563	6,397
Acquisition of capital assets:			
31 Equipment.....	1,338	2,659	1,664
Total obligations.....	52,297	57,796	61,235

¹ Includes \$35,000 for activity previously carried under "Books for the Supreme Court, Library of Congress." Excludes \$370,000 transferred in the estimates to the General Services Administration under "Operating expenses, Public Buildings Service."

COURT OF CUSTOMS AND PATENT APPEALS

WITNESSES

HON. EUGENE WORLEY, CHIEF JUDGE**HON. I. JACK MARTIN, ASSOCIATE JUDGE****JOSEPH G. GAUGES, MARSHAL**

Mr. ROONEY. The first court to which we shall direct our attention is the Court of Customs and Patent Appeals. The justifications with regard thereto begin at page 47 thereof.

We are indeed pleased to have with us the chief judge and our distinguished former colleague, the Honorable Eugene Worley of Texas; the associate judge, the Honorable I. Jack Martin; and the longtime marshal of the court, Mr. Joseph G. Gauges. Do you have a general statement, Judge Worley?

Judge WORLEY. I do not, Mr. Chairman. We shall express our appreciation of the honor of being the first to appear in your new committee room by being brief. The detailed justifications are in the sheets to which you referred.

Mr. ROONEY. We have not as yet referred to the sheets with regard to your court. The sheets to which we have referred cover the entire Federal judiciary.

SALARIES AND EXPENSES

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
11 Personnel compensation:			
Permanent positions.....	296	304	306
Positions other than permanent.....	1	10	10
Other personnel compensation.....			
Total personnel compensation.....	296	314	316
12 Personnel benefits.....	17	17	17
21 Travel and transportation of persons.....	1	1	1
23 Rent, communications, and utilities.....	2	3	3
24 Printing and reproduction.....	9	17	17
25 Other services.....	1	1	1
26 Supplies and materials.....	1	2	2
31 Equipment.....	2	4	4
Total obligations.....	330	359	361

Personnel summary

	1961 actual	1962 estimate	1963 estimate
Total number of permanent positions.....	27	28	28
Full-time equivalent of other positions.....		1	1
Average number of all employees.....	27	28	28
Number of employees at end of year.....	26	28	28

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities: Salaries and expenses (total obligations).....	330	359	361
Financing: Unobligated balance lapsing.....	27		
New obligational authority (appropriation).....	357	359	361

Mr. Rooney. It would be well if we inserted pages 47 through 52 of the justifications at this point in the record.

(The pages follow:)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act.....	\$359,000
Base for 1963.....	359,000
Net difference, 1963 over 1962:	

	Requirements			
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)	
Salaries and expenses.....	\$359,000	\$361,000	+\$2,000	+2,000
Total estimate for 1963.....				361,000

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
11 Personnel compensation	\$314,000	\$316,000	+\$2,000
12 Personnel benefits	17,000	17,000	
21 Travel and transportation of persons	1,000	1,000	
23 Rent, communications, and utilities	3,000	3,000	
24 Printing and reproduction	17,000	17,000	
25 Other services	1,000	1,000	
26 Supplies and materials	2,000	2,000	
31 Equipment	4,000	4,000	
Total obligations	359,000	361,000	+2,000

Summary of increased requirements for 1963

Nature of expense (or savings):	Amount
1. Provision for within-grade salary advancements	\$2,000
Increase, 1963 over 1962	2,000

JUSTIFICATION

Language changes

None.

Objectives

This appropriation is for the salaries of the chief judge, four associate judges, and other officers and employees of the Court of Customs and Patent Appeals as well as for communications, supplies, and other incidental expenses of the court. For data as to the functions of the court, its jurisdiction, and basic statutory authorities, reference is made to section F of the "Digest of Appropriations, the Judiciary," on file with the Bureau of the Budget and the Appropriations Committees of the Congress.

General justification

The following table shows the caseload of the Court of Customs and Patent Appeals during the past 5 years:

	1957	1958	1959	1960	1961
Customs cases:					
Pending, beginning of year	23	20	30	35	39
Docketed during year	40	42	40	45	32
Disposed of during year	43	32	35	41	41
Pending, end of year	20	30	35	39	30
Average time (in months) between filing and hearing	7.0	6.6	8.5	8.9	8.2
Average time (in months) between hearing and decision	2.0	1.4	1.3	1.9	1.9
Total average time (in months) between filing and decision	9.0	8.0	9.8	10.8	10.1
Patent and trademark cases:					
Pending, beginning of year	84	92	92	129	134
Docketed during year	82	83	107	127	126
Disposed of during year	74	83	70	122	112
Pending, end of year	92	92	129	134	148
Average time (in months) between filing and hearing	16.2	14.4	13.0	12.6	11.8
Average time (in months) between hearing and decision	1.8	1.6	1.4	1.9	2.3
Total average time (in months) between filing and decision	18.0	16.0	14.4	14.5	14.1

Detailed justification

An appropriation of \$361,000 is requested for 1963, a net increase of \$2,000 over the amount available for 1962. The net increase in requirements for 1963 is explained below:

Provision for within-grade salary advancements

It is estimated that \$2,000 will be required in fiscal year 1963 to cover the cost of within-grade salary advancements to be granted court employees in

amounts corresponding with those provided for by title VII of the Classification Act of 1949, as amended. Due to very little turnover in the personnel of the court, no savings can be anticipated to offset the cost of within-grade salary advancements.

Mr. ROONEY. These pages indicate that the request is in the amount of \$361,000, which is a requested increase of \$2,000 over the amount appropriated for this court to date in the current fiscal year.

This requested increase is entirely for within-grade salary adjustments. Is that so, Judge Worley?

Judge WORLEY. Yes.

Mr. ROONEY. Any questions, gentlemen?

NUMBER OF CASES

Mr. Bow. Judge Worley, I notice the number of cases docketed in 1961 has dropped slightly?

Judge WORLEY. Customs cases? Yes; they dropped from 45 to 32.

Mr. Bow. And you have had no increase in the disposition of cases during that year?

Judge WORLEY. In 1961?

Mr. Bow. Yes.

Judge WORLEY. That sheet reflects the actual disposition of customs cases and patent and trademark cases. In patent and trademark cases our disposition has gone from 74 in 1957, 83 in 1958, 70 in 1959, 122 in 1960, and 112 in 1961.

Mr. Bow. That is in the patent and trademark cases?

Judge WORLEY. Yes.

Mr. Bow. We are referring first to the customs cases. Your customs cases disposed of were 43 in 1957, 32 in 1958, 35 in 1959, 41 in 1960, and 41 in 1961.

Judge WORLEY. That is correct.

Mr. Bow. This budget anticipates no additional personnel?

Judge WORLEY. It does not.

Mr. Bow. That is all, Mr. Chairman.

Mr. ROONEY. We thank you, Judge Worley, Judge Martin, and Mr. Gauges.

Judge WORLEY. Thank you very much, Mr. Chairman and members of the committee.

Mr. ROONEY. I forgot to point out that this item is on page 364 of the committee print.

MONDAY, JANUARY 15, 1962.

COURT OF CLAIMS

WITNESSES

HON. MARVIN JONES, CHIEF JUDGE

HON. WILSON COWEN, CHIEF COMMISSIONER

FRANK T. PEARTREE, CLERK

Mr. ROONEY. The next requested appropriation, gentlemen, is that for the Court of Claims.

There are two items, the first of which is to be found at page 369 of the committee print entitled "Salaries and expenses." The other is entitled "Repairs and improvements."

We are honored to have with us once again the distinguished chief judge of this court, the Honorable Marvin Jones of Texas; the chief commissioner, the Honorable Wilson Cowen; and Mr. Frank T. Peartree, the clerk of the court.

The justifications with regard to this court begin at page 61 thereof.

SALARIES AND EXPENSES

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
11 Personnel compensation:			
Permanent positions.....	746	789	862
Positions other than permanent.....	6	6	6
Other personnel compensation.....	2		
Total personnel compensation.....	755	795	868
12 Personnel benefits.....	50	52	58
21 Travel and transportation of persons.....	12	20	23
23 Rent, communications, and utilities.....	9	10	11
24 Printing and reproduction.....	68	65	68
25 Other services.....	1	1	1
26 Supplies and materials.....	6	6	6
31 Equipment.....	4	6	10
Total obligations.....	904	955	1,044

Personnel summary

	1961 actual	1962 estimate	1963 estimate
Total number of permanent positions.....	74	78	86
Full-time equivalent of other positions.....	2	2	2
Average number of all employees.....	76	77	88
Number of employees at end of year.....	77	82	90

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities: Salaries and expenses (total obligations).....	904	955	1,044
Financing: Unobligated balance lapsing.....	11		
New obligational authority (appropriation).....	915	955	1,044

We shall now concern ourselves with the first item entitled "Salaries and expenses." The details with regard thereto are to be found at pages 62 through 71 of the justifications, which pages we shall insert at this point in the record.

(The pages follow.)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act	\$955,000
Base for 1963	955,000
Net difference, 1963 over 1962:	

	1962 appro- priated	1963 estimate	Difference, increase (+) or de- crease (-)	
Salaries and expenses	\$955,000	\$1,044,500	+\$89,500	+89,500
Total estimate for 1963				1,044,500

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
11 Personnel compensation	\$795,000	\$868,000	+\$73,000
12 Personnel benefits	52,200	57,700	+5,500
21 Travel and transportation of persons	20,000	23,300	+3,300
23 Rent, communications, and utilities	10,000	10,800	+800
24 Printing and reproduction	65,000	67,500	+2,500
25 Other services	1,000	1,000	-----
26 Supplies and materials	6,000	6,400	+400
31 Equipment	5,800	9,800	+4,000
Total obligations	955,000	1,044,500	+89,500

Summary of increased requirements for 1963

Nature of expense (or savings)	Amount
1. Deduction for nonrecurring cost of furniture and equipment for new personnel authorized for 1962	-\$800
2. Provision for within-grade salary advancements:	
Compensation	\$7,500
Benefits	500
	8,000
3. Law clerks for trial commissioners, 8 new positions, grade GS-9 at \$6,435 per annum:	
Compensation	\$51,500
Benefits	4,000
Miscellaneous expenses:	
Communications	\$800
Supplies and materials	400
	1,200
Furniture and equipment (nonrecurring)	4,800
	61,500
4. Additional funds required to maintain full employment (reduction of lapse):	
Compensation	\$14,000
Benefits	1,000
	15,000
5. To cover increased subsistence (per diem) allowance from \$12 to \$16 for court officials in a travel status	3,300
6. To cover the nonrecurring expense of revising rules of court	2,500
Total (net) increase, 1963 over 1962	89,500

JUSTIFICATION

Language changes

None.

Objectives

This appropriation is for the salaries of the chief judge, four associate judges, and other officers and employees of the Court of Claims as well as for travel, communications, printing, and other incidental expenses. For data as to the functions of the court, its jurisdiction and basic statutory authorities, reference is made to section H of the "Digest of Appropriations, the Judiciary," on file with the Bureau of the Budget and the Appropriations Committees of the Congress.

Detailed justification

An appropriation of \$1,044,500 is requested for 1963, a net increase of \$89,500 over the amount available for 1962. The net increase in requirements is explained below:

Deduction for nonrecurring expenses authorized for 1962

The sum of \$800 in 1962 for the purchase of furniture and equipment for new personnel has been deducted in establishing the budgetary requirements for 1963.

Provision for within-grade salary advancements

It is estimated that \$8,000 will be required in fiscal year 1963 to grant officers and employees of the court (except judges, commissioners, the clerk of the court, and several employees serving in ungraded positions) within-grade salary advancements corresponding with those provided by title VII of the Classification Act of 1949, as amended. Of the total requested, \$7,500 represents increases in compensation and \$500 is the related Government contributions to the retirement fund and for group life insurance. The estimate is net of anticipated savings due to turnover in personnel.

Law clerks for trial commissioners

The Judicial Conference at its September 1961 meeting approved a resolution providing for the appointment of eight law clerks to assist the trial commissioners of the court. In recent years, the work of the court has increased to the extent that it is becoming increasingly difficult for the commissioners, who serve as trial judges of the court, to keep their dockets current. This situation has resulted not only from the increase in the number of cases but because of the voluminous records in many of the suits and the long periods of time required for digesting the evidence in such cases. For this important task, the assistance of law clerks is urgently needed for the assistance of the commissioners. In addition, each commissioner is frequently absent from his office in the trial of cases away from Washington, D.C. During such absent periods, which are as much as 6 weeks in length, little, if any, progress is made in cases which are awaiting completion of the commissioner's report.

Under recent changes in the rules of the court, the commissioners, in many instances by direction of the court, submit opinions and recommendations for conclusions of law with their findings of fact. This procedure, which is proving advantageous in the better framing of issues as well as in expediting the final disposition of cases, is viewed by the court as one of the most promising means of achieving and maintaining the docket in a current condition. Also, by a newly promulgated court rule, the commissioners are now ruling on all procedural motions, including various motions for production of documents involving difficult legal questions. In order that these new procedures may be utilized effectively, it is necessary for the commissioners to have aid in the task of legal research that is required in connection with the opinions submitted by them and with the many motions acted on by them.

Additional funds required in order to maintain full employment based on total authorized positions

For fiscal year 1960, the court's appropriation request was reduced in the amount of \$15,000. The court has been able to absorb that reduction because it has not been at its full authorized strength. This saving is no longer possible because the court now has a full complement of employees, and this amount is now needed in order to assure a full complement for fiscal year 1963.

To cover increased subsistence (per diem) allowance from \$12 to \$16 for court officials in a travel status:

Pursuant to the provisions of section 6 of Public Law 87-139, approved August 14, 1961, and at the direction of the Judicial Conference of the United States, judges and other officers and employees of the Federal courts, including the Court of Claims, were authorized to claim, while in an official travel status, on and after September 25, 1961, a \$16 per diem allowance and parking fees. Prior to September 25, 1961, the per diem allowance had been fixed at \$12 and parking fees were not allowable. The subsistence allowance for judges, on an actual expense basis, up to a maximum of \$25 per day was not changed.

It is estimated that an additional \$3,300 will be required to cover the increase in the per diem allowance and parking fees.

Nonrecurring expense of revising the rules of court

Because of the extensive amendments and additions which have been made to the court rules since their last publication in 1957, as well as still further additions and amendments which are currently being proposed, the court is planning to have published in late 1962 a complete revision of its rule book. This amount is requested as a nonrecurring item to cover the cost of duplication and printing.

Mr. ROONEY. These pages indicate that the request is in the amount of \$1,044,500, which would be an increase of \$89,500 over the amount appropriated for this purpose during the current fiscal year. At pages 64 and 65 there will be found a list of the increases requested, the major increase being for law clerks for trial commissioners.

Judge Jones, have all the commissioners been appointed?

Judge JONES. All the commissioners have been appointed that have been authorized. We have a request for consideration by the Judicial Conference to authorize some additional commissioners to be appointed as needed, not to exceed five. But the total we are authorized to have have been appointed.

GENERAL STATEMENT

Mr. ROONEY. Do you wish to submit a general statement at this time?

Judge JONES. I would like to file a general statement, if I might.

Mr. ROONEY. Very well. We shall insert your statement at this point in the record.

(The statement follows:)

During the court year, from October 3, 1960, to September 30, 1961, the court disposed of 2,519 cases. Except for 49 of these cases, in which no given amounts were claimed, the total amount claimed was \$103,551,433.54. Of the cases disposed of, the court rendered judgments for plaintiffs in the sum of \$10,338,579.27, of which \$2,139,067.04 carried interest. A number of these judgments were based on settlements between the parties. Also, the court rendered judgments for the United States on counterclaims in the amount of \$482,908.33, of which \$28,431.28 carried interest. The clerk has reported to the Congress the business of the court for the above period, showing the names of the plaintiffs, the amounts involved, the nature of the cases, and the disposition thereof.

Of the total number of cases pending on October 1, 1961, 5,116, there were 2,836 class cases pending, in which test cases have been or will be tried. The balance of the class cases will be disposed of administratively if the test cases are decided in favor of the plaintiffs and will be dismissed if decided in favor of defendant. In practically all of the other 2,280 cases, testimony is to be taken by the trial commissioners of this court.

The following is a table setting forth the number and type of cases commenced and terminated during the court year ended September 30, 1961:

	Pending Oct. 1, 1960	Filed	Disposed of	Pending Sept. 30, 1961
Regular cases to be tried.....	2,399	581	714	2,266
Overtime pay and service class cases.....	4,523	111	1,798	2,836
Appeals from the Indian Claims Commission.....	8	13	7	14
Totals.....	6,930	705	2,519	5,116
Regular cases to be tried:				
Service pay.....	446	49	157	338
Congressional.....	66	6	10	62
Contract.....	404	120	119	405
Indian.....	11	2	3	10
Miscellaneous.....	419	94	118	325
Patent.....	70	13	12	71
Property requisitioned.....	309	35	26	318
Tax.....	465	203	135	533
Transportation of property (via railroad or truck).....	194	59	58	195
Japanese relocation program.....	15	0	6	9
Overtime pay cases (class cases):				
Alaska Railroad.....	179	0	0	179
Firefighters.....	2,032	0	1,687	345
Other overtime cases.....	328	111	53	386
Service class cases.....	1,984	0	58	1,926
Appeals from Indian Claims Commission.....	8	13	7	14

TAX AND PROPERTY REQUISITIONED CASES

As of the close of business September 30, 1961, there were 533 pending tax cases on the Court of Claims dockets, with a total amount claimed of \$196,902,656.84. Six percent interest, as permitted by statute, on this amount is \$11,814,159.41 per annum.

As of the close of business on September 30, 1961, there were 318 pending property requisitioned cases on the Court of Claims dockets, the total amount claimed in these cases being \$37,887,866.02.¹ Four percent interest as part of just compensation on this total sum amounts to \$1,519,514.64 per annum.

Petitions to the Supreme Court for writs of certiorari

Petitions for certiorari pending Oct. 3, 1960.....	15
Petitions for certiorari filed Oct. 3, 1960, to Sept. 30, 1961.....	30
Total.....	45
Record for court year Oct. 3, 1960 to Sept. 30, 1961:	
Petitions for certiorari denied.....	27
Petitions for certiorari granted and decision affirmed.....	2
Petitions for certiorari granted, decision reversed, and case remanded.....	2
Petitions for certiorari granted but not acted upon.....	0
Petitions for certiorari filed but not acted upon.....	14
Total.....	45
Records delivered to attorneys of record but not filed.....	22

Judge JONES. One reason we will need these additional appropriations is that we have had a vacancy on our court since last spring—in fact, it was during the summer, really, that Judge Madden left the court. We have had Judge Darr of Tennessee and Justice Reed, formerly of the Supreme Court, who has met with us every session this fiscal year. I do not know whether we will have him in the next one that will meet in February or not, but we hope to get an additional judge.

¹ Of which \$21,864,574.36 is the total amount claimed in 310 cases pertaining to requisition of lands; of which \$16,123,291.66 is the total amount claimed in 8 cases pertaining to personal property requisitioned.

One reason we were able to get by before on the amount that has been made available is the fact we have had some vacancies and we did not have the two commissioners. Of course that takes the major portion of it, the two commissioners and their secretaries.

LAW CLERKS

And then the new law clerks, if we get them. The Judicial Conference has endorsed the furnishing of law clerks; as a matter of fact, the Court of Claims section of the District of Columbia Bar Association has also endorsed them. The commissioners go, as you know, all over the country. They go for the convenience of the litigants to every State of the Union and sometimes in cases it is convenient to go to one or two additional places because we have no juries, and when they are away the law clerks could be getting the data together to help the commissioners. Frequently a commissioner, when he finishes a hearing, is compelled to go out and stay for 2 or 3 weeks and in some instances 2 or 3 months, and the work just stands there until he gets back. I believe that it would be wise and a matter of economy to have the additional law clerks, one for each two trial commissioners.

Mr. ROONEY. Now many trial commissioners do you have, 16?

Judge JONES. Fifteen. Fifteen is all we are authorized at the present time; 15 trial commissioners. We have never had any increase in our number of judges and I hope we are not compelled to have, because I think it is better if we can sit en banc. Sometimes if you have panels you get conflicts in decisions.

We hope by having the additional commissioners for which we ask for the future to have them in many instances, in the less important cases at least, to write the conclusions of law and so forth, and maybe a suggested opinion, which would enable us to dispose of more business.

We feel like these additional expenses are justified in that a good many of our cases bear interest. We have over 500 income tax refund cases. They, as you know, by statute carry a 6-percent rate of interest. So it is really a matter of economy, I think. On the tax refunds last year I think there was paid out some \$600,000 in interest. Some of these cases are rather large.

Then we have also the requisition cases and other cases on which interest is required to be paid.

If you have any questions, we shall be glad to attempt to answer them.

Mr. ROONEY. I take it that in your approach to this, trying it on the basis of one law clerk for two commissioners, that this is merely an approach to the problem and is not arbitrary?

Judge JONES. Yes. It might be we can get by with that number.

Mr. ROONEY. Do you think you can get by with one law clerk for three commissioners?

Judge JONES. I do not not know. The Chief, Commissioner, Mr. Cowen, has a tremendous amount of detail work. We have a provision for a law clerk for him, and I think we really need one for each two commissioners because a good many of the hearings are here and we have sometimes two or three trails going on here at one time, and even if the hearings are here they still are not able to work on making the findings until they get through the additional assignment.

We are a great deal behind in our work and I do not see much chance to get caught up until we get additional help along this line. I believe you will find we have had less increase than any court in the country for the amount of work we turn out.

Mr. ROONEY. I think that is a fair statement. We have always admired the way you run your court as far as the taxpayer is concerned.

Judge JONES. Some think I am a little tight in these things but I think that is the only way we can operate efficiently. We do have a working corps.

Mr. ROONEY. Any questions, gentlemen?

Mr. MAGNUSON. Is this the first time the budget of the Court of Claims has passed \$1 million?

Judge JONES. Yes, it is the first time, and it is the first time the Government has appropriated as much as \$90 billion for its operation, and our business grows out of that and we cannot keep it from doing so. If the Government ever gets down to the oldtime basis we can cut down too. I remember some years ago when Congress first appropriated \$1 billion and they were panned all over the country. I read recently that at that time they asked Uncle Joe Cannon, who was then Speaker, about it and he said: "This is a billion-dollar country." That is the only answer he made. Our country, as you know, has many problems that are worldwide and I do not see much hope—I wish I could—of any great reductions in the Government's activities. But certainly as long as conditions remain as they are we will have a lot of business in our court.

Mr. ROONEY. Any more questions?

Mr. MARSHALL. How much money will you turn back of your 1962 appropriation?

Judge JONES. It is a very small amount.

Mr. PEARTREE. Our estimate is \$17,000.

Mr. MARSHALL. That you will turn back?

Mr. PEARTREE. That we will turn back.

Judge JONES. There are two additional commissioners this time that we did not have before. We have had them part time for several months now.

BACKLOG

Mr. MARSHALL. You stated you were behind in your work. How far behind?

Judge JONES. I would say we are about 4 years behind.

Mr. MARSHALL. Four years behind?

Judge JONES. Yes.

Mr. MARSHALL. How does that compare with a year ago?

Judge JONES. We pretty nearly held our own the last year. As a matter of fact, if you look at the figures it looks like we have improved the situation in some respects. We disposed of some 1,687 cases that were class cases and made the record look somewhat better, but we have about 4 years' work in trial cases. Now the Department of Justice has enough lawyers assigned to our court to pretty nearly take care of the work and we have the additional commissioners and we hope we can do better later on.

Mr. MARSHALL. Thank you very much.

Mr. ROONEY. Mr. Bow?

TRAVEL

Mr. BOW. Will the law clerks travel with the commissioners?
 Judge JONES. I do not think so. I would like them to stay here and work here. In some instances some judges have taken them, but the commissioners have never taken anyone like that out.

Mr. BOW. When the trial commissioners travel, who goes with them?

Mr. COWEN. Not a soul. We take no clerk or assistant of any kind. We travel alone.

Mr. BOW. And it is intended to continue that way?

Mr. COWEN. We have no intention of changing that practice.

Mr. BOW. That is all.

REPAIRS AND IMPROVEMENTS

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities: Structural and mechanical maintenance (total obligations) (object class 25).....	10	10	10
Financing: New obligational authority (appropriation)	10	10	10

Mr. ROONEY. The next of the two items for the Court of Claims is to be found at page 371 of the committee print. It is entitled "Repairs and improvements," and the justifications with regard thereto are to be found at pages 73 and 74 of the justifications. We shall insert at this point in the record both of these pages, which indicate the request is in the amount of \$9,500, the same amount as appropriated for this purpose in the last half dozen fiscal years.

(The pages follow:)

JUSTIFICATION

Language changes

None.

Objectives

This appropriation is to provide for structural repairs and improvements to the Court of Claims buildings, including the repairs and maintenance of the mechanical equipment. The appropriation is for expenditure by the Architect of the Capitol. The estimate is submitted at the direction of the chief judge of the court.

Detailed justification

The amount requested for general annual repairs; namely, \$5,000, is the same as allowed for 1962 and provides for the annual repair and upkeep of the heating and plumbing systems, roof, and two elevators, and for electrical, carpentry, millwork, plastering, ironwork, air-conditioning and refrigeration systems, and miscellaneous annual repairs.

The breakdown of this item follows:

Breakdown of estimate

Repairs and maintenance of heating system.....	\$600
Repairs to roof.....	800
Electrical repairs and replacements.....	500
Plumbing repairs.....	400
Maintenance and repair of elevators.....	300
Carpentry and millwork, plastering and hardware.....	900
Maintenance, air-conditioning systems.....	1,000
Miscellaneous.....	500
Total general annual repairs.....	5,000

The amount requested for annual painting, namely, \$4,500, is the same as allowed for 1962 and provides for necessary painting throughout the building. The building is nearly 100 years old and there are numerous air cracks in the walls and ceilings, necessitating painting more often than would be normally required.

The total, therefore, requested for the Court of Claims, fiscal year 1963, under "Repairs and improvements," is \$9,500.

Mr. ROONEY. Judge Jones, last year you mentioned you were not spending any money for painting in view of the prospect of getting a new building for the Court of Claims. What is the present situation?

Judge JONES. The plaster came off and came down and we were afraid someone would get hurt, and there had to be some repair along that line. We do not intend to do more than that.

Mr. ROONEY. You are maintaining a holding operation?

Judge JONES. Yes.

Mr. ROONEY. Any questions?

Thank you very much. It is always nice to have you with us.

Judge JONES. We appreciate the way the committee treats us.

MONDAY, JANUARY 15, 1962.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER
JUDICIAL SERVICES

WITNESSES

HON. MATTHEW F. MCGUIRE, CHIEF JUDGE, U.S. DISTRICT COURT,
DISTRICT OF COLUMBIA

WARREN OLNEY III, DIRECTOR, ADMINISTRATIVE OFFICE, U.S.
COURTS

JOHN C. AIRHART, ASSISTANT DIRECTOR, ADMINISTRATIVE
OFFICE, U.S. COURTS

ROYAL E. JACKSON, ASSISTANT CHIEF OF THE DIVISION OF BANK-
RUPTCY, ADMINISTRATIVE OFFICE, U.S. COURTS

DARWIN H. ANDERSON, ASSISTANT CHIEF OF BUSINESS ADMINIS-
TRATION, ADMINISTRATIVE OFFICE, U.S. COURTS

EDWARD V. GARABEDIAN, BUDGET OFFICER, ADMINISTRATIVE
OFFICE, U.S. COURTS

Mr. ROONEY. The next item to which we shall direct our attention is entitled "Courts of appeals, district courts, and other judicial services" and is to be found at page 372 of the committee print.

COMPARISON OF APPROPRIATIONS FOR 1962 WITH ESTIMATES 1963

The justifications concerning this item begin at page 75 of the justification book. We shall insert at this point in the record that page, which indicates that the request is in the amount of \$48,794,000, which would be an increase of \$1,779,750 over the amount appropriated to date for the current fiscal year.

(The page follows:)

Summary statement relating appropriation estimate to current appropriation

1962 appropriation in annual act.....	\$44,034,250
1962 appropriation in supplemental act.....	2,980,000
Base for 1963.....	47,014,250
Net difference, 1963 over 1962:	

	Requirements		
	1962 approp-riated	1963 estimate	Difference, increase (+) or decrease (-)
1. Salaries of judges.....	\$10,100,000	\$10,860,000	+\$760,000
2. Salaries of supporting personnel.....	25,645,000	27,125,000	+1,480,000
3. Fees of jurors and commissioners.....	4,500,000	4,500,000	-----
4. Travel and miscellaneous expenses.....	5,327,500	4,700,000	-627,500
5. Salaries and expenses, Administrative Office, U.S. Courts.....	1,441,750	1,609,000	+167,250
	47,014,250	48,794,000	+1,779,750
Total estimate for 1963.....			48,794,000

GENERAL STATEMENT

Mr. ROONEY. Do you have a general statement, Judge McGuire?

Judge McGUIRE. Mr. Chairman, first of all I would like to apologize for the absence of Judge Campbell because of his wife's illness.

(Discussion off the record.)

Judge McGUIRE. We have, from the Administrative Office, Mr. Olney and Mr. Airhart and Mr. Anderson and Mr. Garabedian.

I do think the record should indicate that we would desire to thank the committee formally for the uniform courtesy it has extended to us over the years we have been appearing here, and last year, with the unanimous approval of the Judicial Conference of the United States, a letter was written formalizing this.

We are asking for only what we feel is absolutely necessary as a consequence of two things: (1) New legislation; and (2) emergency in increased workload, also approved by the Judicial Conference, and of course the workload with reference to the appointment of new judges.

Therefore, as you can see, our statistics from the standpoint of business and what we are asking for from the standpoint of funds is very much as we requested last year.

The requests can be divided into three major areas:

(1) Moneys necessary to cover costs made necessary by the omnibus judge bill.

(2) The amount required to enable application of the new Travel Act statute.

(3) The amount required to cope with the continuing increase in caseload in bankruptcy courts.

About one-half of the total amount requested is for the first two items and the remainder is for the third item.

The Budget Committee of the Judicial Conference felt that in making a presentation to the Judicial Conference for this year's request we should ask only for those additions to the judiciary appropriation which were made essential by new legislation or emergency increases in workload, and the Judicial Conference unanimously approved this recommendation.

Inssofar as workload is concerned, I shall say only that except for bankruptcy cases our statistics remain very much as for last year. The details are in the justifications before you.

The requests before you may be broken down into three major areas. One is the amount required to cover the costs made necessary by the omnibus judgeship bill. The second is the amount required to enable us to apply the new Travel Act statute. The third is the amount required to cope with the continuing sharp rise in caseload in the bankruptcy courts. About one-half of the total amount requested is for the first two of these items, and about one-half for the third. These costs were not contemplated in our present appropriations and cannot be absorbed.

In passing, I should like to note with respect to the travel legislation that the Conference determined that the present maximum subsistence allowance for judges of \$25 per day should remain in this category although the act allows an increase to \$30 per day.

The Conference also determined that until the result of paying parking fees as allowed in the new act is determined, that it would hold the present mileage rate for automobile travel to 10 cents per mile rather than raise it to 12 cents as allowed by the new act.

I should also like to call your attention to the request of the Administrative Office for additional clerical positions in connection with the omnibus judgeship bill. This was requested and denied in the House last year, and a decision was made not to request restoration in the Senate, in the hope the Office could absorb the increased clerical workload brought about by the bill. It has become quite evident by this time that this cannot be done.

That is the situation in a nutshell, and all of us here will be delighted to answer any questions you might have.

Mr. ROONEY. Very well. Mr. Olney, do you have a statement?

Mr. OLNEY. No, sir.

SALARIES OF JUDGES

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
11 Personnel compensation: Permanent positions.....	8,800	9,756	10,491
12 Personnel benefits.....	284	319	344
13 Benefits for former personnel ¹	25	25	25
Total obligations.....	9,109	10,100	10,860

¹ Widows of Supreme Court Justices.

Personnel summary

	1961 actual	1962 estimate	1963 estimate
Total number of permanent positions:			
Active judges.....	313	386	386
Senior and resigned judges.....	81	90	90
Average number of all judges.....	380	420	452
Number of judges at end of year:			
Active judges.....	291	330	362
Senior and resigned judges.....	86	90	90

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities: Salaries and benefits (total obligations).....	9,109	10,100	10,860
Financing: Unobligated balance lapsing.....	91		
New obligational authority (appropriation).....	9,200	10,100	10,860

Mr. ROONEY. The first of the five items which make up this appropriation is that entitled "Salaries of judges," which appears at page 372 of the committee print. We shall insert at this point in the record pages 76 through 83 of the justifications.

(The pages follow:)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act.....	\$9,200,000
1962 appropriation in supplemental act.....	900,000
Base for 1963.....	10,100,000
Net difference, 1963 over 1962:	

	Requirements			
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)	
Compensation and benefits.....	\$10,100,000	\$10,860,000	+\$760,000	+760,000
Total estimate for 1963.....				10,860,000

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
11 Personnel compensation.....	\$9,756,000	\$10,491,000	+\$735,000
12 Personnel benefits.....	319,000	344,000	+25,000
13 Benefits for former personnel (or survivors).....	25,000	25,000	
Total obligations.....	10,100,000	10,860,000	+760,000

† Widows of Supreme Court Justices.

Summary of increased requirements for 1963

Nature of expense (or savings):

1. Additional amount required to pay salaries and related benefits of new judges appointed pursuant to the act of May 19, 1961 (Public Law 87-36). Estimated full-year cost, \$1,660,000, less the sum provided in the 1962 Supplemental Appropriation Act, namely \$900,000.....	Amount \$760,000
Increase, 1963 over 1962.....	760,000

JUSTIFICATION

Language changes

None.

Objectives

Funds appropriated under this heading are for the salaries and benefits of all U.S. circuit and district judges, and all justices and judges who have retired or resigned in pursuance of law. Annuities to surviving widows of Supreme Court Justices also are payable from this appropriation. For basic statutory authorities, reference is made to section J of the "Digest of Appropriations, the Judiciary," on file with the Bureau of the Budget and the Appropriations Committees of the Congress.

General justification

The Congress, by the act of May 19, 1961, Public Law 87-36, authorized 10 additional permanent circuit judgeships, 61 additional permanent district judgeships, and 2 temporary district judgeships. Provision also was made for making four existing temporary district judgeships permanent. The act increased the number of authorized circuit judgeships from 68 to 78 and the district judgeships from 245 to 308, for an overall increase of 73 judgeships from 313 to 386. A listing of the judgeships authorized for the U.S. courts of appeals and the U.S. district courts before and after passage of the omnibus judgeship legislation is included in this document as exhibit A.

The amount requested for fiscal year 1963, namely \$10,860,000, will be sufficient to pay the compensation and related benefits of, on the average, 452 circuit and district judges, including the compensation and benefits of approximately 90 justices and judges who have retired or resigned under sections 371, 372, and 373 of title 28, United States Code. The estimate also provides for the continuation of the annuity payments of five widows of Supreme Court Justices. A savings (lapse) due to judgeship vacancies equivalent to the compensation and benefits of 24 judges was anticipated in establishing the budgetary requirements for 1963.

Detailed justifications

The sum of \$900,000 was provided in a Supplemental Appropriation Act for fiscal year 1962 to compensate approximately 50 new judges for an average of 9 months. The estimate for 1963 provides for the full-year cost of the new judgeships as follows:

	Number of judges	Total salary and benefits
Personnel compensation:		
Circuit judges at \$25,500 per annum	10	\$255,000
District judges at \$22,500 per annum	63	1,417,500
Total new judgeships	73	1,672,500
Deduct lapses (anticipated savings due to vacancies)	-3	-67,500
Total (net) personnel compensation	70	1,605,000
Personnel benefits:		
Life insurance		4,500
Health benefits		5,500
Judicial survivors annuity fund		45,000
Total personnel benefits		55,000
Budgetary requirements (full-year cost)	70	1,660,000
Less funds provided in 1962 Supplemental Appropriation Act		-900,000
Net increase requested, 1963 over 1962		760,000

The amounts included in the above table for personnel benefits represent the Government's contributions into the respective funds for judges electing to participate in the judicial survivors annuity system, the group life insurance, and health benefits programs. The budgetary requirements were established as follows:

Group life insurance.—The sum of \$130 per year (\$6.50 per thousand per year) is deducted from the salary of a judge for \$20,000 life insurance coverage. The Government is required to contribute an amount equal to 50 percent of the sum contributed by the judge, or \$65 per year. One hundred percent participation is anticipated.

Health benefits.—The Government is required to contribute the sum of \$81.12 per year toward the cost of health insurance coverage under a family contract and \$33.80 per year under a self-only contract. Premiums (payroll deductions) to be paid by a judge vary, depending upon the plan (type of coverage) in which he elects to enroll. On the basis of our past experience, approximately 98 percent participation is anticipated.

Judicial survivors annuity fund.—A judge electing to participate in the judicial survivors annuity system must contribute (payroll deductions) a sum equal to 3 percent of his gross salary. A circuit judge would contribute \$765 per year and a district judge \$675 per year. The Government contributes a matching amount for deposit into the fund. Based on current participation of judges in the system, it is expected that approximately 92 percent of the new judges will elect to participate.

Mr. ROONEY. This request for "Salaries of judges" is in the amount of \$10,860,000, an increase of \$760,000 over the amount appropriated for this item for the current fiscal year.

NUMBER OF JUDGES

How many judges did this provide for?

JUDGE MCGUIRE. There were 59 judges out of the total of 73 appointed and 14 more have not been appointed.

Mr. ROONEY. Are the 14 included in this request?

Mr. OLNEY. Yes, sir.

Mr. ROONEY. How many retired judges does this provide for?

Mr. GARABEDIAN. Ninety.

Mr. ROONEY. And how many resigned judges?

Mr. ANDERSON. The 90 includes the resigned. It is 85 and 5.

Mr. ROONEY. Five resigned?

Mr. ANDERSON. Yes.

Mr. ROONEY. How much of a lapse is provided?

Mr. ANDERSON. Twenty-four-position lapse.

Mr. ROONEY. If I understand this correctly, since the passage of the omnibus judgeship bill there have been added 59 judges to the roster of judges?

Mr. ANDERSON. Yes, sir. They are on duty.

Mr. ROONEY. This requested amount of \$10,860,000 can be used for no purpose other than the payment of salaries of judges?

Mr. ANDERSON. That is correct.

Mr. ROONEY. And if it is not used it lapses back in the Treasury?

Mr. ANDERSON. Yes, sir.

Mr. ROONEY. How much, if anything, will lapse back at the end of 1962? Are you able to compute that as of now?

Mr. ANDERSON. Yes. At this point we can see that no money will lapse because the supplemental appropriation for the current fiscal year to compensate new judges was \$900,000. That was computed on the basis of 50 new judges for an average of 9 months. Actually, we have 59 on board, so we have already used more than that amount and we have dipped into the appropriation as a whole. So it looks like we will need a supplemental to finish out the year. This, of course, depends in large measure on how many are added from now to June 30.

Mr. ROONEY. Are there any questions with regard to "Salaries of judges," gentlemen?

Mr. Bow. I have only one.

BENEFITS FOR WIDOWS OF SUPREME COURT JUSTICES

On page 77, it is a small item, but why do the widows of Supreme Court Justices come under this heading rather than under the heading of the Supreme Court?

Judge MCGUIRE. I cannot tell you.

Mr. ROONEY. Is that because the law requires it?

Mr. ANDERSON. The law does not require it but under section 375 of title 28 the widows of Supreme Court Justices are to get \$5,000 a year each. We have five such widows.

Mr. Bow. But why is not this item under the appropriation for the Supreme Court?

Mr. AIRHART. I believe it is because when a Supreme Court Justice retires he comes under this appropriation.

Mr. Bow. Rather than that of the Supreme Court?

Mr. AIRHART. Yes, so they apparently figure the widows would be widows of retired justices.

Mr. ANDERSON. All retired Supreme Court Justices are paid from this appropriation.

Judge MCGUIRE. And some do sit on our court of appeals.

Mr. Bow. That is all.

SALARIES OF SUPPORTING PERSONNEL

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Personnel compensation:			
Permanent positions.....	17,206	18,477	19,321
Positions other than permanent.....	4,677	5,335	5,867
Other personnel compensation.....	148	70	70
Total personnel compensation.....	22,031	23,882	25,258
Direct obligations:			
11 Personnel compensation.....	22,023	23,874	25,250
12 Personnel benefits.....	1,635	1,771	1,875
Total direct obligations.....	23,658	25,645	27,125
Reimbursable obligations:			
11 Personnel compensation.....	8	8	8
Total obligations.....	23,666	25,653	27,133

Personnel summary

	1961 actual	1962 estimate	1963 estimate
Total number of permanent positions.....	2,760	2,942	3,005
Full-time equivalent of other positions.....	670	755	820
Average number of all employees.....	3,378	3,619	3,782
Number of employees at end of year.....	3,445	3,730	3,839

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities:			
Salaries and benefits:			
Direct obligations.....	23,658	25,645	27,125
Reimbursable obligations.....	8	8	8
Total obligations.....	23,666	25,653	27,133
Financing:			
Advances and reimbursements from other accounts.....	-8	-8	-8
Unobligated balance lapsing.....	93		
New obligational authority (appropriation).....	23,751	25,645	27,125

Mr. ROONEY. The second of the five items is entitled "Salaries of supporting personnel." It appears beginning at page 374 of the committee print, and the details in regard thereto are to be found at pages 84 through 114. They indicate the request is in the amount of \$27,125,000, an increase of \$1,480,000 over the amount appropriated for this purpose for the current fiscal year.

At pages 85a and 86 there will be found a list of the increases requested.

We shall insert at this point in the record pages 84 through 114 of the justifications.

(The pages follow:)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act.....	\$24,500,000
1962 appropriation in supplemental act.....	1,145,000
Base for 1963.....	25,645,000
Net difference, 1963 over 1962:	

	Requirements		
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)
Personnel compensation.....	\$23,874,000	\$25,250,000	+\$1,376,000
Personnel benefits.....	1,771,000	1,875,000	+104,000
	25,645,000	27,125,000	1,480,000 +1,480,000
Total estimate for 1963.....			27,125,000

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
11 Personnel compensation.....	\$23,874,000	\$25,250,000	+\$1,376,000
12 Personnel benefits.....	1,771,000	1,875,000	+104,000
Total (direct) obligations.....	25,645,000	27,125,000	+1,480,000

Analysis of increases requested by class of personnel

	Estimate, 1962		Additional personnel		Within-grade promotions	Other changes	Estimate, 1963	
	Positions	Amount	Number	Amount			Positions	Amount
Personnel compensation:								
Clerks of courts.....	1,351	\$8,542,000	21	\$164,000	\$139,000		1,372	\$8,845,000
Probation system.....	888	6,110,000			115,600	\$20,400	888	6,246,000
Court reporters.....	294	2,120,000	21	230,000			315	2,350,000
Criers and messengers.....	292	1,230,000	21	125,000	38,000		313	1,393,000
Other personnel.....	117	742,000			12,000		117	754,000
Subtotal.....	2,942	18,744,000	63	519,000	304,600	20,400	3,005	19,588,000
Secretaries and law clerks.....	1,705	5,130,000	1,65	441,000	91,000		1,770	5,662,000
Total, personnel compensation.....	3,647	23,874,000	128	960,000	395,600	20,400	3,775	25,250,000
Personnel benefits.....		1,771,000		75,000	27,400	1,600		1,875,000
Total, personal services and benefits.....	3,647	25,645,000	128	1,035,000	423,000	22,000	3,775	27,125,000

¹ Equivalent number of full-time positions.

NOTE.—The request for additional personnel is based entirely on the omnibus judgeship legislation and represents the balance of funds required to staff new judges.

Summary of increased requirements for 1963

Nature of expense (or savings):	Amount
1. Pretrial examiner and staff, U.S. District Court for the Southern District of New York, authorized for 1962 at \$38,000, requested to be extended for 1963.....	-----
2. Additional amount required to staff new judges appointed pursuant to the act of May 19, 1961 (Public Law 87-36). Estimated full-year cost, \$2,180,000, less the sum of \$1,145,000 provided in the 1962 Supplemental Appropriation Act:	
Compensation.....	\$960,000
Benefits.....	75,000
	<hr/> \$1,035,000
3. Net cost of within-grade salary advancements:	
Compensation.....	\$395,600
Benefits.....	27,400
	<hr/> 423,000
4. Difference between full-year and part-year cost of 15 additional probation officers and 6 clerk-stenographers authorized for 1962:	
Compensation.....	\$20,400
Benefits.....	1,600
	<hr/> 22,000
Increase, 1963 over 1962.....	<hr/> 1,480,000

JUSTIFICATION

Language changes

None.

Objectives

This appropriation is for payment of compensation and benefits of all supporting personnel of the U.S. courts of appeals and the U.S. district courts, with the exception of referees in bankruptcy and their clerical assistants. For data as to the classes of personnel covered and basic statutory authorities, reference is made to section K of the "Digest of Appropriations, the Judiciary," on file with the Bureau of the Budget and the Appropriations Committees of the Congress.

General justification

The supporting personnel of the U.S. courts provided for by this estimate are required to assist the judges in the conduct of hearings, trials, and other judicial functions and to man the component offices of the courts including the Federal probation system. The estimate for 1963 provides for the full-year cost of secretaries, law clerks, and other personnel required to staff new judges appointed pursuant to the act of May 19, 1961, Public Law 87-36, and for the difference between the full-year and part-year cost of new positions authorized for the probation system for fiscal year 1962. Provision also has been made for the net cost of within-grade salary advancements to be granted court personnel and for an extension of the authority for a pretrial examiner and staff for the U.S. District Court for the Southern District of New York.

The following is a summary of the judicial business of both the circuit and district courts:

Courts of appeals

The courts of appeals received a record 4,204 new appeals during fiscal year 1961, an increase of almost 8 percent or 305 cases over the number filed during the previous year, and 12 percent more than in 1959. These courts also terminated a record 4,049 cases, which is 336 (9 percent) more than the number disposed of during 1960, but 155 less than the number filed, resulting in a 7-percent increase in the pending caseload to 2,375 on June 30, 1961. The following table shows caseload data for the U.S. courts of appeals for the past 10 years:

	Filed	Terminated	Pending		Filed	Terminated	Pending
Fiscal year:				Fiscal year:			
1952.....	3,079	3,048	1,859	1957.....	3,701	3,687	2,043
1953.....	3,226	3,240	1,845	1958.....	3,694	3,704	2,033
1954.....	3,481	3,192	2,134	1959.....	3,754	3,753	2,034
1955.....	3,695	3,654	2,175	1960.....	3,899	3,713	2,220
1956.....	3,588	3,734	2,029	1961.....	4,204	4,049	2,375

Exhibit B shows the flow of cases commenced by source in the courts of appeals from 1941 to 1961.

*The district courts**Civil cases*

There were 58,293 civil cases filed in the district courts during fiscal year 1961, exceeding by 2,877 the 55,416 civil cases terminated. The number of civil cases pending increased to 64,128 or almost 5 percent. Eliminating the local cases filed and terminated in Alaska during 1960 where a change occurred as a result of the transition of the territorial court to a U.S. district court, civil cases filed in the U.S. district courts during 1961 increased 502, or approximately 1 percent. The pattern of filings and terminations differed somewhat as between U.S. cases and private cases. The following is a comparison of the flow of cases in 1960 and 1961:

Civil cases filed, terminated, and pending

	Filed	Terminated	Pending
All civil:			
1960.....	57,791	57,579	61,251
1961.....	58,293	55,416	64,128
Percentage change	+0.9	-3.8	+4.7
U.S. civil:			
1960.....	20,840	20,994	16,046
1961.....	19,843	19,368	16,521
Percentage change	-4.8	-7.7	+3.0
Private civil:			
1960.....	36,951	36,585	45,205
1961.....	38,450	36,048	47,607
Percentage change	+4.1	-1.5	+5.3

The following table shows the number of civil cases filed, terminated, and pending in the U.S. district courts for the past 10 years:

Fiscal year	Filed	Terminated	Pending, end of year
1952.....	58,428	53,150	60,352
1953.....	64,001	57,490	66,873
1954.....	59,461	57,903	68,431
1955.....	59,375	58,974	68,832
1956.....	62,394	67,700	63,526
1957.....	62,380	63,568	62,358
1958.....	67,115	61,285	68,168
1959.....	57,800	62,172	63,796
1960.....	¹ 57,791	¹ 57,579	61,251
1961.....	58,293	55,416	64,128

¹ Previously published figures for all civil and private cases in 1960 have been adjusted by subtracting 1,493 filings and 4,250 terminations for the District Court of Alaska. These were local cases and in the transfer of jurisdiction to the State courts in February 1960, these cases became State cases and therefore should not be used in a comparison of district court work with the 1961 figures. Filings for 1959 and prior years include an estimated 1,800 to 2,000 such cases.

NOTE.—See page 31 for tabulation excluding Alaska.

A graphic presentation of civil cases commenced in the U.S. district courts during the fiscal years 1941-61 is included as exhibit "C." Exhibit "D" shows the number of civil cases pending in the U.S. district courts at the close of each fiscal year since 1952.

Criminal cases

The volume of criminal cases filed annually in the district courts continues to remain virtually unchanged. During 1961, 28,460 criminal cases were commenced in the district courts as compared with 28,137 in 1960, an increase of only 323 cases. In the last 5 years the trend of filings has been almost level, ranging between 28,000 and 29,000 cases a year.

The number of defendants prosecuted each year in the U.S. district courts also has remained relatively constant. A defendant is counted only once, even though charged with several offenses in several courts or indictments and is counted as sentenced only once even though several concurrent or consecutive sentences are pronounced. The following table shows the number of defendants filed on in original proceedings and the number pending at the end of the year for each of the past 5 years:

Fiscal year	Filed on	Pending
1957.....	34,309	9,869
1958.....	35,015	9,948
1959.....	35,517	10,558
1960.....	35,017	10,845
1961.....	35,139	11,440

To compare 1960 and 1961, an adjustment must be made in the 1960 figures to account for the change of jurisdiction in the District Court of Alaska. From the 1960 figure there must be subtracted 254 defendants filed on who were involved in local and State offenses. With this change, the comparison in the criminal business of the 91 district courts for the last 2 years is as follows:

Fiscal year:	Filed on	Pending
1960.....	34,763	10,845
1961.....	35,139	11,440
Percentage increase.....	1.1	5.5

Passport applications

The number of passport applications that the district courts processed during the fiscal year 1961 totaled 220,699 or 1,442 less than the 222,141 applications processed in 1960, a decrease of less than 1 percent. However, this reduction followed an increase in the previous year (1960 over 1959) of almost 12 percent.

The following is a summary of the total passport applications filed, the number and the percentage of applications processed by the district courts:

Fiscal year	Total passport applications filed	Number of passport applications filed in the district courts	Percentage of applications filed in the district courts
1957.....	564,397	171,737	30.4
1958.....	653,074	185,684	28.4
1959.....	702,021	197,828	28.2
1960.....	830,034	222,141	26.8
1961.....	845,856	220,699	26.1

The number of separate passport offices maintained by the Department of State has increased over the years, resulting in a reduction of the percentage of applications filed in the district courts. Despite this percentage reduction, the number of passport applications processed by the district courts during the past 4 years has increased by almost 50,000, or approximately 29 percent.

Petitions for naturalization

During the fiscal year 1961, a total of 104,352 petitions for naturalization were filed in the district courts as compared with 97,972 in 1960, an increase of 6,380 or 6.5 percent. During 1961, 101,002 aliens were naturalized, an increase of 8,688 or 9.4 percent over the number naturalized during 1960.

Probation system

A workload of 75 units per officer is generally recognized as the optimum for effective probation and parole investigation and supervision. This continues to be the goal of the Federal probation system. The following table shows the average workload of Federal probation officers for the past 5 years:

End of fiscal year	Number of probation officers	Average workload
1957.....	481	85
1958.....	487	86
1959.....	508	83
1960.....	506	84
1961.....	506	85

The increase in the average workload per officer in 1961 is due primarily to an increased supervision load. At the close of fiscal year 1961, there were 35,065 persons under supervision compared with 34,343 at the end of 1960, an increase of 722 or 2.1 percent. Probation officers also were required to conduct a greater number of investigations, 31,082 in 1961 compared with 30,169 in 1960, an increase of 913, or 3 percent. Exhibits E through I show the number of probation officers and the workload for fiscal years 1952 through 1961.

In 1961 the daily per capita cost of probation was 57 cents a day, compared with \$5.26¹ a day for Federal prisoners in Federal institutions, or a yearly cost of \$208 compared with \$1,919. Both probation and parole help to lower the institutional population and, ultimately, the cost to the taxpayer. More significant than these savings are the social benefits of probation which cannot be

¹ Including Federal prisoners confined at local jails under contract, the per capita daily cost is \$4.99.

measured in dollars and cents. The following table shows the cost of Federal probation compared with the cost of Federal imprisonment, fiscal years 1952 through 1961:

	Cost per day		Cost per year	
	Probation	Imprisonment	Probation	Imprisonment
	<i>Cents</i>			
1952.....	25.4	\$3.56	\$93.08	\$1,302.96
1953.....	26.4	3.55	96.41	1,295.75
1954.....	26.9	3.41	98.26	1,243.19
1955.....	26.7	3.68	97.37	1,343.20
1956.....	32.4	3.97	118.14	1,449.05
1957.....	41.3	4.38	150.74	1,598.70
1958.....	42.9	4.36	156.75	1,591.40
1959.....	51.0	4.82	184.81	1,759.30
1960.....	52.0	5.12	190.58	1,873.00
1961.....	57.0	5.26	208.00	1,919.00

Bankruptcy

Contributing to the workload of the district courts is a marked increase in the volume of filings in bankruptcy. The number of bankruptcy cases filed in fiscal year 1961 reached another alltime peak of 146,643. The number of cases filed, the numerical increase, and the rate of increase from 1956 through 1961 follows:

Fiscal year	Cases filed	Rate of increase		
		Number	Percentage	
			Annual	Cumulative
1956.....	62,086			
1957.....	73,761	11,675	18.8	18.8
1958.....	91,668	17,907	24.3	47.6
1959.....	100,672	9,004	9.8	62.2
1960.....	110,034	9,362	9.3	77.2
1961.....	146,643	36,609	33.3	136.2

Of the total cases filed in 1961, 89.6 percent were nonbusiness bankruptcies (wage earners) and 10.4 percent were business bankruptcies (which includes merchants, manufacturers, others in business, farmers, and the professional groups). Exhibits J and K show the number of bankruptcy cases filed and pending, fiscal years 1905-61 and the number and ratio of business to nonbusiness bankruptcies commenced, fiscal years 1940-61.

On July 1, 1960, there were 94,990 cases pending. During the year 117,943 cases were closed as compared with 146,643 cases filed, resulting in an increase in the pending caseload of 28,700 cases or 30.2 percent. This compares with an increase in the pending caseload in 1960 of 10,719 cases or 12.7 percent. The number pending on June 30, 1961, was 123,690, a new alltime high. The number closed in 1961 (117,943) also was a new high.

It is estimated that in 1962 filings in bankruptcy will approach 170,000 and that in 1963 the total filings will be in the vicinity of 185,000, or approximately 40,000 in excess of number of cases filed in 1961. The filing fee in a straight

bankruptcy case is \$50, of which \$8 is deposited into the general fund of the Treasury as the clerk's fee. In chapter XIII cases (wage-earner plans) the clerk's fee is only \$5. If the current trend continues and the 185,000 filings forecast for fiscal year 1963 materializes, a total of approximately \$1,400,000 will be deposited into the general fund of the U.S. Treasury representing fees for services rendered by the clerks' offices in bankruptcy cases or approximately \$300,000 more than was deposited in 1961.

Detailed justifications

An appropriation of \$27,125,000 is requested for fiscal year 1963, representing a net increase of \$1,480,000 over the appropriation for fiscal year 1962.

Exclusive of the sum required in 1963 for within-grade salary advancements and the difference between the full-year and part-year cost of personnel authorized in 1962 for the probation system, the increase, 1963 over 1962, represents the balance of funds required to staff new judges appointed pursuant to the act of May 19, 1961, Public Law 87-36. Provision also has been made for 1-year extension of the authority for a pretrial examiner and staff for the U.S. District Court for the Southern District of New York.

Extension of authority for pretrial examiner and staff, southern district of New York

The sum of \$38,000 was included in the appropriation for fiscal year 1962 for the establishment of a pretrial examiner and staff in the U.S. District Court for the Southern District of New York on a 1-year experimental basis. By reason of a delay in the passage of the 1962 appropriation bill by the Congress, and the lack of authority for the commencement of a new program or activity under the joint resolution making continuing appropriations for the fiscal year 1962, it was not possible to establish and evaluate the proposed system. Therefore, it is requested that the authorization granted for fiscal year 1962 be extended for 1 year.

The court plans on establishing a pretrial examiner division similar in type to that operating in the District Court for the District of Columbia. While the situation in the southern district of New York differs from that of the District of Columbia because of the type of litigation and lack of opportunity to transfer to a local court of lower monetary jurisdiction, it is believed that with some modifications it could be made effective. Some radical procedural changes must be made to reduce the judicial time spent on litigation which is eventually terminated without trial. The court feels that pretrial discovery hearings before court-appointed examiners operating under the immediate supervision and direction of a specially assigned judge is the most feasible solution.

Funds required to staff new judges

The Congress, by the act of May 19, 1961, Public Law 87-36, authorized the appointment of 73 additional judges, 10 for the U.S. courts of appeals and 63 for the U.S. district courts. The act also established eight additional places of holding court. The full-year cost, compensation and benefits, of supporting personnel required to staff the new judges was estimated at \$2,180,000. The estimate was established on the basis that each of the circuit judges will require a secretary and a law clerk and that a district judge will require a staff consisting of a law clerk, secretary, crier, and a court reporter. In addition to the personnel required to staff the new judges, provision was made for the employment of 63 courtroom deputies. The deputies are to be employed by the clerks of the U.S. district courts and are to be assigned to serve the new district judges. Provision also was made for the employment of six additional deputy clerks to serve as divisional (resident) deputies at the new places of holding court.

The sum of \$1,145,000 was provided in a supplemental appropriation act for fiscal year 1962 which was sufficient to staff approximately 50 new judges for an average of 9 months. The estimate for 1963 includes a request for an additional \$1,035,000 representing the balance of funds required to staff all of the new judges for a full year. The estimate takes into account an anticipated savings (lapse)

due to vacancies. The following table shows the annual budgetary requirements relating to the omnibus judgeship legislation and the balance of funds required for 1963:

	Number of positions	Total salary
Personnel compensation:		
<i>Judges' staffs:</i>		
Law clerks, GS-10, at \$6,995 per annum.....	73	\$511, 701
Secretaries, GS-9, at \$5,435 per annum.....	73	470, 704
Assistant secretaries, GS-7, at \$5,355 per annum.....	3	16, 099
Court reporters, ungraded, at \$7,630 per annum.....	31	236, 642
Court reporters, ungraded, at \$7,000 per annum.....	32	224, 307
Criers, GS-5, at \$4,345 per annum.....	63	273, 873
<i>Clerks' offices (district courts):</i>		
Courtroom deputies, GS-7, at \$5,355 per annum.....	63	338, 083
Deputy clerks (divisional offices) GS-5, at \$4,345 per annum.....	6	26, 083
Total, permanent.....	344	2, 097, 492
Deduct lapses (anticipated savings due to vacancies).....	(-) 12	(-) 72, 492
Net permanent (average number, net salary).....	332	2, 025, 000
Personnel benefits:		
Retirement.....		\$131, 500
Life insurance.....		6, 500
Health benefits.....		17, 000
Total, personnel benefits.....		155, 000
Budgetary requirements (full-year cost).....	332	2, 180, 000
Less funds provided in 1962 supplemental appropriation act.....		(-) 1, 145, 000
Net increase requested, 1963 over 1962.....		1, 035, 000

The statutory authority for the above listed positions and the basis for having fixed the grade and salary follows:

Law clerks and secretaries

The authority for the appointment of law clerks and secretaries by circuit judges is contained in section 712 of title 28 of the United States Code. District judges by authority of section 752 of title 28, United States Code, may appoint necessary law clerks and secretaries. Consistent with the language of the appropriation for "Salaries of supporting personnel" the compensation of secretaries and law clerks of circuit and district judges shall be fixed by the Director of the Administrative Office of the U.S. Courts without regard to the Classification Act of 1949, as amended, except that the salary of a secretary shall conform with that of the general schedule grades (GS) 5, 6, 7, 8, 9, or 10, as the appointing judge shall determine, and the salary of a law clerk shall conform with that of the general schedule grades (GS) 7, 8, 9, 10, 11, or 12, as the appointing judge shall determine, subject to review by the Judicial Conference of the United States if requested by the Director, such determination by the judge otherwise to be final. The appropriation act further provides, "That (exclusive of step increases corresponding with those provided for by title VII of the Classification Act of 1949, as amended, and of compensation paid for temporary assistance needed because of an emergency) the aggregate salaries paid to secretaries and law clerks appointed by one judge shall not exceed \$15,950 per annum, except in the case of the chief judge of each circuit and the chief judge of each district court having five or more district judges in which case the aggregate salaries shall not exceed \$21,305 per annum."

The amount requested herein for law clerks and secretaries to judges is based on the classification of law clerks in grade (GS) 10, at \$6,995 per annum and secretaries in grade (GS) 9, at \$6,435 per annum. On this basis, the salaries of law clerks and secretaries to the new judges would aggregate \$13,430 which is \$2,520 below the dollar limitation of \$15,950. The grade classifications will, of course, vary depending upon the qualifications of the appointees. However, based on past experience, it is expected that the law clerks and secretaries to the new judges will, on the average, be classified in grades GS-10 and GS-9, respectively.

Court reporters

Under the provisions of section 753 of title 28 of the United States Code, each district court of the United States shall appoint one or more court reporters. The number of reporters and their salaries are determined by the Judicial Con-

ference of the United States. Such reporters shall attend all sessions of the court to record verbatim, by shorthand or mechanical means, all proceedings in criminal cases and other cases unless the parties thereto, with the approval of the presiding judge, shall specifically agree to the contrary. The number of reporters presently has been fixed by the Judicial Conference at one reporter for each district judge, except in a few districts where the ratio is slightly higher. The Judicial Conference, consistent with the provisions of section 753(e) of title 28 of the United States Code as amended by the Federal Employees Salary Increase Act of 1960, Public Law 86-568, fixed the salaries of metropolitan reporters at \$7,630 per annum and the salaries of nonmetropolitan reporters at \$7,000 per annum. The amount requested herein for the salaries of court reporters (31 at \$7,630 and 32 at \$7,000) is consistent with this schedule.

Criers

Each district judge by authority of section 755 of title 28 of the United States Code may appoint a crier for the court in which he presides who shall perform also the duties of bailiff and messenger. The Director of the Administrative Office of the United States Courts is authorized by section 604(a)(5) of title 28 of the United States Code to fix the compensation of criers. The judicial conference of the United States at its March 1960 session, based on a recommendation contained in a joint report of the Committee on Supporting Personnel and the Committee on Court Administration, approved the classification of criers in grade GS-5.

Courtroom deputies

Additional personnel will be required in the offices of the clerks of the U.S. district courts for assignment to the new judges to serve in the capacity of courtroom deputies. The authority for the appointment of these deputies is contained in section 751(b) of title 28 of the United States Code. Provision has been made for 63 courtroom deputies or one deputy for each of the 63 judges to be appointed to the U.S. district courts.

A courtroom deputy is responsible for representing the clerk of court in matters relating to courtroom administration and proceedings. He confers with attorneys; calls court calendar; notes the appearance of counsel in matters before the court; swears witnesses and interprets; impanels the jury and administers oaths to jurors; records proceedings and rulings for minutes of the court, and files exhibits. He also prepares verdicts and judgments for the signature of the judge, prepares certified copies, notifies counsel of entry of judgment, keeps records of attendance of jurors, is responsible for correct entry of judgments and other actions of court in dockets, order books, and other court records. In addition, he taxes costs; prepares statistical records of cases; assists in general work of the clerk's office when not engaged in courtroom duties.

Personnel benefits

In addition to the amount that will be required to compensate the law clerks, secretaries, and other supporting personnel, it is estimated that on an annual basis the sum of \$155,000 will be required for related personnel benefits—Government's contributions under the Civil Service Retirement Act, as amended, the Federal Employees Group Life Insurance Act of 1954 and the Federal Employees Health Benefits Act of 1959. The budgetary requirements were established as follows:

Retirement

All of the positions requested herein are expected to be covered under the Civil Service Retirement Act. The employees will be subject to withholdings equal to 6½ percent of their basic salary. The Government is required to contribute a matching amount for deposit to the credit of the civil service retirement fund.

Life insurance

Employees who do not waive life insurance coverage are subject to biweekly payroll deductions at the rate of 25 cents per thousand dollars of insurance, or \$6.50 per thousand per year. The Government shares the cost of the insurance by contributing into the fund an amount equal to 50 percent of the sum contributed by the employees, or \$3.25 per year per thousand dollars of insurance coverage. Based on current participation in the life insurance program, it is expected that only 8 percent of the employees will waive life insurance coverage.

Health benefits

Employees may elect to participate in the Government's health benefits program. The cost of health insurance is shared by the employees and the Government. The premiums to be paid by the employees (payroll deductions) vary depending upon the type of coverage. The Government contributes \$81.12 per annum toward the cost of a family contract; \$33.80 per year toward the cost of a self-only contract, and \$47.32 per year toward the cost of a family contract for a female with a nondependent husband. Based on current participation by court employees in the health benefits program, it is estimated that 85 percent of the new employees will elect to participate. The cost to the Government per employee is expected to average approximately \$60.

Within-grade salary advancements

All of the personnel provided for by this appropriation, with the exception of clerks of court, court reporters, National Park Commissioners and other officers and employees serving in ungraded positions at rates fixed by the Judicial Conference, are subject to the promotional plan for judicial personnel and will be granted step increases corresponding with those provided for by title VII of the Classification Act of 1949, as amended.

It is estimated that these within-grade salary advancements will cost \$423,000 of which \$395,600 represents increases in compensation and \$27,400 related benefits—Government contributions to the civil service retirement fund and for group life insurance. The estimate, which represents approximately 80 percent of the full potential cost of step increases, is net of anticipated savings due to turnover of personnel and the filling of vacancies at lower rates of pay.

Difference between full-year and part-year cost of new positions authorized for the probation system

The Congress for fiscal year 1962 authorized 15 additional probation officers and 6 additional clerk-stenographers for the probation system. In anticipation of a delay in filling the new positions, the dollar amount requested had been calculated on the basis of the officers and the clerks serving for an average of only 10 months. Inasmuch as the savings will not be realized during 1963, an additional \$22,000 will be required, representing the difference (2 months provision) between the full-year and part-year cost of the new positions.

ADDITIONAL EMPLOYEES REQUESTED

Mr. ROONEY. There is a request here for how many additional employees?

Mr. ANDERSON. 109, Mr. Chairman.

Mr. ROONEY. 128; is it not?

Mr. ANDERSON. You are looking at page 85a. It shows 128 there; 65 is for law clerks and secretaries. We carry them on a full-time equivalent basis. As a judge goes, we drop his staff—they are carried on a full-time equivalent basis. So this is made up on a weird basis. It is the number less the lapse for last year plus what we need for this year, and it comes to 65 full-time equivalent. That is how we come to 128.

Mr. ROONEY. Is this request for additional personnel based entirely on the omnibus judgeship legislation?

Mr. ANDERSON. Yes, sir.

NUMBER OF CIVIL CASES FILED, TERMINATED, AND PENDING

Mr. ROONEY. Looking at page 91 of these justifications we find a table. It would indicate that the number of cases terminated in 1961, the past fiscal year, is lower than any year since 1952. How do you explain this?

Mr. OLNEY. That, I believe, has to do with the change in Alaska.

Mr. ROONEY. Tell us about that. How do you work that into these figures?

Mr. OLNEY. Page 92 has an explanation.

Mr. ROONEY. It has a statement. I do not know if it is an explanation or not.

Mr. OLNEY. When Alaska was a territory there were added into the figures filings and terminations for the Federal court for all the proceedings they had, whether they were under territorial statutes or not. When it became a State, actions of that type and kind were taken out of the U.S. district court and transferred to the State court system and are handled there. Because they were included in former years and not included after statehood, it makes the comparison of the figures quite deceptive. That is the reason for those differences.

Mr. ROONEY. Will you please add another column to the figures at page 91 which would indicate comparative figures beginning in 1952 and including 1961 without the Alaska cases so we can understand it more thoroughly than we do at the moment?

Mr. ANDERSON. Yes, sir.

(The information requested follows:)

Civil cases filed, terminated, and pending in the U.S. district courts for the past 10 years

Fiscal year	Filed	Terminated	Terminated (excluding Alaska)	Pending, end of year
1952.....	58,428	53,150	(51,861)	60,362
1953.....	64,001	57,490	(56,011)	66,873
1954.....	59,461	57,903	(56,381)	68,431
1955.....	59,375	58,974	(57,269)	68,832
1956.....	62,394	67,700	(65,474)	63,526
1957.....	62,380	63,568	(61,625)	62,338
1958.....	67,115	61,285	(59,295)	68,168
1959.....	57,800	62,172	(60,241)	63,796
1960.....	59,284	61,829	(57,449)	61,251
1961.....	58,293	55,416	(55,297)	64,128

PROBATION SYSTEM PERSONNEL COMPENSATION

Mr. ROONEY. What is this item at page 85a of the justifications, \$20,400, for the probation system?

Mr. ANDERSON. This committee last year authorized 15 additional probation officers and 6 clerks on a 10-month basis. This is to provide full-year salaries for these positions.

Mr. MAGNUSON. Excuse me, Mr. Chairman.

You mean this \$20,400 is the difference between a 10-month period and a 12-month period?

Mr. ANDERSON. Yes, sir.

PRETRIAL EXAMINER STAFFS

Mr. ROONEY. What is the status of the \$38,000 which was allowed last year for the establishment of a pretrial examiner staff in the southern district of New York?

Mr. OLNEY. That money, of course, did not become available until the bill was passed in September, so it has barely gotten off the ground. I understand some appointments have been made but they were not made until around the end of October or first of November, as I recall.

Mr. ROONEY. And what is the status of the District of Columbia pretrial examiner staff?

Judge McGUIRE. As far as the District of Columbia is concerned, I am very pleased to report that the experiment has been very successful as far as we are concerned. It has relieved one judge completely from the necessity of having anything to do with pretrial work, and in some circumstances it has relieved the time of two judges. We are looking into further implementation of this without the delegation of judicial power, which, of course, we cannot do. But I can say that as far as the District of Columbia is concerned it has been very successful.

Mr. ROONEY. Any questions, gentlemen? Mr. Bow.

INCREASES TO IMPLEMENT OMNIBUS JUDGESHIP LEGISLATION

Mr. Bow. Under the omnibus judgeship bill do I understand that the cost, so far as judges' salaries are concerned, that the additional judges' cost each year will be \$1,660,000?

Mr. ANDERSON. Yes, sir.

I have a statement of the appropriations made for this year and requested for 1963 all rolled up bearing on the judgeship legislation. If you would like to look at this.

Mr. Bow. Yes; I would.

Mr. ANDERSON. From this it may be seen that the salaries of judges total \$1,660,000. There was appropriated this year \$900,000 and we are asking for the difference now.

For salaries of supporting personnel, the total estimate is \$2,180,000 and appropriated in the supplemental for 1962 was \$1,145,000 with the difference being \$1,035,000 requested this year.

Travel and miscellaneous expenses is shown as \$450,000 as a total estimate with \$187,000 appropriated in 1962 and requested for 1963, \$263,000.

For the Administrative Office, the total estimate is \$125,000; appropriated in 1962 was \$15,000 and the request is for the difference of \$110,000 for 1963.

Now we come to the nonrecurring costs.

For travel and miscellaneous expenses, \$733,000 is the total estimate and these are the amounts needed to place the general office equipment and lawbooks in the offices of the judges. Then, you see, we do not need that sum the second year. We have shown this as a deduction and that is for about 50 judges, roughly.

For the remainder of the judges, we say we need \$330,000 this year so that the appropriations requested namely, what we received this year and what we are asking for 1963, will total \$4,753,000.

There is one further step in this that next year the \$330,000 will be shown as a deduct. Then we wind up with only the recurring costs.

In other words, simply, these appropriations will have been increased as a continuing thing by \$4,415,000; that is the story in a nutshell.

Mr. Bow. That is what it will cost you each year from now on for the additional judges?

Mr. ANDERSON. That is correct.

Mr. Bow. May I ask this question—

Mr. ROONEY. May I interrupt?

It might be well to insert at this point in the record the document passed across the table with regard to increases in judiciary appropriations required to implement the omnibus judgeship legislation.

Mr. Bow. Thank you.

(The document referred to follows:)

Increases in judiciary appropriations required to implement the omnibus judgeship legislation

Appropriation	Number	Total estimate	Number	Appropriated, 1962	Number	Increase requested for 1963
Recurring costs:						
Salaries of judges	73	\$1,600,000	50	\$900,000	23	\$760,000
Salaries of supporting personnel	344	2,180,000	235	1,145,000	109	1,035,000
Travel and miscellaneous expenses		450,000		187,000		263,000
Administrative office	21	125,000		15,000	21	110,000
Total	438	4,415,000	285	2,247,000	153	2,168,000
Nonrecurring costs:						
Travel and miscellaneous expenses		733,000		733,000		-733,000
Administrative office		330,000				330,000
		8,000				8,000
Total		5,486,000		2,980,000		1,773,000

Mr. Bow. To what extent are the increases as found on page 85-A in the first group of 63 additional employees related to the new judges?

Mr. ANDERSON. All of them.

The 21 additional deputy clerks come about this way: Of the 73 new judgeships, 63 were district judgeships and 10 were circuit judgeships. In this area we are talking about courtroom deputies, first. The appropriation for 1962, the current year, provided funds for 42 and the 21 is the difference between 63 and 42.

Mr. Bow. This is occasioned because of the increase in judges under the omnibus judgeship bill?

Mr. ANDERSON. These persons will serve as deputies under the new judges.

Mr. Bow. This will be in addition to the ones shown on the sheet you have handed across the table?

Mr. ANDERSON. The 21 we are speaking of are in the 109 requested for 1963. This is part of that 109 and this statement you have in your hand is all inclusive.

May I refer you to page 104 where there is a detail of the staff and perhaps that will explain it.

If you would like, I will go down the line.

Mr. Bow. Wait a minute here.

Mr. ANDERSON. All right, sir.

DISCREPANCY IN NUMBER OF ADDITIONAL EMPLOYEES REQUESTED

Mr. Bow. In your additional personnel shown on page 85-A, you show a total of \$1,035,000.

Mr. ANDERSON. Yes, sir.

Mr. Bow. You show an additional 128 employees; is that right?

Mr. ANDERSON. Yes, sir.

Mr. Bow. On the sheet which you have just handed to us across the table, you show the amount of \$1,035,000 and this shows 109 employees?

Mr. ANDERSON. That is correct.

Mr. Bow. Does this discrepancy come about because of the explanation you have made to the chairman a few minutes ago as to the weird method you have of computing the number of people employed?

Mr. ANDERSON. Exactly, Mr. Bow. There is no other difference and that is it. We could not carry law clerks and secretaries as positions because when a judge has served his whole life as a judge and dies, we have an extra law clerk position to assign to someone else, so we drop it and pick up a new one for a judge coming along. There is a turnover and we would be up to here [indicating] in those positions if we did not run it that way. We call them a full-time equivalent and that is almost the way it has to be done, as I see it.

Mr. Bow. I thought we should have an understanding because we have two different figures.

Mr. ANDERSON. I recognize that and that is the explanation.

Mr. CEDERBERG. Will you yield to me?

Mr. Bow. Yes.

Mr. CEDERBERG. Would not this table be a little clearer if, in the last column, you said, "Increases requested for 1963" rather than just "requested for 1963"?

I think that, for someone looking at it, they would understand it better.

Mr. ANDERSON. I should be glad to add that word upon putting that in the record, with the chairman's permission.

Mr. CEDERBERG. "Increases requested for 1963."

Otherwise, it appears that—

Mr. ROONEY. Will you please correct that in the record?

Mr. ANDERSON. Yes, sir.

Judge McGUIRE. You are looking at page 85(a)?

Mr. Bow. Yes.

Mr. ROONEY. Yes, sir.

Judge McGUIRE. Thank you.

Mr. Bow. That is all.

Thank you, Mr. Chairman.

Mr. ROONEY. Mr. Cederberg?

FACILITIES FOR NEW JUDGES

Mr. CEDERBERG. In addition to these requests because of the recent legislation, you are also requesting, I assume, additional funds through the appropriation for facilities for these new judges?

Mr. ANDERSON. The facilities for the new judges are not in these appropriations. They come in appropriations to the General Services Administration.

Mr. CEDERBERG. I realize that but I am just wondering, have you requested funds for that from the General Services Administration?

Mr. ANDERSON. Yes.

Mr. AIRHART. We are working with them right now on the request.

Mr. CEDERBERG. Do you have any idea what the amount will be?

Mr. AIRHART. The total amount for new construction, which is

actually renovation and the changing of buildings, GSA presently estimates will come to just about \$17 million

Mr. CEDERBERG. Could you provide for the record the locations where these will occur?

Mr. AIRHART. Yes, sir.

Mr. CEDERBERG. If there is no objection, Mr. Chairman, could we do that?

Mr. ROONEY. Very well.

Mr. CEDERBERG. That is all I have.

(The information requested follows:)

LOCATIONS AT WHICH ACCOMMODATIONS ARE REQUIRED FOR NEW JUDGESHIPS
CREATED BY PUBLIC LAW 87-36

Alabama:

Birmingham.¹
Tuscaloosa² (for circuit judge).

Alaska:

Anchorage.³
Fairbanks.³

Arizona: Phoenix.⁵

Arkansas:

Little Rock.¹
Location undetermined.

California:

Los Angeles¹ (for two district judges).
San Francisco.⁴
Sacramento.⁵

Colorado: Denver.⁵

Connecticut:

Hartford (temporary suite for one judge, second judge to occupy existing facilities, new building under construction).
New Haven.¹

Florida:

Miami.³
Location undetermined.

Georgia:

Atlanta (office suite for circuit judge and courtroom, jury room and office suite for district judge).
Newnan.²

Illinois: Chicago (new office suite for one district judge, renovation of existing facilities for second district judge, one office suite for circuit judge).

Indiana:

Indianapolis.¹
Location undetermined.

Iowa: Location undetermined.

Kansas:

Wichita² (for circuit judge).
Location undetermined.

Louisiana:

Baton Rouge.³
New Orleans (one suite for circuit judge, office suites and courtrooms for two district judges).
Lafayette (refurbish temporary quarters in parish courthouse, extension of post office building required to provide permanent courtroom, judge's suite and other court offices).

Maryland: Baltimore (two temporary judges' suites and remodeling of small hearing room for courtroom use until two permanent courtrooms, jury rooms, and judges' suites can be provided).

Massachusetts: Boston.¹

Michigan: Detroit¹ (for two district judges).

Mississippi: Jackson.¹

Missouri: Kansas City (judge's suite and equip court of appeals courtroom for jury trials).

See footnotes at end of table, p. 36.

- Nevada: Location undetermined.
- New Jersey:
Camden.¹
Trenton.²
Newark.²
- New York:
Brooklyn (temporary office suites for two district judges until new building completed).
Manhattan (office suites for three circuit judges, five courtrooms, renovation of existing courtroom and six suites for district judges).
- North Carolina:
New Bern.²
Greensboro (nonjury courtroom and judge's office suite).
Charlotte³ (for circuit judge).
- Ohio:
Cleveland¹ (for two district judges).
Youngstown.³
Cincinnati.⁴
- Oklahoma: Oklahoma City.⁵
- Pennsylvania:
Philadelphia (one circuit judge's suite and two courtrooms and three suites for district judges).
Scranton.⁴
Wilkes-Barre.⁴
Pittsburgh¹ (for two district judges).
- Puerto Rico: San Juan.¹
- South Carolina: Greenville.²
- Tennessee:
Memphis (temporary office suite pending completion of new building).
Greenville.³
Nashville.⁴
- Texas:
Dallas.¹
Fort Worth.³
San Antonio.³
Houston.⁵
- Virginia:
Richmond (courtroom, two circuit judges' suites and library).
Alexandria³ (for circuit judge).
- Washington: Spokane¹ (temporary facilities pending construction of new building).

FEES OF JURORS AND COMMISSIONERS

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
11 Personnel compensation:			
Fees of U.S. commissioners.....	800	750	750
Fees of jury commissioners.....	10	10	10
Fees of jurors.....	2,379	2,350	2,350
Total personnel compensation.....	3,189	3,110	3,110
12 Personnel benefits.....	30	30	30
21 Travel and transportation of persons (jurors).....	1,325	1,300	1,300
25 Other services (meals and lodging furnished jurors).....	55	60	60
Total obligations.....	4,598	4,500	4,500

¹ New courtroom, jury room, judge's suite, witness room, reporter's office including new furniture.

² New judge's office suite only including new furniture.

³ Renovation of existing facilities including new furniture where required.

⁴ Facilities available, furniture requirements only.

⁵ Facilities available, no furniture requirements.

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities:			
Fees and related benefits of U.S. Commissioners.....	830	780	780
Fees of jury commissioners.....	10	10	10
Fees, expenses, and costs of jurors.....	3,758	3,710	3,710
Total obligations.....	4,593	4,500	4,500
Financing: Unobligated balance lapsing.....	37		
New obligational authority (appropriation).....	4,635	4,500	4,500

Mr. ROONEY. If there are no further questions with regard to "Salaries of supporting personnel," we shall proceed to the third of the items that make up the appropriation for courts of appeals, district courts and other judicial services, entitled "Fees of Jurors and Commissioners." It is to be found at page 378 of the committee print.

The request is in the amount of \$4.5 million, the same as appropriated for this purpose in the current fiscal year.

We shall insert at this point in the record pages 115 through 122 of the justifications.

(The pages referred to follow:)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act.....	\$4,500,000
Base for 1963.....	4,500,000
Net difference, 1963 over 1962:	

	Requirements		
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)
Jury costs.....	\$3,720,000	\$3,720,000	
Commissioners' fees and related benefits.....	780,000	780,000	
Total.....	4,500,000	4,500,000	
Total estimate for 1963.....			4,500,000

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
11 Personnel compensation:			
Fees of U.S. commissioners.....	\$750,000	\$750,000	
Fees of jury commissioners.....	10,000	10,000	
Fees of jurors.....	2,350,000	2,350,000	
12 Personnel benefits.....	30,000	30,000	
21 Travel and transportation of persons (jurors).....	1,290,000	1,290,000	
25 Other services (meals and lodging furnished jurors).....	70,000	70,000	
Total obligations.....	4,500,000	4,500,000	

JUSTIFICATION

Language changes

None.

Objectives

This appropriation is for fees, expenses, and costs of jurors; compensation¹ of jury commissioners; fees of U.S. commissioners, including related Government contributions to the civil service retirement fund and matching taxes under the Federal Insurance Contributions Act, as amended, and the compensation of voting referees appointed pursuant to the Civil Rights Act of 1960. For basic statutory authorities, reference is made to section L of the Digest of Appropriations, "The Judiciary," on file with the Bureau of the Budget and the Appropriations Committees of the Congress.

General justification

The amount of service and the compensation of jurors depends largely on the number of jury trials requested by the parties to civil and criminal cases in the courts. The earnings of commissioners are directly related to the volume of cases presented by Federal law enforcement officials. The following table shows the trend in the cost of jurors and commissioners during the past 6 years, the amount appropriated for 1962 and the estimate for 1963:

Fiscal year	Jury costs	Percentage change	Fees of commissioners and related benefits	Percentage change
1956.....	\$3,729,814		\$590,519	
1957.....	3,729,726	0	617,020	+4.5
1958.....	4,196,300	¹ +12.5	783,700	² +27.0
1959.....	4,210,243	+3	791,826	+1.0
1960.....	3,894,159	-7.5	803,562	+1.5
1961.....	3,768,100	-3.2	830,000	+3.3
1962 (estimate).....	3,720,000	-1.3	780,000	-6.0
1963 (estimate).....	3,720,000	-0	780,000	0

¹ Increase due primarily to statutory increase in fees of jurors effective Sept. 7, 1957.

² Increase due primarily to statutory increase in fees of commissioners effective Sept. 2, 1957.

Fees paid jurors for services rendered in fiscal year 1961 were \$126,000 or 3.2 percent less than in the previous year and \$442,000 less than the total paid in 1959, a cumulative reduction over the past 2 years of 10.5 percent. This savings is due primarily to the program conducted by the courts to develop and install improved and more effective systems of calendar control and juror utilization. A summary of the number of days petit juror panels were called and not used and the number jurors therein, during the fiscal year ending June 30, 1961, by district, is included as exhibit L. A comparison of the administration of the petit jury system in the district courts during the last 3 years is as follows:

Petit jurors serving in the U.S. district courts during the fiscal years 1959, 1960 and 1961

	Fiscal year		
	1959 ¹	1960 ¹	1961
Number of juries chosen.....	5,629	5,719	5,466
Average panel present on the first day of trial.....	32.8	30.2	30.7
Days panels present and no new trial begun:			
Number of days.....	972	826	778
Number of jurors.....	36,037	27,198	27,576
Days of juror service:			
Total.....	336,083	322,769	318,175
Serving:			
1st day of trial.....	69,302	70,826	67,340
Subsequent days of trial.....	121,356	129,241	129,143
Challenged.....	31,692	32,632	32,261
In reserve.....	113,733	90,070	89,422
Percent serving or challenged.....	66.2	72.1	71.9
Percent serving or challenged excluding 2d and subsequent days of trial.....	47.0	53.5	52.7

¹ The figures for 1959 and 1960 do not include Alaska, Guam, and the Virgin Islands.

The courts are continually improving the procedures and techniques of administering the jury system which should result in further economies in the coming years. However, any savings to be realized by reason of such improvements will be more than offset by increases in the number of jury trials and trial days expected by reason of the appointment of additional district judges pursuant to the act of May 19, 1961, Public Law 87-36. It is expected that additional funds will be required in 1962 and in 1963, however, any additional obligational authority that may be necessary will be included in supplemental requests to be determined as experience demonstrates the effect upon this appropriation of the appointment of the new judges.

Fees and related benefits of U.S. commissioners for services rendered during fiscal year 1961 are estimated at \$830,000 an increase over 1960 of approximately \$26,000 or 3.3 percent. The payments for fiscal year 1960 included approximately \$46,000 for services of U.S. commissioners for the Territory of Alaska. If these fees are excluded so as to place the payments on a comparable basis, the increase, 1961 over 1960, would be almost \$72,000, or 9.5 percent. No increase in the appropriation has been requested for fiscal year 1963, however, if the current trend continues, a supplemental or deficiency appropriation will be required.

SUFFICIENCY OF 1962 FUNDS

Mr. ROONEY. What have been the obligations for the first 6 months of the current fiscal year as compared with fiscal year 1961?

Mr. ANDERSON. For fees of jurors through December 31, 1961, we have paid to jurors \$1,490,500 and that compares with the last 6 months of last calendar year—this is last year's figure—\$1,502,532, or a decrease over last year of 0.8 percent. It is less than 1 percent.

Mr. ROONEY. This requested figure of \$4.5 million is an educated guess, is it?

Mr. ANDERSON. Yes, sir.

Mr. ROONEY. If the money is not used for the purpose of payment of fees to jurors and commissioners, it lapses back into the Treasury, does it?

Mr. ANDERSON. Yes, sir.

Mr. ROONEY. Are there any questions?

Mr. MAGNUSON. If you used more than \$1,490,000 for jurors' fees in the first 6 months, do you expect to remain within the appropriation of \$2,350,000?

Mr. ANDERSON. No, sir; we do not.

We are hoping that we can go as late as possible in the current fiscal year before we need to make a request because it appears quite obvious that the impact of additional judge power should affect this appropriation. That is, the jury trials; so that I expect we will have to come back for a supplemental to complete payments this year.

Mr. MAGNUSON. There is no pattern of a heavier cost in the first 6 months than in the second half of the fiscal year?

Mr. ANDERSON. Not yet, Mr. Magnuson. The new judges have not been on long enough for us to feel the impact of their services yet.

Mr. MAGNUSON. That is all.

Mr. Bow. Mr. Chairman, I went over this too fast and did not get a chance to take a look at it, and I think the Chairman would be interested in getting page 98 in the record.

Mr. ROONEY. It is already in the record.

Mr. Bow. It is rather amazing to see that we have another alltime peak in bankruptcies, as the gentleman from New York has pointed out for us, in the past years.

Mr. ROONEY. That is the best of the previous 8 years.

Mr. Bow. An alltime peak of 146,643. This is in the record?

Mr. ROONEY. Yes; it is. I would not think of leaving it out.

TRAVEL AND MISCELLANEOUS EXPENSES

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Direct obligations:			
21 Travel and transportation of persons.....	1,414	1,590	1,990
22 Transportation of things.....	39	36	36
23 Rent, communications, and utilities.....	587	675	708
24 Printing and reproduction.....	209	239	249
25 Other services.....	109	122	122
Transcripts ordered by courts.....	85	100	110
26 Supplies and materials.....	259	265	275
31 Equipment:			
General office.....	155	321	172
Furniture.....	103	410	-----
Lawbooks, accessions.....	95	735	437
Lawbooks, continuations.....	451	465	600
Total direct obligations.....	3,506	4,958	4,700
Reimbursable obligations:			
24 Printing and reproduction.....	7	7	7
Total obligations.....	3,513	4,965	4,707

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities: Travel and miscellaneous expenses:			
Direct obligations.....	3,506	4,958	4,700
Reimbursable obligations.....	7	7	7
Total obligations.....	3,513	4,965	4,707
Financing:			
Comparative transfers to other accounts.....	326	370	-----
Advances and reimbursements from other accounts.....	-7	-7	-7
Unobligated balance lapsing.....	4	-----	-----
New obligational authority (appropriation).....	3,835	5,328	4,700

MR. ROONEY. The next item is entitled "Travel and Miscellaneous Expenses," and is to be found at page 380 of the committee print. The details in regard thereto are at pages 123 through 149 of the justifications, which pages we shall insert at this point in the record. (The pages referred to follow:)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act.....	\$4,407,500
1962 appropriation in supplemental act.....	920,000
Base for 1963.....	5,327,500
Net difference, 1963 over 1962:	

	Requirements			
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)	
Travel expenses.....	\$1,590,000	\$1,990,000	+\$400,000	
Miscellaneous expenses.....	3,737,500	2,710,000	-1,027,500	
Total.....	5,327,500	4,700,000	-627,500	-627,500
Total estimate for 1963.....				4,700,000

¹ Excludes \$370,000 for activities transferred in the estimates to the General Services Administration under the appropriation "Operating expenses, Public Buildings Service."

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
21 Travel and transportation of persons.....	\$1,590,000	\$1,990,000	+\$400,000
22 Transportation of things.....	36,000	36,500	+500
23 Rent, communications, and utilities.....	675,000	708,000	+33,000
24 Printing and reproduction.....	239,000	249,000	+10,000
25 Other services.....	121,500	122,500	+1,000
Transcripts ordered by court.....	100,000	110,000	+10,000
26 Supplies and materials.....	265,000	275,000	+10,000
31 Equipment:			
General office.....	321,000	172,000	-149,000
Furniture.....	780,000		-780,000
Lawbooks, accessions.....	735,000	437,000	-298,000
Lawbooks, continuations.....	465,000	600,000	+135,000
Total (direct) obligations.....	5,327,500	4,700,000	-627,500
Comparative transfer of obligations for furniture and furnishings to GSA.....	-370,000		+370,000
Net total (direct) obligations.....	4,957,500	4,700,000	-257,500

Summary of increased requirements for 1963

Nature of expense (or savings):	
1. Deduction of nonrecurring expenses authorized for 1962 (exclusive of expenses relating to new judgeships)-----	Amount -\$510,000
2. Transfer to the General Services Administration of the sum available in the base appropriation for replacement furniture and other incidental expenses-----	-370,000
3. Requirements relating to new judges and staffs-----	-140,000
4. To cover an increased subsistence (per diem) allowance and parking fees authorized for judges and supporting personnel pursuant to the Travel Expense Act, as amended----	300,000
5. To supply law libraries for judges appointed to vacancies vice senior judges; for expansion of libraries at outlying places of holding court; and to provide libraries at new places of holding court-----	50,000
6. To cover contractual rate increases for lawbooks under contract and for continuation material required for expanded libraries-----	42,500
Net decrease, 1963 over 1962-----	-627,500

JUSTIFICATION

Language changes

It is requested that the limitation contained in the text of the appropriation on expenses of attendance at meetings concerned with work of Federal probation be increased from \$14,000 to \$17,500 to permit the payment of a higher subsistence (per diem) allowance to probation officers authorized to attend such meetings, without curtailment of the current program. Pursuant to the provisions of section 6 of Public Law 87-139, approved August 14, 1961, and at the direction of the Judicial Conference of the United States, officers and employees of the courts were authorized to claim, while in an official travel status, on and after September 25, 1961, per diem in lieu of subsistence at the rate of \$16. Prior to September 25, 1961, the per diem allowance had been fixed at \$12.

Currently, two regional inservice training institutes are being held annually, with approximately one-third of the probation officers participating each year. Thus, each of the probation officers has an opportunity of attending these training courses once every 3 years. The institutes have been highly successful and the benefits derived from such meetings have unquestionably resulted in the improvement of the probation system.

Objectives

This appropriation provides for the necessary travel and miscellaneous expenses of the judges and supporting personnel of the U.S. courts of appeals and the U.S. district courts, including the probation offices, but excluding the offices of the referees in bankruptcy. The travel and miscellaneous expenses of referees, including compensation and benefits of clerks to referees, are paid from a special fund appropriation. For basic statutory authorities, reference is made to section M of the Digest of Appropriations, the Judiciary, on file with the Bureau of the Budget and the Appropriations Committees of the Congress.

General justification

During fiscal year 1961 the courts of appeals received a record 4,204 new appeals, an increase of almost 8 percent over the previous year. Civil cases filed in the U.S. district courts, excluding local cases in Alaska, increased from 57,791 to 58,293. There also was a slight increase in the number of criminal cases commenced in the district courts. During 1961, 104,352 petitions for naturalization were filed in the district courts, as compared with 97,972 in 1960, an increase of 6.5 percent. The number of aliens naturalized also increased from 92,314 to 101,002, or 9.4 percent. Further contributing to the workload of the district courts (clerks' offices) has been the marked increase in the volume of filings in bankruptcy from 110,034 to a new alltime high of 146,643, an increase of over 33 percent. A detailed account of the judicial business of both the circuit and district courts is contained in the general justifications of the appropriation estimate for "Salaries of supporting personnel, the Judiciary."

Detailed justification

It is estimated that an appropriation of \$4,700,000 will be required in 1963, which is \$627,500 less than the amount available for fiscal year 1962. The estimate for 1963 provides for the full-year cost of the new judgeships authorized by the act of May 19, 1961, Public Law 87-36, offset to the extent of nonrecurring expenses authorized for 1962. The estimate also includes additional funds for travel required to cover an increased subsistence (per diem) allowance and, "parking fees" authorized pursuant to the provisions of the Travel Expense Act, as amended. The nonrecurring cost of furniture and furnishings required in 1962 incident to the occupancy of new buildings, namely \$400,000, has been deducted in establishing the budgetary requirements for 1963. It is also proposed that the sum of \$370,000, which heretofore has been available for the recurring furniture requirements of the courts, be transferred to the General Services Administration.

Deduction for nonrecurring expenses authorized for fiscal year 1962

The following expenses which were authorized for fiscal year 1962 are nonrecurring and, accordingly, have been deducted in establishing the budgetary requirements for fiscal year 1963:

Expenses relating to new personnel:

Equipment.....	\$20,000
Furniture.....	10,000
Subtotal.....	30,000
Cost of modernizing equipment and facilities in the U.S. District Court for the Northern District of Illinois.....	77,000
Furniture and furnishings incident to the occupancy of new buildings.....	400,000
Premium on 2-year blanket surety bond.....	3,000
Total deducted.....	510,000

Credit for nonrecurring expenses relating to new judgeships is included below under the hearing "Requirements of new judges and staffs."

Transfer to the General Services Administration of the sum available in the base appropriation for furniture and furnishings

Consistent with a directive from the Bureau of the Budget, the General Services Administration in 1963 will resume budgeting for furniture and furnishings required by the courts of appeals and district courts, with the exception of Referees in Bankruptcy. Accordingly, there is included a proposed transfer in the estimates for 1963 of the sum currently available in the base appropriation for the normal recurring furniture requirements of the courts, namely \$370,000.

The General Services Administration is expected to include a like amount as a "transfer in" under the appropriation "Operating expenses, Public Buildings Service." The amount being transferred represents only the normal recurring furniture requirements of the courts, including the replacement and rehabilitation of furniture and related incidental expenses. The sum of \$400,000 provided in 1962 for furniture and furnishings required incident to the occupancy of new buildings has been deducted as a nonrecurring expense. The General Services Administration is expected to include in its budget an estimate for furniture and furnishings required for new buildings scheduled for completion in 1963. The General Services Administration also has assumed the budgetary responsibility for furniture and furnishings required by new judges appointed pursuant to the act of May 19, 1961.

Requirements relating to new judges and staffs

The Congress, by the act of May 19, 1961, Public Law 87-36, authorized the appointment of 73 additional judges, 10 for the U.S. courts of appeals and 63 for the U.S. district courts. The Congress, in a supplemental appropriation act for fiscal year 1962, provided the sum of \$920,000 to cover the cost of general office equipment, libraries, travel, communications, and other miscellaneous expenses

of approximately 50 new judges and supporting personnel for an average of 9 months. The budgetary requirements for 1963 will be \$780,000, or \$140,000 less than the obligational authority granted for 1962 as follows:

	Appropriated ¹	1963 estimate	Increase or decrease
Travel.....	\$100,000	\$200,000	+\$100,000
Transportation of things.....	3,000	3,500	+500
Rent and communications (including postage).....	38,000	71,000	+33,000
Printing and reproduction (including printing of opinions).....	20,000	30,000	+10,000
Other services.....		4,000	+4,000
Transcripts ordered by court.....	10,000	20,000	+10,000
Supplies and materials.....	20,000	30,000	+10,000
General office equipment (nonrecurring).....	97,000	45,000	-52,000
Lawbooks, accessions (nonrecurring).....	632,000	284,000	-348,000
Lawbooks, continuations.....		92,500	+92,500
Total.....	920,000	780,000	-140,000

¹ Supplemental Appropriation Act, 1962.

Travel (judges and staffs).—The travel requirements of the new judges and their supporting staffs, exclusive of the sum required as a result of an increased per diem allowance and “parking fees,” will approximate \$200,000 per year, or on the average \$2,800 per judgeship. During fiscal year 1961 expenses of travel incurred by judges and supporting staffs were somewhat higher than the provision requested for the new judges, the average having been in excess of \$3,000. Allowance has been made, however, for a slight reduction in the present average cost per judgeship in the belief that the increase in the number of judges throughout the country will result in some savings in travel requirements.

Transportation of things.—It is estimated that \$3,500, or approximately \$50 per judgeship, will be required in fiscal year 1963 to cover (1) the cost of shipping supplies and equipment to the new judges; (2) the expense of shipping records and paraphernalia from headquarters to outlying places of holding court for use during terms of court at such places; and (3) the cost of shipping exhibits in cases which are appealed to higher courts.

Rent and communications (including postage).—It is estimated that \$70,000, or approximately \$1,000 per judgeship will be required annually to cover the cost of telephone facilities and services (including toll calls); teletype and telegraph services; postage and fees for regular mail, airmail, registered mail, parcel post, etc.; and the rental of post office boxes. An additional \$1,000 has been included to cover the nonrecurring expense of installing telephone equipment.

Printing and reproduction.—The recurring annual cost of printing and reproduction of material occasioned by the activities of the new judges is estimated at \$30,000, of which \$15,000 will be required for the printing of the opinions of the new circuit judges and the remaining \$15,000 to cover the cost of providing all of the new judges with stationery, envelopes, etc. The cost of printing the opinions of circuit judges is currently averaging \$1,500 a year per judge, which is the basis on which the annual recurring budgetary requirements were established. The cost of providing stationery, envelopes, etc., was derived by the application of a unit cost of \$180 per circuit judgeship and \$220 per district judgeship.

Other services.—It is estimated that the sum of \$4,000 will be required to cover the cost of maintenance and repairs to equipment as well as any other miscellaneous contractual services.

Transcripts ordered by court.—It is expected that on the average, approximately \$300 per judgeship, or \$20,000 per annum, will be required to cover the cost of furnishing transcripts of proceedings to persons suing, defending, or appealing in forma pauperis in accordance with section 753 of title 28 of the United States Code. The estimate is based on the present cost of such transcripts.

Supplies.—The sum of \$30,000 has been included to provide the usual supplies of office materials, such as paper, carbon paper, ink, pencils, filing materials, and the like, for the new judges and their supporting personnel. The estimate was derived by the application of a unit cost of \$350 per circuit judgeship and \$450 per district judgeship. The estimate for a district judge is somewhat higher to cover the cost of supplies that would normally be consumed by his courtroom deputy.

Equipment, general office.—It is estimated that \$45,000 will be required in 1963 to cover the nonrecurring expense of providing approximately 23 new judges with

general office equipment such as typewriters, dictating machines, photocopy machines, copyholders, brief cases, pen sets, etc. The sum of \$97,000 provided for this purpose in the 1962 supplemental appropriation has been deducted, resulting in a net credit of \$52,000. The estimate was derived by the application of unit costs of \$1,600 per circuit judgeship and \$2,000 per district judgeship as follows:

	Circuit judgeships	District judgeships
Electric typewriter (secretary).....	\$400	\$400
Electric typewriter (courtroom deputy).....		400
Manual typewriter (law clerk).....	200	200
Dictating equipment, photocopy machines, copyholders, pen sets, brief cases, etc.....	1,000	1,000
Total.....	1,600	2,000

It is expected that about one-half of the judges will request that they be provided dictating equipment. The cost of such equipment varies; however, based on our experience it is estimated that the cost would average approximately \$800 for two units, one for dictating and the other for transcribing. A number of judges will request that they be furnished photocopy machines which range in cost from \$200 to \$500 each. In some cases a judge will require an additional typewriter for a frequently visited outlying place of holding court or adding machines and other equipment. The requirements of individual judges vary, and the cost of providing equipment for some judges will necessarily be higher than the cost of equipment furnished other judges.

Lawbooks, accessions.—The sum of \$284,000 is included to cover the cost of establishing libraries for approximately 23 new judges. The sum of \$632,000 provided for this purpose in the 1962 Supplemental Appropriation Act has been deducted, resulting in a net credit of \$348,000. A basic standard library, consisting of State and Federal statutes, reports, digests, and citators, a legal encyclopedic work, and a minimum of treatises and texts, is expected to cost approximately \$12,000. In addition to the basic standard library, each of the circuit judges will require the statutes, reports, and other legal reference material for all additional States included in the circuit. Such additional material is expected to cost approximately \$4,000, bringing the total cost of a library for a circuit judge to \$16,000. Details as to the lawbooks and other material included in a judges library and the cost, first year and succeeding years, are contained in exhibit M.

Lawbooks, continuations.—Based on current prices, the sum of \$92,500 will be required in 1963 and in succeeding years for continuation material for the libraries of the new judges. Details are contained in exhibit M.

Increased subsistence (per diem) allowance and parking fees

The travel expenses of judges and other officers and employees of the U.S. courts of appeals and district courts, except referees in bankruptcy, incident to attending court or transacting other official business in pursuance of law, are paid from this appropriation. When a judge holds court away from his official station, he normally requires the services of his law clerk, secretary, reporter, and other court personnel. Probation officers must travel extensively in supervising persons under their charge and in conducting presentence investigations.

Pursuant to the provisions of section 6 of Public Law 87-130, approved August 14, 1961, at the direction of the Judicial Conference of the United States, the supporting personnel of the Federal courts were authorized to claim per diem in lieu of subsistence at the rate of \$16 and parking fees while in an official travel status on and after September 25, 1961. A per diem allowance of \$8 was fixed for travel not involving overnight absence. The rates in effect prior to September 25, 1961, were \$12 and \$6, respectively, and no parking fees were allowable. Justices and judges of the United States also were authorized to claim per diem at \$16 per day in lieu of actual expenses of subsistence. Although the act increased the maximum actual expense allowance from \$25 to \$30, judges have not been authorized by the Judicial Conference to claim actual expenditures in excess of \$25 per day. The mileage allowance for the use of a privately owned automobile also was held by the Judicial Conference at 10 cents, notwithstanding the fact that Public Law 87-139 authorized a maximum mileage allowance of 12 cents.

It is estimated that an additional \$300,000 will be required in fiscal year 1963 to cover the increase in the subsistence (per diem) allowance and parking fees. A supplemental appropriation for fiscal year 1962 is proposed for later transmission.

A sampling of vouchers paid just prior to the increase in the subsistence (per diem) allowance showed the following distribution of payments for travel:

	Percent
Expenses of travel by common carrier.....	10.7
Travel by privately owned automobile (mileage).....	37.4
Other, cab fares, tolls, etc.....	1.6
Subsistence:	
Actual expense basis ¹	13.2
Per diem in lieu of.....	37.1
Total.....	100.0

¹ Judges electing to claim actual expenses of not to exceed \$25 per day.

As is evident from the above table approximately one-half of the total expenditures for travel represents the cost of transportation and the balance subsistence. The sum of \$1,590,000 is currently available for travel. Included elsewhere in the estimates is a request for \$100,000 representing the balance of funds required for new judges and staffs. Accordingly, if there had been no change in the per diem allowance, the sum of \$1,690,000 would be sufficient in 1963. Payments for subsistence in 1963 based on a \$12 per diem allowance would approximate \$850,000 or 50 percent of the total estimated expenditures for travel. Of the total estimated subsistence expenses, \$220,000 would represent claims on an actual expense basis and the balance of \$630,000 per diem allowances. As a result of the increase in the per diem allowance from \$12 to \$16, it is expected that payments for subsistence in fiscal year 1963 will aggregate \$1,090,000, an increase of \$240,000. The estimate was derived by application of the percentage increase in the per diem allowance, 33½ percent, to the total anticipated per diem claims plus \$30,000 to cover an anticipated increase in subsistence payments to judges as a result of a greater number of judges claiming per diem in lieu of actual expenses of subsistence. The sampling of vouchers referred to above showed that less than one-third of the judges were claiming a per diem allowance of \$12. A survey conducted subsequent to the increase in the per diem allowance showed that more than two-thirds of the judges had elected to claim per diem in lieu of actual expenses of subsistence.

The sum of \$60,000 is included to cover "Parking fees." Approximately 37.4 percent of the total estimated expenditures for travel, or \$632,000, represents reimbursements at the rate of 10 cents per mile for travel by privately owned automobile. The 10-cent mileage allowance was not increased. However, court personnel were authorized to claim parking fees pursuant to the Travel Expense Act, as amended. It is estimated that parking fees will average approximately 1 cent per mile, or \$60,000. The bulk of travel by privately owned automobile is performed by probation officers incident to their supervisory responsibilities and in the conduct of presentence investigations. Probation officers are expected to claim reimbursement for travel by privately owned automobile for a total of 3,750,000 miles during 1963. On the basis of the estimate of 1 cent per mile, probation officers are expected to claim reimbursement for parking fees aggregating \$37,500. It is estimated that parking fees to be claimed by other court personnel will aggregate \$22,500.

Lawbooks, accessions.—It is estimated that an additional \$50,000 will be required during fiscal year 1963 to provide law libraries for judges appointed to vacancies vice senior judges; for the expansion of existing libraries at outlying places of holding court; and to provide libraries at new places of holding court. Exclusive of the sum available for the nonrecurring expense of establishing libraries for appointees to the judgeships created by the act of May 19, 1961, the sum of \$103,000 is available in the base appropriation for lawbooks, accessions.

During fiscal year 1961 approximately \$95,000 was expended for the establishment of new libraries and the expansion of existing libraries. Libraries were established for four judges appointed to fill vacancies vice senior judges who continued to perform substantial judicial services and chose to retain their libraries. It should be noted, however, that during 1961 the number of judgeship vacancies increased from 13 at the beginning of the year to 22 at the end of the year. More than one-half of these vacancies were vice retired judges who retained or are expected to retain their libraries. Had these vacancies been filled, the requirements would have been well in excess of the actual expenditures.

The requirements have varied from year to year depending upon the number of judges appointed to fill vacancies vice senior judges. Experience indicates that the normal recurring cost of lawbook acquisitions will average approximately \$153,000 annually.

Lawbooks, continuations.—It is estimated that an additional \$42,500 will be required in 1963 to cover increases in the cost of lawbooks under contract and additional continuation materials required for expanded libraries as follows:

The upkeep of sets newly acquired in fiscal year 1961.....	\$17,500
Price increases on continuation material under contract.....	25,000

During fiscal year 1961, new libraries were provided and existing libraries were expanded by the acquisition of legal reference materials at a cost of approximately \$95,000. In order to keep these sets of books current, it is estimated that \$17,500 will be required for the purchase of continuation material.

The sum of \$25,000 is required to cover price increases for continuation material necessary to keep court libraries up to date. The price increases were effective July 1, 1961, under General Services Administration contracts and contracts entered into by the Administrative Office of the U.S. Courts.

The cost of legal reference material purchased by the judiciary, including "Corpus Juris Secundum," "Federal Reporter" (second series), and Moore's "Federal Practice" (second edition), increased by approximately 4.5 percent, or \$20,000 on the basis of an annual expenditure of approximately \$450,000. In addition to the sum required as a result of price increases, \$5,000 is required to cover an increased volume of continuation material which obviously is due to the expanded body of law.

Mr. ROONEY. The request is in the amount of \$4.7 million, which would be a decrease of \$627,500 below the appropriation for the current fiscal year. This is due, however, is it not, to nonrecurring expenses for 1962 and transfer to GSA of replacement furniture costs, and so forth?

Mr. ANDERSON. That is correct.

Mr. ROONEY. Entirely?

Mr. ANDERSON. Yes, sir.

Mr. ROONEY. It might be well to look at page 125, which page could be used to work from.

TRAVEL EXPENSES

What are the requested increases above the amounts allowed for the various activities under "Travel and miscellaneous expenses" in the current fiscal year?

Mr. ANDERSON. Other than the judgeship legislation, Mr. Chairman?

Mr. ROONEY. Yes.

Mr. ANDERSON. \$300,000 for the Travel Expense Act and \$50,000 with which we would buy—

Mr. ROONEY. Just a minute. Is this \$300,000 entirely due to the additional judges or—

Mr. ANDERSON. It has nothing to do with additional judges.

Mr. ROONEY. How does this jibe with the statement of Chief Judge McGuire of a while ago that the Judicial Conference decided to stay with the amount allowed for mileage and the amount of per diem allowed?

Mr. ANDERSON. He said that we did not increase mileage, that we did not increase the judges' ceiling on subsistence on an actual expense basis. We did increase the per diem allowance from \$12 to \$16 and that is what this \$300,000 is for in large measure.

Mr. ROONEY. Does the \$16 per diem apply to the judges?

Mr. ANDERSON. Yes, sir; it can. Judges have a choice by statute of electing to claim actual expenses of subsistence not to exceed \$25 a day or in lieu thereof, \$16 per diem.

Mr. ROONEY. Are there some of them who take the per diem?

Mr. ANDERSON. Yes, sir.

Mr. ROONEY. How many, would you say?

Mr. ANDERSON. I could not give you a number but many, many judges, when their actual expenses of subsistence run around \$16, do so rather than bother to keep records on the items of expense which they would have to do on the other basis, and just claim a flat \$16. It takes less bookkeeping.

Mr. ROONEY. What is the next of the items?

ADDITIONAL LAWBOOKS

Mr. ANDERSON. The \$50,000 item, we would use for the purpose of additional lawbooks for the judges who would take up the quarters of retired judges who were continuing to perform judicial service and would retain at least a part of their libraries that they held while they were active judges. This is more or less of a continuing thing. A judge retired retains all or part of his library and his successor then has to be furnished with lawbooks and that is what we would use this for.

Mr. ROONEY. In 1961, \$95,000 was expended for the establishment of new libraries and the expansion of existing facilities. When are we going to get to the point where all of these new libraries will be established and we will be purchasing only supplements to the lawbooks?

Mr. ANDERSON. I would say that when we hit the peak of retired judges. I do not know when that will be, but let's say this: The number of retired judges has been creeping up over the years, as I am sure the Chairman is aware, and during calendar year 1961, let me give you just three figures. At the end of March we had 75 and I am disregarding the resigned judges.

In June, 81; September, 86; December, 87, and over and above this today there are 62 judges who are eligible to retire and could tomorrow if they so desired.

As long as the number of retired judges continues to increase we have to provide almost two libraries where we had one before. It is not a full two, of course, but that is the reason we are asking for the \$50,000.

Mr. ROONEY. You say on page 148 of the justifications that more than one-half of these vacancies were vice retired judges who retained, who are expected to retain, their libraries.

What do you mean by that?

Mr. OLNEY. May I give you an example?

Mr. ROONEY. Yes.

Mr. OLNEY. Judge Barrett Prettyman contemplates retiring very shortly. He was showing me last week what he was expecting to do. He will change his chambers in the courthouse in the District to rooms smaller than the ones he has now. He has less book space but he does intend to keep active as a judge, so he plans to move into different chambers and to take with him the code, the United States Reports and basic books of that kind that he will need to continue his work.

The rest of his library he will leave for whoever is appointed to fill his vacancy, but we will have to supply those basic books that he keeps for the new judge coming in.

Mr. ROONEY. These books always remain the property of the Government, do they not?

Mr. OLNEY. Yes, they do.

Mr. ROONEY. It would appear from this that it might be personal property. I do not know but what the underlying—

Mr. OLNEY. No.

Mr. ANDERSON. They are stamped "Property of the United States Government."

Judge McGUIRE. I might say in supplement that we have two judges presently retired who moved out of their chambers into smaller quarters and they are sharing a common courtroom. They also have the basic fundamentals of individual libraries.

Mr. BOW. Mr. Chairman, will you yield?

Mr. ROONEY. Yes.

SUPPORTING PERSONNEL FOR RETIRED JUDGES

Mr. BOW. Judge McGuire, do these retired judges have the use of law clerks?

Judge McGUIRE. If they sit a substantial part of the year, yes; if they do not, no.

Mr. BOW. Would they use another judge's law clerk?

Judge McGUIRE. That can be done.

Mr. BOW. What is the case with the two you referred to?

Judge McGUIRE. As far as we are concerned, one of the judges has no law clerk, Judge Letts. As far as Judge Schweinhaut is concerned, I do not not believe he has any law clerk now and has not had for a substantial time.

Mr. BOW. The two you referred to have no law clerks?

Judge McGUIRE. That is right.

Mr. BOW. What other supporting personnel would they have?

Judge McGUIRE. They would have a secretary and that is all.

Mr. BOW. Each one has a secretary?

Judge McGUIRE. As far as one is concerned, he has a secretary and as far as the other is concerned, she is merely serving on a tentative basis and used by other judges in case of illness.

Mr. BOW. How is this determined?

Judge McGUIRE. How is what determined?

Mr. BOW. What supporting personnel they shall have? Is it the request of the judge or the chief judge who handles that?

Judge McGUIRE. In our courts, it would be determined by the necessities of the situation.

Mr. BOW. Who makes that determination?

Judge McGUIRE. That comes from application to the chief judge and the chief judge makes a recommendation.

Mr. BOW. That is all.

Mr. OLNEY. Elsewhere, it is usually left up to the judge who retires. He lets us know what he thinks he is going to need.

Mr. Bow. Who reviews that?

Mr. OLNEY. We send out a letter every year to the chief judge of the circuit giving a list of the judges who are retired and the names of the supporting personnel they have and what they are supposed to be doing and ask them to give us word as to whether the judge who is using these people is doing substantial work.

LIST OF RETIRED JUDGES, SUPPORTING PERSONNEL, ETC.

Mr. Bow. Would you submit for the record at this point a list of the retired judges, their personnel, days of trial, and the cases disposed of? Is that a fair request, Mr. Chairman?

Mr. ROONEY. Surely.

Mr. ANDERSON. Yes, sir.

Mr. Bow. You might include that document under "Personnel costs, salary expenses." I want a record that will break down.

Mr. ANDERSON. Yes, sir.

(The information requested follows:)

Statement of senior judges on the rolls, the amount of service rendered by each judge, and the number and compensation of supporting personnel, fiscal year 1961

Circuit or district	Name of judge	Service		Compensation of supporting personnel										Total obligations, 1961 fiscal year ²	Remarks	
		Circuit-court cases heard ¹	District courts	Secretary		Law clerk		Crier		Messenger		Total				
				Grade	Salary	Grade	Salary	Grade	Salary	Grade	Salary					
SENIOR CIRCUIT JUDGE																
1st circuit	Magruder, Calvert	38		GS-10	7,821										\$7,821	
2d circuit	Hand, Learned	24		GS-10	7,675										14,123	
Do.	Chase, Harrie B.															
Do.	Hinks, Carroll C.	41	3	GS-9	7,114										13,562	
Do.	Swan, Thomas W.	30		GS-6	5,346										11,794	
Do.	Medina, Harold R.	54		GS-10	7,821										18,907	
3d circuit	Marris, Albert B.	13	1	GS-10	7,821										17,306	
Do.	Forman, Phillip	29		GS-10	7,821										13,874	
4th circuit	Dobie, Armistead M.															
Do.	Soper, Morris H.	118		GS-9	6,947										13,395	
5th circuit	Foran, Wayne C.															
Do.	Holmes, Edwin R.															
6th circuit	Simons, Charles C.	41		GS-9	7,426										16,931	
Do.	Allen, Florence E.														4,139	
7th circuit	Major, J. Earl	27		GS-10	7,821										4,347	
Do.	Thomas, Seth														7,821	
8th circuit	Gardner, Archibald K.	10		GS-10	7,675										7,675	
Do.	Saaborn, John B.	47		GS-10	3,827										3,827	
Do.	Woodrough, Joseph W.	13													6,448	
9th circuit	Boue, Homer T.	6														
Do.	Healy, William	2														
Do.	Mathews, Clifton	2		GS-10	7,821										7,821	
Do.	Orr, William E.	36		GS-10	7,010										7,010	
Do.	Pope, Walter L.	10		GS-9	6,448										14,123	
Do.	Stephens, Albert L.	2		GS-9	6,781										13,229	
10th circuit	Phillips, Orfe L.	61	3	GS-10	7,821										14,269	
Do.	Ruxman, Walter A.	27	13	GS-9	6,410										5,416	
Do.	Bratton, Sam G.	38		GS-9	6,947										16,452	

See footnotes at end of table, p. 53.

Law clerk position vacant on June 30, 1961.

Judge retired Mar. 31, 1961.

Judge retired Sept. 30, 1960.

Secretary, reemployed annuitant.

Judge retired Jan. 3, 1961.

Judge retired Apr. 1, 1961.

Judge retired Jan. 25, 1961.

Law clerk, temporary.

Secretary, part-time.

Judge retired Mar. 1, 1961.

OBLIGATIONS FOR FURNITURE

Mr. ROONEY. How much has been obligated for furniture to date in the current fiscal year?

Mr. ANDERSON. The total obligation to December 31, for furniture, is \$290,000 in round figures.

Mr. ROONEY. What do you expect to be the total obligations for this purpose in the current fiscal year?

Mr. ANDERSON. \$780,000.

Mr. ROONEY. Are you deducting this from your base?

Mr. ANDERSON. I misspoke. I should have said \$770,000.

Yes, sir; we are deducting this from the base and \$370,000 goes to GSA; \$400,000 for the new buildings, and this is a deduct from that.

Mr. ROONEY. Have all nonrecurring items been deducted from the base?

Mr. ANDERSON. Yes, sir.

PARKING FEES

Mr. ROONEY. How much is in this budget for parking fees?

Mr. ANDERSON. \$60,000 is requested.

Mr. ROONEY. What parking fees have been allowed to date?

Mr. AIRHART. We have experience, only, since, Mr. Chairman, the regulation went out from the conference in September. So far, I do not know the exact figure, but it is only a few hundred dollars. If that continues, this is a high estimate but we have no way of knowing.

Mr. ROONEY. What do you allow an individual in connection with parking fees?

Mr. AIRHART. Everything from a penny on up to overnight parking; for instance, in a hotel—

Mr. ROONEY. You do not have a regulation of so much a day?

Mr. AIRHART. No, sir. We have had requests come in where they asked for a penny because they parked where a parking meter gives them 12 minutes or 10 minutes for a penny.

Mr. ROONEY. What is the highest amount requested of you in a day for parking fees?

Mr. GARABEDIAN. Several dollars, Mr. Rooney. I do not have the figures with me but I conducted a survey myself and, as has been said, it ranges from a penny, or pennies, to several dollars.

TRAVEL OF JUDGES ON ASSIGNMENT TO OTHER DISTRICTS

Mr. ROONEY. What is the total amount requested in this budget for travel, \$1,990,000?

Mr. ANDERSON. Yes, sir.

Mr. ROONEY. Do you have the usual table on the travel of judges on assignment to other districts, which we annually expect?

Mr. ANDERSON. Yes, sir.

Mr. ROONEY. May we have that?

(The material referred to follows:)

Service by senior judges in circuit courts or district courts within circuits, July 1, 1960, to June 30, 1961

Circuit or district	Name of judge	Place of service	Number of trials	Number of trial days	Cost of travel				Total	
					Judge	Law clerk	Secretary	Reporter		Crier
SENIOR CIRCUIT JUDGE										
1st circuit	Magruder, Calvert	1st circuit			\$369					\$369
2d circuit	Hard, Learned	2d circuit			245	\$166	\$151			562
Do	Hincks, Carroll C.	do	3	5						319
Do	do	Connecticut			201	69	49			(1)
3d circuit	Swan, Thomas W.	2d circuit								
Do	do	3d circuit	1	2						
Do	do	Virgin Islands								
4th circuit	Forman, Phillip ²	3d circuit			53					53
5th circuit	Soper, Morris A.	4th circuit			1,548	831	940			3,319
6th circuit	Simons, Charles C.	6th circuit			567	521	434			1,522
7th circuit	Major, J. Earl	7th circuit			467		384			851
Do	do	Illinois (southern)			37		194			37
8th circuit	Gardner, Archibald ³	8th circuit			255					449
Do	Sanborn, John B.	do			764		268			1,032
Do	Woodrough, Joseph W.	do								
Do	Bone, Homer T.	9th circuit			142					142
Do	Healy, William	do								
Do	Mathews, Clifton	do								
Do	Orr, William E.	do								
Do	do	Nevada								
Do	Pope, Walker L. ⁴	9th circuit			242	182				424
Do	Stephens, Albert L. ⁵	do			(5)	521				521
Do	Phillips, Orie L.	10th circuit			(7)	309				422
10th circuit	do	Colorado	2	3	80					80
Do	Huxman, Walter A.	10th circuit			1,565					1,565
Do	do	Kansas			413					413
Do	Bratton, Sam G. ⁶	10th circuit	13	7	19					19
Do	do	do			522					522
SENIOR DISTRICT JUDGES										
District of Columbia	Schweinhaut, Henry	District of Columbia	27	63						
1st circuit: Massachusetts	McCarthy, William T.	Massachusetts	1	3						
2d circuit: New York (eastern)	Byers, Mortimer W.	New York (eastern)	24	73						
Do: New York (southern)	Clancy, John W.	New York (southern)	17	24						
Do	Conger, Edward A.	do	44	44						561
Do	Leibel, Vincent L.	do	3	10						
3d circuit: Delaware	Leahy, Paul C.	Pennsylvania (eastern)	2	3	96					96
Pennsylvania (eastern)	Kirkpatrick, William	do	3	19	974	409	240			1,623

See footnotes at end of table, p. 57.

Service by senior judges in circuit courts or district courts within circuits, July 1, 1960, to June 30, 1961—Continued

Circuit or district	Name of judge	Place of service	Number of trials	Number of trial days	Cost of travel					Total
					Judge	Law clerk	Secretary	Reporter	Clerk	
SENIOR DISTRICT JUDGES—con.										
4th circuit:										
Maryland.....	Cheanut, W. Calvin.....	4th circuit.....	61	107						
Do.....	do.....	Maryland.....	12	33	\$955					\$955
North Carolina (middle).....	Hayes, Johnson J.....	North Carolina (middle).....	1	3	45					45
Virginia (eastern).....	Hutchison, Sterling.....	Virginia (eastern).....	1	6	113					113
Do.....	do.....	North Carolina (eastern).....	3	4	132					132
Do.....	do.....	South Carolina (western).....	7	7	42					42
Virginia (western).....	Barksdale, Alfred D.....	4th circuit.....	7	7	494					494
Do.....	do.....	Virginia (western).....	4	6	139					139
Do.....	Paul, John.....	Virginia (western).....	4	6	46	\$16		15	\$10	87
5th circuit:										
Florida (northern).....	De Vane, Dozier A.....	Alabama (southern).....	28	53	163					163
Do.....	do.....	Florida (northern).....	2	2	32					32
Do.....	do.....	Florida (southern).....	2	2	1,730					1,730
Do.....	do.....	5th circuit.....	2	2	189					189
Florida (southern).....	Barkes, William J.....	Florida (southern).....	11	10	409					409
Do.....	Holland, John W.....	Florida (northern).....	9	22	628					628
Do.....	do.....	Florida (southern).....	4	4						
Mississippi (northern).....	Cox, Allen.....	Mississippi (northern).....	7	19	672			322	443	\$318
Do.....	do.....	Michigan (eastern).....	3	3						
Michigan (eastern).....	Pleard, Frank A.....	Tennessee (eastern).....	5	5	691					691
Do.....	Durr, Leslie R.....	Illinois (northern).....	8	20	16					16
8th circuit: Illinois (eastern).....	Wham, Fred L.....	Illinois (northern).....	40	70						
Do.....	Delehaut, John W.....	Nebraska.....	27	61						
9th circuit:										
California (northern).....	Roche, Michael J.....	California (northern).....	1	2	198					198
California (southern).....	Weinberger, Jacob.....	California (southern).....	2	7	1,218			142		340
Nevada.....	Foley, Roger T.....	Hawaii.....	1	2	945					945
Do.....	do.....	9th circuit.....	2	2	538			377		2,163
Do.....	do.....	Washington (western).....	2	2						915
Washington (western).....	Bowen, John C.....	Washington (western).....	348	709	17,652	3,014	4,726	781	318	26,491
Total.....			348	709	17,652	3,014	4,726	781	318	26,491

SUMMARY

Circuit or district	Number of judges	Place of service	Number of trials	Number of trial days	Cost of travel					
					Judge	Law clerk	Secretary	Reporter	Crier	Total
Senior circuit judges.....	21	Circuit courts.....	19	17	\$7,177	\$2,068	\$2,300			\$11,635
Do.....	6	District courts.....	19	17	392	521				913
Total.....	27				7,569	2,589	2,300			12,548
Senior district judges.....	5	Circuit courts.....	329	692	908	425	377			1,285
Do.....	25	District courts.....	329	692	9,175		1,950	\$781	\$318	12,658
Total.....	30				10,083	425	2,336	781	318	13,943
Grand total.....	57		348	709	17,632	3,014	4,726	781	318	26,491

¹ Cost of travel included under assignment to serve in 1st circuit (San Juan, Puerto Rico). See statement on assignments of senior judges for service in other circuits.

² Retired Mar. 31, 1961.

³ Retired Sept. 30, 1960.

⁴ Retired Jan. 3, 1961.

⁵ No travel or subsistence expenses claimed.

⁶ Retired Apr. 1, 1961.

⁷ Cost of travel (1 way) San Francisco, Calif., to Missoula, Mont., return trip subsequent to June 30, 1961; no claim for subsistence.

⁸ Retired Jan. 25, 1961.

⁹ Retired Mar. 1, 1961.

¹⁰ Retired Mar. 31, 1961.

¹¹ Retired Mar. 15, 1961.

¹² Retired June 5, 1961.

SENIOR JUDGE, OTHER

Court of Customs and Patent Appeals.	Jackson, Joseph R.	District of Columbia.	July 1, 1960	Dec. 31, 1960	73	140				
			Jan. 1, 1961	June 30, 1961						
Total.....			700	107	373	14,322	1,292	4,275	65	19,954

SUMMARY

Contributing courts	Number of judges	Courts visited	Actual days on assignment	Number of trials	Number of trial days	Cost of travel				Total
						Judge	Law clerk	Secretary	Reporter	
Circuit courts.....	3	Circuit courts.....	41			1,530	699	32		2,261
Do.....	1	District courts.....	(1) 6			891	377			1,268
Do.....	2	Special courts.....								
Total.....	6		47			2,421	1,076	32		3,529
District courts.....	5	District courts.....	442	94	233	10,966		4,243	65	15,274
Do.....	1	Special courts.....	56		935		216			1,151
Total.....	6		498	94	233	11,901	216	4,243	65	16,425
Special courts, total.....	1	District courts.....	155	73	140					
Grand total.....	13		700	157	373	14,322	1,292	4,275	65	19,954

¹ Actual days on assignment based on dates of arrival and departure. Number of days listed for assignments at district courts are of record, whereas number of days in attendance at circuit courts was constructed from travel expense vouchers.

² Permanent designation.

³ Serving as special master in Lake Michigan water diversion cases.

⁴ Served from May 7, 1961, to May 9, 1961, to complete unfinished business under prior year designation.

⁵ Includes expenses incident to serving in the U. S. District Court for the Virgin Islands, Feb. 1 to Feb. 6, 1961. (See statement on services of senior judges within circuits.)

⁶ Served from July 25, 1960, to July 31, 1960, to complete unfinished business under prior year designation.

Assignments of judges for service in special courts and circuit courts or district courts of other circuits, July 1, 1960, to June 30, 1961

Contributing court	Name of judge	Court visited	Period of designation		Actual days on assignment	Number of trials	Number of trial days	Cost of travel				Total
			From—	To—				Judge	Law clerk	Secretary	Reporter	
CIRCUIT JUDGE												
3d circuit.	Goodrich, Herbert.	1st circuit.	Sept. 22, 1960	Sept. 22, 1960	1			\$85				\$85
Do.	do.	2d circuit.	Feb. 20, 1961	Feb. 25, 1961	(¹)							
Do.	do.	do.	June 5, 1961	June 10, 1961	3			142	\$82			194
5th circuit.	Tuttle, Elbert P.	do.	Sept. 22, 1960	Oct. 7, 1960	11			403	216			619
6th circuit.	Martin, John D., Sr.	Florida (southern).	Jan. 2, 1961	Mar. 31, 1961	88	27	43	1,481	1,276	\$1,189		3,946
9th circuit.	Pope, Walter L.	2d circuit.	Oct. 10, 1960	Oct. 22, 1960	(¹)			318				318
Do.	McAllister, Thomas F.	Emergency Court of Appeals.			3							
10th circuit.	Murray, Alfred P.	New York (eastern).	Jan. 3, 1961	Feb. 3, 1961	9	3	3	604	481			1,435
District of Columbia circuit.	Fahy, Charles.	Court of Claims.	Jan. 17, 1961	Jan. 17, 1961	1							
DISTRICT JUDGE												
1st circuit: Massachusetts.	Sweeney, George C.	Florida (southern).	Mar. 30, 1961	May 20, 1961	26	11	14	1,157				1,720
2d circuit: New York (eastern).	Bartels, John R.	Pennsylvania (western).	Apr. 3, 1961	Apr. 29, 1961	26	4	14	569	414	388	\$330	2,055
New York (southern).	Bicks, Alexander.	California (southern).			25	1	11	842				842
Delaware.	Steel, Edwin D., Jr.	2d circuit.	May 1, 1961	May 6, 1961	4			142	74			216
3d circuit: Pennsylvania.	Gourley, Wallace S.	Florida (southern).	Mar. 6, 1961	Mar. 31, 1961	26	7	16	950	675	455	527	2,607
Do.	Miller, John.	New York (eastern).	Jan. 3, 1961	Feb. 3, 1961	32	9	15	801	420	440	441	2,568
4th circuit: South Carolina (western).	Wyche, Charles C.	Florida (southern).	Jan. 9, 1961	Feb. 4, 1961	26	12	16	772	444			1,216
Virginia (eastern).	Hoffman, Walter E.	Louisiana (eastern).	May 9, 1961	May 12, 1961	4	2	3	472		101	237	947
West Virginia (northern).	Watkins, Harry E.	2d circuit.	May 5, 1961	May 19, 1961	12			482	256	162		900
5th circuit: Alabama (northern).	Lynne, Seybourn H.	New York (southern).	Nov. 1, 1960	Nov. 30, 1960	18	2	6	571				571
Louisiana (eastern).	Wright, J. Shelly.	do.	July 15, 1960	Aug. 15, 1960	18	5	11	662	293	289		1,244
Do.	do.	do.	June 12, 1961	June 30, 1961 ⁸	19	2	13	593				593
8th circuit: Nebraska.	Van Pelt, Robert.	District of Columbia.	Apr. 11, 1961	May 12, 1961	34	1	21	882	541	542		1,965

	17	1	4	579		17	1	4	579
9th circuit: California (southern),					Florida (southern)				
10th circuit: Oklahoma (western),					Tennessee (eastern)				
Utah.....					New York (southern)				
Do.....					do.....				
Do.....					Massachusetts.....				
Do.....					New York (eastern)				
Other courts:					24 circuit.....				
Court of Claims.....					Florida (southern)				
Customs Court.....									
Total.....	580	140	283	19,286					

SUMMARY

Contributing court	Number of judges	Courts visited	Actual days on assignment	Number of trials	Number of trial days	Cost of travel				Total
						Judge	Law clerk	Secretary	Reporter	
Circuit courts.....	2	Circuit courts.....	15	30	46	\$630	\$208			\$838
	2	District courts.....	97	4	318	2,083	2,107	\$1,189		5,381
	2	Special courts.....				318				318
Total.....	6		116	30	46	3,033	2,375	1,189		6,597
District courts.....	2	Circuit courts.....	16			624	330	162		1,116
	14	District courts.....	410	99	221	14,197	3,661	3,003	\$3,255	26,581
Total.....	16		426	99	221	14,821	3,981	3,165	3,255	26,697
Special courts.....	1	Circuit courts.....	6			104	97			201
	1	District courts.....	32	11	16	1,328		551		1,879
Total.....	2		38	11	16	1,432	97	551		2,080
Grand total.....	24		580	140	283	19,286	6,453	4,905	3,255	35,374

¹ Actual days on assignment based on dates of arrival and departure. Number of days listed for assignments at district courts are of record, whereas number of days in attendance at special courts and circuit courts was constructed from travel expense vouchers.

² Judge did not serve.

³ Permanent designation.

⁴ Includes cost of travel of assistant law clerk.

⁵ Deputy clerk.

⁶ Served from June 24, 1960, to July 25, 1960, to complete unfinished business under prior-year designation.

⁷ Designation ended July 11, 1961.

⁸ Served from Sept. 7, 1960, to Sept. 23, 1960, to complete unfinished business under prior-year designation.

NONRECURRING ITEMS

Mr. ROONEY. While the members of the committee are inspecting this document, which we shall insert at this point in the record, I should like to inquire how much of this \$4.7 million request is non-recurring?

If you do not have it available at the moment, please insert it at this point in the record.

Mr. ANDERSON. I am sorry I do not have that.

(The material referred to follows:)

The part of the estimate of \$4,700,000 for fiscal year 1963 which is nonrecurring is detailed as follows:

For installation of telephones.....	\$1, 000
General office equipment.....	45, 000
Lawbooks, accessions.....	284, 000
Total.....	¹ 330, 000

¹ Related wholly to funds requested for new judges and staffs.

Mr. ROONEY. When you supply that, break down the items that make up the total of these nonrecurring items.

Mr. ANDERSON. Yes, sir.

Judge McGUIRE. As a matter of fact, I think you will find it extremely difficult for a judge to get out of his district because of the committee conference setup. By the time you get through with what you have to do, you have to stay home.

Mr. ROONEY. I notice that the document just inserted in the record is entitled "Service by Senior Judges in Circuit Courts or District Courts Within Circuits."

Does this apply to all judges, including all district judges?

Mr. ANDERSON. The top table is the service of senior judges within their own circuits. The second table is for senior judges who took assignments outside of their circuits and the third table is for active judges, as we distinguish them from those senior judges, who took assignments outside of their circuits.

Mr. ROONEY. Between the three pages, we have the entire picture as far as the Judiciary is concerned; is that a correct statement?

Mr. ANDERSON. Yes, sir; other than the travel of active judges right within their own circuits, which is done day by day. This is the assignment picture.

Mr. ROONEY. Mr. Magnuson?

TRAVEL EXPENSES

Mr. MAGNUSON. With the appointment of all of these new judges, would that not save you something on travel expenses?

Mr. ANDERSON. We anticipate this will; yes, sir.

Mr. MAGNUSON. Still you are anticipating your travel expenses will go up by \$400,000, or roughly that?

Mr. ANDERSON. Some of the new judges will travel because there are numerous places to hold court within districts. They will work at headquarters and then they will hold court elsewhere and we have to provide funds for that purpose. Where there was one judge doing that, perhaps with two of them there will not be as much travel involved but we have to wait and see.

Mr. MAGNUSON. Does this \$400,000 contemplated increase also take into account the travel expenses of supporting personnel?

Mr. ANDERSON. Yes, sir. That \$400,000 is made up of two items; \$300,000 for the Travel Expense Act and \$100,000 for the new judges and staff.

Mr. MAGNUSON. The \$300,000 is all for supporting personnel, in view of the policy you have adopted?

Mr. ANDERSON. It is also for those judges who elect to claim per diem in lieu of subsistence. They may elect to do that.

Mr. MAGNUSON. Why would that increase costs?

Mr. ANDERSON. Because they were claiming the \$12 per diem before and now they may claim \$16.

Mr. MAGNUSON. The judges?

Mr. ANDERSON. Yes, sir.

Mr. MAGNUSON. I must be confused. I thought they had a \$25 per diem for judges.

Mr. ANDERSON. They have an election. They may claim actual expenses of subsistence not to exceed \$25 or they may claim per diem.

Mr. MAGNUSON. Of what?

Mr. ANDERSON. Of \$16 per day.

Mr. MAGNUSON. Was that formerly \$12?

Mr. ANDERSON. Yes, sir. That was formerly \$12 and it was increased by the Travel Expense Act.

Mr. MAGNUSON. I remember that, but they formerly also had the option of \$25 or actual expenses?

Mr. ANDERSON. Right.

Mr. MAGNUSON. Up to \$25?

Mr. ANDERSON. That is correct.

The ceiling on actual expenses is now \$30, but they are still limited to \$25.

Mr. MAGNUSON. This includes hotel accommodations and food?

Mr. ANDERSON. Yes, sir.

Mr. MAGNUSON. Still you had judges who only put in for the \$12 a day under the old system?

Mr. ANDERSON. That is correct; yes, sir. Indeed so.

Mr. MAGNUSON. Now you have those who put in for \$16 instead of \$12?

Mr. ANDERSON. Yes, sir.

Mr. MAGNUSON. Actual expenses?

Mr. ANDERSON. Yes, sir.

Mr. MAGNUSON. That is all.

Mr. ROONEY. Mr. Marshall?

Mr. MARSHALL. No questions.

Mr. ROONEY. Mr. Bow?

DOCKET CONDITIONS OF DISTRICT COURT OF VARIOUS CIRCUITS

Mr. Bow. I would like to have you get for me the docket conditions of the District Court of the First Circuit of Massachusetts and the same information regarding the southern district of Florida between the period of March 1 and June, 1961.

Mr. ANDERSON. Yes, sir.

(The requested information follows:)

Conditions of dockets in the judicial districts indicated and for the periods indicated

	Civil	Criminal ¹
Massachusetts: Apr. 1, 1961, to June 30, 1961:		
Pending, Apr. 1, 1961.....	1, 293	156
Filed.....	295	99
Terminated.....	297	93
Pending, June 30, 1961.....	1, 291	165
Pennsylvania (western): Jan. 1, 1961, to Mar. 31, 1961:		
Pending, Jan. 1, 1961.....	1, 348	119
Filed.....	249	101
Terminated.....	315	88
Pending, Mar. 31, 1961.....	1, 282	132
South Carolina (western): Jan. 1, 1961, to Mar. 31, 1961:		
Pending, Jan. 1, 1961.....	193	79
Filed.....	64	37
Terminated.....	58	60
Pending, Mar. 31, 1961.....	199	52
Florida (southern): Apr. 1, 1961, to June 30, 1961:		
Pending, Apr. 1, 1961.....	1, 404	559
Filed.....	421	252
Terminated.....	498	237
Pending, June 30, 1961.....	1, 327	573
Florida (southern): Jan. 1, 1961, to Mar. 31, 1961:		
Pending, Jan. 1, 1961.....	1, 496	657
Filed.....	421	231
Terminated.....	513	327
Pending, Mar. 31, 1961.....	1, 404	559

¹ Excludes cases transferred under Rule 20: Federal Rules of Criminal Procedures.

Mr. Bow. I would like the same information on the Third Circuit, Western District of Pennsylvania, and the southern district of Florida.

Mr. ANDERSON. Yes, sir.

(The information requested appears above.)

Mr. Bow. The same information for the Fourth Circuit of South Carolina and the southern district of Florida.

Mr. ANDERSON. Yes, sir.

(The information requested appears above.)

Mr. Bow. The same information for the Fourth Circuit of South Carolina and the southern district of Florida.

Mr. ANDERSON. Yes, sir.

Which district of South Carolina?

Mr. Bow. The western district.

Mr. ANDERSON. Thank you.

(The requested information appears above.)

Mr. Bow. Do you assign members of the Customs Court to the circuit courts of the district?

Mr. OLNEY. I believe they are entitled to such assignment under the law, but I do not believe any such has been made.

Mr. Bow. I noticed in the statement you gave us the assignment of the members of the Customs Court to the Second Circuit of the southern district from November 1 to November 30, 1960, for a total of 32 days.

That is an assignment of a judge in the Customs Court to the district court?

Mr. OLNEY. The district court; yes, sir.

Mr. Bow. The district court in the southern district of Florida?

Mr. OLNEY. Yes, sir.

Judge McGUIRE. Might I go off the record?

Mr. ROONEY. Excuse me, Judge McGuire.

He tried 11 cases, did he not?

Mr. Bow. He tried 11 cases and had 16 days of trial out of 31.

Mr. ROONEY. That is pretty good; is it not?

Mr. OLNEY. Yes.

Mr. BOW. I would not say it is so good when you look at the record of the Customs Court up in New York.

That is all I have.

Thank you, Mr. Chairman.

Mr. ROONEY. Well, gentlemen, we shall at this point recess until 1:30 this afternoon at which time we will get to the fifth item entitled "Salaries and Expenses, the Administrative Office of the U.S. Courts."

Do you feel it is necessary for you to come back, Judge McGuire?

Judge MCGUIRE. I think probably under the circumstances I might just as well see the thing through.

Mr. ROONEY. I wanted to extend you our compliments and I did not know whether I should do it now or later on.

Judge MCGUIRE. Thank you, Mr. Chairman.

Mr. ROONEY. Very well, gentlemen, then we shall reconvene at 1:30 this afternoon if that is agreeable to everybody.

AFTERNOON SESSION

ADMINISTRATIVE OFFICE OF THE U.S. COURTS

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Personnel compensation:			
Permanent positions.....	1,058	1,080	1,197
Positions other than permanent.....	43	45	79
Other personnel compensation.....	12	10	10
Total personnel compensation.....	1,114	1,135	1,286
Direct obligations:			
11 Personnel compensation.....	1,112	1,135	1,286
12 Personnel benefits.....	80	82	92
21 Travel and transportation of persons.....	43	59	69
22 Transportation of things.....	1	1	1
23 Rent, communications, and utilities.....	66	86	90
24 Printing and reproduction.....	21	20	26
25 Other services.....	9	9	9
26 Supplies and materials.....	21	19	21
31 Equipment.....	14	31	14
Total direct obligations.....	1,368	1,442	1,609
Reimbursable obligations:			
11 Personnel compensation.....	1		
Total obligations.....	1,369	1,442	1,609

Personnel summary

	1961 actual	1962 estimate	1963 estimate
Total number of permanent positions.....	160	160	181
Full-time equivalent of other positions.....	7	7	12
Average number of all employees.....	162	159	184
Number of employees at end of year.....	175	165	190

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities:			
Salaries and expenses:			
Direct obligations.....	1,368	1,442	1,609
Reimbursable obligations.....	1		
Total obligations.....	1,369	1,442	1,609
Financing:			
Advances and reimbursements from other accounts.....	-1		
New obligational authority (appropriation).....	1,368	1,442	1,609

Mr. ROONEY. The committee will please now come to order.

This afternoon we shall consider the last of the five items to which reference was made previously, which five items make up the \$48,794,000 requested under "Courts of appeals, district courts, and other judicial services." This last item is titled "Salaries and Expenses, Administrative Office, U.S. Courts." The request is in the amount of \$1,609,000, which would be a requested increase of \$167,250 over the amounts appropriated to date in the current fiscal year. It appears at page 384 of the committee print, and the details with regard thereto are to be found at pages 150 through 171d of the justifications, which pages we shall insert at this point in the record.

(The pages referred to follow:)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act.....	\$1,426,750
1962 appropriation in supplemental act.....	15,000
use for 1963.....	1,441,750
Net difference, 1963 over 1962:	

	Requirements		
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)
Salaries and expenses.....	\$1,441,750	\$1,609,000	+\$167,250
Total estimate for 1962.....			1,609,000

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
11 Personnel compensation.....	\$1,135,000	\$1,285,650	+\$150,650
12 Personnel benefits.....	82,000	92,200	+10,200
21 Travel and transportation of persons.....	59,000	68,600	+9,600
22 Transportation of things.....	1,230	1,230	
23 Rent, communications, and utilities.....	85,600	89,700	+4,100
24 Printing and reproduction.....	20,000	26,400	+6,400
25 Other services.....	9,000	10,000	+1,000
26 Supplies and materials.....	19,000	21,100	+2,100
31 Equipment.....	30,920	14,120	-16,800
Total obligations.....	1,441,750	1,609,000	+167,250

Summary of increased requirements for 1963

Nature of expense (or savings):	<i>Amount</i>
1. Deduction for nonrecurring expenses authorized for 1962..	-\$24, 800
2. Provision for within-grade salary advancements:	
Compensation.....	\$20, 050
Benefits.....	1, 400
	21, 450
3. Twenty-one additional clerical positions required to handle increased workload resulting from the creation of 73 new judgeships by the act of May 19, 1961, Public Law 87-36..	118, 000
4. To cover increased subsistence (per diem) allowance and parking fees authorized pursuant to the Travel Expense Act, as amended.....	7, 600
5. Additional sum required for expenses relating to the revision of the general rules of practice and procedure in the U.S. courts.....	45, 000
	167, 250
Net increase, 1963 over 1962.....	

JUSTIFICATION

Language changes

None.

Objectives

This appropriation provides for the salaries of the Director, the Deputy Director, and other personnel of the Administrative Office of the U.S. Courts, and the necessary operating expenses of the office, including travel, communication services, supplies, equipment, and so forth. The Director, under the supervision and direction of the Judicial Conference of the United States, has administrative jurisdiction over the courts of appeals and district courts of the United States, the district courts of the Canal Zone, Guam, and the Virgin Islands and a lesser administrative jurisdiction over the Court of Claims, the Court of Customs and Patent Appeals and the Customs Court. The Director also has administrative jurisdiction over the Federal probation and bankruptcy systems.

For data as to the specific duties and responsibilities of the Director and the basic statutory authorities, reference is made to section N of the Digest of Appropriations, The Judiciary, on file with the Bureau of the Budget and the Appropriations Committees of the Congress.

General justification

The estimate for 1963 provides for 21 additional clerical positions required incident to the creation of 73 additional judgeships by the act of May 19, 1961, Public Law 87-36. In addition to providing the new judges and their supporting personnel with equipment and libraries, the office, on a continuing basis, will be engaged in handling an increased volume of clerical duties occasioned by the activities of the new judges. The estimate includes an additional sum required to finance the program and activities of the Judicial Conference Committee on rules of practice and procedure. Provision also has been made for an increased subsistence (per diem) allowance and parking fees authorized pursuant to the Travel Expense Act, as amended.

Detailed justification

The appropriation estimate for fiscal year 1963 is \$1,609,000, a net increase of \$167,250 over the appropriation for 1962. The request for additional obligational authority is explained below:

Deduction for nonrecurring expenses

The sum of \$24,800 representing nonrecurring expenses authorized for fiscal year 1962 has been deducted in establishing the budgetary requirements for 1963 as follows:

Replacement of offset press.....	\$19, 500
Converter for photostat machine.....	2, 000
Remington Rand conve-filer.....	2, 500
Wide carriage statistical typewriter.....	800
	24, 800
Total.....	

Provision for within-grade salary advancements

This appropriation will provide step increases to the personnel eligible therefor under the promotional plan provided for by title VII of the Classification Act of 1949, as amended. It is estimated that these within-grade salary advancements will cost \$21,450, of which \$20,050 represents increases in compensation and \$1,400 related personnel benefits—Government contributions to the civil service retirement fund and for group life insurance. The estimate is net of anticipated savings due to turnover and represents approximately 85 percent of the full potential cost of within-grade salary advancements.

Additional clerical personnel required to handle increased workload resulting from the creation of new judgeships

It is requested that the sum of \$118,000 be provided for the employment of 21 additional clerical employees required to handle an increased workload resulting from the creation of 73 judgeships by the act of May 19, 1961, Public Law 87-36. In addition to providing the new judges and their supporting staffs with equipment and libraries, the new personnel, on a continuing basis, will be engaged in handling an increased volume of duties occasioned by the activities of the new judges. The act provides for the creation of 73 additional judgeships (10 circuit and 63 district) which represents an increase of over 23 percent in the number of authorized judgeships. All of the new circuit court judgeships and 49 of the new district court judgeships have already been filled and more appointments are anticipated. Under the item "Salaries of supporting personnel" comparable increases in the number of law clerks, secretaries, criers, and court reporters have been requested. Consistent with the increase in the number of judgeships and supporting staffs, it is requested that the clerical force only of the Administrative Office be increased from 103 to 124. The clerical force referred to includes all personnel classified below grade (GS) 8, and wage board employees who are not delegated with supervisory authority. The following table shows in detail the personnel required for each of the divisions in the Administrative Office, including the cost of personnel benefits and related miscellaneous expenses:

Personnel compensation:

Division of Business Administration:

Section of Court Services and Quarters:

Space and communications assistant, GS-7, at \$5,355 per annum	\$5,366
Purchasing clerk, GS-6, at \$4,830 per annum	4,846
Clerk-stenographer, GS-4, at \$4,040 per annum	4,056
Warehouseman, WB-9, \$2.53 per hour	5,262
Warehouseman, WB-6, \$2.20 per hour	4,576

Total, Section of Court Services and Quarters (5 positions)	24,106
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Retirement, Insurance, and Payroll Section:

Reviewer, GS-7, at \$5,355 per annum	5,366
Payroll clerk, GS-5, at \$4,345 per annum	4,347

Total, Retirement, Insurance, and Payroll Section (2 positions)	9,713
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Audit Section:

Accounting clerk, GS-6, at \$5,355 per annum	4,846
Voucher examiner, GS-6, at \$4,830 per annum	4,846

Total, Audit Section (2 positions)	9,692
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Budget Office:

Accounts maintenance clerk, GS-7, at \$5,355 per annum	5,366
Clerk-stenographer, GS-4, at \$4,040 per annum	4,056

Total, Budget Office (2 positions)	9,422
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Records Section: Mail and file clerk, GS-4, at \$4,040 per annum	4,056
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Offset printing plant: Offset press operator, WB-14, at \$2.61 per hour	5,449
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Personnel compensation—Continued	
Division of Business Administration—Continued	
Personnel Section:	
Personnel assistant, GS-7, at \$5,355 per annum	\$5,366
Clerk-stenographer, GS-5, at \$4,345 per annum	4,347
Total, Personnel Office (2 positions)	9,713
Total, Division of Business Administration (15 positions)	72,151
Division of Procedural Studies and Statistics:	
Statistical assistant (civil), GS-7, at \$5,355 per annum	5,366
Statistical assistant (criminal), GS-7, at \$5,355 per annum	5,366
Statistical coding clerk, GS-6, at \$4,830 per annum	4,846
Clerk-statistical typist, GS-5, at \$4,345 per annum	4,347
Tabulation-machine operator, GS-5, at \$4,345 per annum	4,347
Punch operator, GS-4, at \$4,040 per annum	4,056
Total, Division of Procedural Studies and Statistics (6 positions)	28,328
Grand total, Administrative Office (21 positions)	100,479
Deduct lapses (normal savings due to vacancies)	-3,879
Net permanent (personnel compensation)	96,600
Personnel benefits:	
Government contributions:	
Retirement	6,250
Life insurance	350
Health benefits	1,200
Total, personnel benefits	7,800
Related expenses:	
Communications (including postage)	2,700
Printing and reproduction	1,000
Other services	200
Supplies and materials	1,700
Equipment and furniture (nonrecurring)	8,000
Total, related expenses	13,600
Grand total	118,000

Division of Business Administration

A total of 15 positions have been requested for the Division of Business Administration to be allocated as follows:

Section of Court Services and Quarters (five positions).—The incumbents of three of these positions will be engaged in the procurement of supplies, equipment, law-books, etc., and will perform duties relating to requests for new and additional space, and for communication services. Two wage-board positions will be assigned to the stockroom to cope with an increase in the volume of supplies and materials to be shipped to a greater number of judges.

Retirement, Insurance, and Payroll Section (2 positions).—One of the two positions requested for the Retirement, Insurance, and Payroll Section will be assigned with the responsibility of reviewing forms and other material relating to the judicial survivors annuity system. Each of the new judges must be informed of the program, the benefits to be derived if they should elect to participate, and the amounts they would be required to deposit into the fund should they elect to purchase credit for prior service. The computations are involved and must be completed immediately upon the entry on duty of a judge so as to assure the judge's widow, in the event of his death, the protection afforded by the system. The employee, on a continuing basis, would be required to prepare replies to inquiries from the judges relating to the program and would process awards of annuities to widows of the judges.

The services of a payroll clerk also are required to assist in the posting of retirement record cards control, and purchases of savings bonds, preparation of reports on the participation of employees in the life insurance and health benefits programs, etc.

Audit Section (2 positions).—An accounting clerk, GS-6, and a voucher examiner, GS-6, are required to handle an increase in the workload of the Audit Section expected as a result of the addition of new judges. The accounting clerk shall be assigned with the responsibility of auditing the quarterly reports of official court reporters and accounts rendered monthly by U.S. marshals, including vouchers covering fees and allowances of jurors, travel expenses of judges and supporting personnel, salaries and benefits, and items of miscellaneous expense.

The voucher examiner shall be assigned the responsibility of preauditing vouchers submitted by contractors, checking as to correctness of price and quantity, appropriation, form of voucher and certification. The incumbent shall be required to perform other related duties.

Budget Office (two positions).—One of the two employees requested for the Budget Office; namely, the accounts maintenance clerk, shall be assigned the responsibility of assisting in the maintenance of special distribution ledgers for personal services which reflect the roll and obligations for permanent full-time, permanent part-time, and temporary employment, and the cost of terminal leave, within-grade salary advancements, etc. This is a fund control process necessary in establishing the status of allotments for personal services. Only one employee in the office currently is assigned with this responsibility and the workload is such that the increase in the volume of postings required due to the creation of the new judgeships cannot be absorbed.

The request for a clerk-stenographer is based on an anticipated increase in the volume of correspondence relating to the accounting and fund control processes of the Office. A greater number of requests for the authorization of travel and miscellaneous expenses to be paid by the U.S. marshals, as well as purchase orders and other obligating documents will be processed and accounted for by this Office.

Records Section (one position).—A mail and file clerk, GS-4, is required in the Records Section to provide special reference service and to receive and fill requests for records which are in the custody of the administrative office. The request for the additional employee is in anticipation of an increase in the volume of personnel notices, travel and expense authorizations and general correspondence.

Offset printing plant.—In anticipation of an increased demand for the reproduction of material and related activities, funds have been requested for an additional position (offset press operator) for the Administrative Office Printing Plant.

Personnel Section (2 positions).—Provision has been made for two additional positions for the Personnel Section, a personnel assistant and a clerk-stenographer. It is expected that with the addition of the 73 new judges and their staffs, the volume of inquiries, requests, and personnel actions will increase almost 20 percent. A greater number of employees will be scheduled for within-grade salary advancements and due to turnover, there will be a greater number of resignations and appointments. The additional employees are required to cope with the anticipated increase in workload.

Division of procedural studies and statistics

It is requested that six new clerical positions be authorized for the Division of Procedural Studies and Statistics. The additional personnel are required for the coding and processing of a greater volume of statistical and accounting data which will result from the activities of the new judges. Three of these positions will be assigned to the Data Processing Unit to operate the additional rental equipment authorized in a supplemental appropriation act for 1962. Two of the positions are to be assigned to the Civil and Criminal Statistical Units to cope with increased workloads expected as a result of the termination of a greater number of cases. One of the employees requested will be required to assist in the preparation and typing of statistical tables and charts to be included in the quarterly and annual reports to the Judicial Conference by the Director of the Administrative Office as required by law.

Personnel benefits

In addition to the amount that has been requested to compensate the additional clerical employees, it is estimated that \$7,800 will be required for related personnel benefits—Government contributions under the Civil Service Retirement Act and shall be subject to withholdings equal to 6½ percent of their basic salary. The Government is required to contribute a matching amount for deposit to the

credit of the civil service retirement fund. Employees who do not waive life insurance coverage shall be subject to biweekly payroll deductions at the rate of 25 cents per thousand dollars of insurance, or \$6.50 per thousand per year. The Government shares the cost of the insurance by contributing into the fund an amount equal to 50 percent of the sum contributed by the employees, or \$3.25 per thousand dollars of insurance coverage.

It is expected that 90 percent of the employees will participate in the Government's health benefits program. The Government's contribution toward the cost of health insurance is expected to average approximately \$60 per participant.

Expenses relating to new personnel

In addition to the sum included for compensation and benefits, it is estimated that \$13,600 will be required to cover the cost of communications, printing and reproduction, supplies, services, and the nonrecurring expense of equipment and furniture for new personnel. The budgetary requirements were established on a unit cost basis. The unit costs were derived from samplings of expenses currently being incurred by Administrative Office personnel. The requirements are as follows:

Communications (including postage).....	\$2,700
Printing and reproduction.....	1,000
Other services.....	200
Supplies and materials.....	1,700
Equipment and furniture (nonrecurring).....	8,000
Total.....	13,600

Increased subsistence (per diem) allowance and parking fees

Pursuant to the provisions of section 6 of Public Law 87-139, approved August 14, 1961, officers and employees of the Administrative Office were authorized to claim, while in an official travel status, per diem in lieu of subsistence at the rate of \$16 and parking fees on and after September 25, 1961. The rate in effect prior to September 25, 1961, was \$12 and no parking fees were allowable. The 10 cents mileage allowance for the use of privately owned automobile was not increased, notwithstanding the fact that Public Law 87-139 authorized a maximum mileage allowance of 12 cents.

Approximately 60 percent of the actual obligations for travel incurred during fiscal year 1961 represented transportation costs and the balance (40 percent) payments for subsistence. Based on the current allotment of \$59,000 payments for subsistence at the rate of \$12 per day would aggregate \$23,600.

As a result of the increase in the per diem allowance from \$12 to \$16, or 33½ percent, payments for subsistence in fiscal year 1963 based on an equal volume of travel will approximate \$31,200, an increase of \$7,600 over 1962. It is expected that payments for parking fees will be negligible.

Expenses relating to the revision of the general rules of practice and procedure in the U.S. courts

The Judicial Conference has been directed by the Congress (Public Law 85-513) to carry on a continuous study of the operation and effect of the general rules of practice and procedure in use in the courts of the United States with a view to recommending changes and additions to the rules deemed desirable to promote simplicity in procedure, fairness in administration, the just determination of litigation and the elimination of unjustifiable expense and delay.

In response to this direction, the Judicial Conference authorized and the Chief Justice appointed a Standing Committee on Rules of Practice and Procedure and an advisory committee in each of five specialized fields, being civil, criminal, admiralty, bankruptcy, and appellate rules, to study and recommend revision of the rules if needed. The membership of these committees varies from 9 to 15, and all are composed of judges, lawyers, and legal scholars who are considered nationally recognized experts in the field of their committee interest, and all are serving without compensation. The work in progress of these committees has included recommendations for the revision of the rules of court which have been approved by the Supreme Court and by the Congress, resulting in improved simplicity in procedure and the elimination of a large amount of unjustifiable expense.

The recommendations of the Advisory Committee on Civil Rules approved by the Supreme Court and the Congress, and effective as of July 19, 1961, among other things revised the rule with respect to the procedure for substituting the successor in suits brought against Government officers in their official capacities,

and because this revision followed so closely the change in national administration with its accompanying change of officers the resulting savings to the litigants, and especially to the United States, is very large.

The recommendations of the Advisory Committee on Admiralty Rules approved by the Supreme Court and the Congress, also effective as of July 19, 1961, among other things revised the rule with respect to the use of discovery procedures in admiralty cases. The provision for discovery procedures in the general admiralty rules was necessitated by a decision of the Supreme Court holding invalid the rules of local district courts authorizing discovery in admiralty cases, and is credited with having saved litigants, and the U.S. Government in particular, very large sums of money already invested in discovery proceedings in numerous admiralty cases.

The recommendations of the Advisory Committee on Bankruptcy Rules approved by the Supreme Court and the Congress, also effective as of July 19, 1961, among other things revised the general orders and official forms in bankruptcy to cure their invalidity in many particulars by bringing them into harmony with more recently enacted changes in the Bankruptcy Act, thus simplifying procedure and eliminating unjustifiable confusion and expense.

The progress of the other committees is no less great, although they have not as yet recommended revisions in the rules.

To meet the expenses relating to the revision of the general rules of practice and procedure in the U.S. courts, the annual appropriation act for the fiscal year 1961 provided the sum of \$79,540, under the heading "Salaries and expenses, Administrative Office of the U.S. Courts," and this amount was augmented by \$1,580 to cover the "pay costs" under the Federal Employees Salary Increase Act of 1960, thus bringing the total to \$81,120. It is estimated that an additional \$45,000 will be required in the fiscal year 1963 for this work. The increase is needed for three reasons:

(1) The need for extensive revision of the rules of court in all five fields where the advisory committees are presently working is greater than was originally thought and the amount of work necessary to produce rules that are simple and fair and that will eliminate unjustifiable expense and delay in litigation is considerably greater than was originally estimated.

(2) It has become necessary for the Advisory Committee on Civil Rules to include in its inquiry as to the need for revision of the rules covering discovery procedures an extensive examination into the practical operation, effects, and costs of the present rules of discovery over the past 20 years.

(3) The Judicial Conference has authorized the Chief Justice to appoint a sixth Advisory Committee on Rules of Evidence to ascertain whether it is feasible and desirable to have rules of evidence for general and uniform application in the Federal trial courts, and, if so, to undertake the drafting of such rules.

The additional amount by object classification follows:

Object:	Amount
Personnel compensation.....	\$34,000
Personnel benefits.....	1,000
Travel and transportation of persons.....	2,000
Rent, communications, and utilities.....	1,400
Printing and reproduction.....	5,400
Other services.....	800
Supplies and materials.....	400
Total obligations.....	45,000

ADDITIONAL JUDGES AND CLERICAL POSITIONS

Mr. ROONEY. This request for \$1,609,000, as previously stated, is an increase of \$167,250 over the amount appropriated to date for the current fiscal year. At pages 152 and 153 will be found a table of increases which make up the requested \$167,250 additional. This request would entail the addition of 21 clerical positions to the payroll of the Administrative Office of the U.S. Courts.

Have you a general statement with regards to this, Mr. Olney?

Mr. OLNEY. No, sir.

Mr. ROONEY. If I understand this correctly, these requested 21 additional clerical positions are justified on the basis of the omnibus judgeship bill.

Mr. OLNEY. Yes, sir.

Mr. ROONEY. We added how many judges to the payroll under that omnibus judgeship bill?

Mr. OLNEY. You mean how many are now on the job?

Mr. ROONEY. How many are now on the job and how many are expected to be appointed in the balance of the fiscal year or in the following fiscal year.

Mr. OLNEY. There are 59 on the job now, and in making our estimate as to how many we expect, what is that?

Mr. ANDERSON. There are 14 additional new judgeships to be filled.

Mr. ROONEY. I am trying to get a relationship between the requested 21 additional clerical positions and the number of judges added to the payroll. On what number of additional judges is the requested 21 in clerical personnel asked for?

Mr. AIRHART. Seventy-three.

PARKING FEES

Mr. ROONEY. At page 152, item 4, we find an item, No. 4, to cover increased subsistence per diem allowance and parking fees authorized pursuant to the Travel Expense Act, as amended. How much is in here for parking fees?

Mr. ANDERSON. None, Mr. Rooney.

Mr. ROONEY. Do you want to strike that language, then, from page 152 of the justifications?

Mr. ANDERSON. We can just as well. The \$7,600 is computed to cover the per diem.

Mr. ROONEY. And none of it is for parking fees?

Mr. ANDERSON. We will pay parking fees in fiscal year 1963.

Mr. ROONEY. Then you do not need the \$7,600 for subsistence or per diem allowance, do you?

Mr. ANDERSON. Yes, sir.

Mr. AIRHART. That is to cover the increase from \$12 to \$16, Mr. Rooney.

Mr. ROONEY. I understand that, but you also include parking fees. Now you say you will not need parking fees.

Mr. AIRHART. We thought we did not need to ask for any money for it because we do not think it will amount to enough to ask.

Mr. ROONEY. You will take it out of what?

Mr. AIRHART. Out of the normal travel allowance money. If we changed the language, we might end up being prohibited from paying parking fees.

REVISION OF GENERAL RULES OF PRACTICE AND PROCEDURE

Mr. ROONEY. At page 153, item 5, an additional sum is stated to be required for expenses relating to the revision of the "General Rules of Practice and Procedure in the U.S. Courts." The requested additional amount is \$45,000. How much was requested for this so-called rules group in fiscal year 1961?

Mr. OLNEY. \$81,000-and-something.

Mr. ROONEY. How much was allowed?

Mr. OLNEY. We were allowed \$81,000.

Mr. AIRHART. The request was for \$79,540, which was raised to \$81,120 by the Salary Increase Act. So we ended up getting in fiscal 1961 the \$79,540. I believe that is the exact figure, which was increased.

Mr. ROONEY. Increased by \$1,580, which was the pay raise?

Mr. AIRHART. That is right.

OBLIGATION IN EXCESS OF AMOUNT SPECIFIED BY CONGRESS

Mr. ROONEY. That amount, \$79,540, was specifically stated in the conference report as being allowed for this purpose?

Mr. OLNEY. Yes, sir.

Mr. ROONEY. How much was obligated in fiscal year 1961?

Mr. OLNEY. \$93,514.24 total.

Mr. ROONEY. Where did you get the money?

Mr. OLNEY. We paid \$81,119.47 from the appropriation for "Salaries and expenses, Administrative Office of the U.S. courts"; we paid \$3,944.15 from the appropriation for "Salaries of supporting personnel for the judiciary"; and we paid \$8,450.62 from the appropriation "Travel and miscellaneous expenses, U.S. courts."

Mr. ROONEY. Although the conference report on the 1961 bill specifically set the amount at \$79,540, and even though you did not have the money in the overall appropriation item, "Administrative Office of the U.S. courts," you dipped into these other funds, did you?

Mr. OLNEY. Surely.

Mr. ROONEY. What authority in law do you have for doing that?

Mr. OLNEY. I think we have authority for it. The \$81,000 figure, of course, is added to the appropriation of the Administrative Office for the additional costs of this rules work, but the rules work is done by the judiciary and by these committees. This is not a project of the Administrative Office. It is one where we administer—

Mr. ROONEY. But you must approve the allowance of the funds, is that not so?

Mr. OLNEY. Yes, that is right.

Mr. ROONEY. Are we to understand from this it is your idea that with regard to the five items which make up "Courts of appeals, district courts, and other judicial services," perhaps with the exception of "Salaries of judges," you are entitled to dip into any of those?

Mr. OLNEY. I think I am entitled to under the circumstances that we had in this year. I will be happy to explain what those were.

Mr. ROONEY. You had better do some explaining, because right now the record stands at an amazing angle, I would say.

Mr. OLNEY. Tomorrow we will have two witnesses who will explain in more detail what the rules work is and how it is conducted. What happened this last year was that most of this money goes for the cost of committee meetings and for printing costs. The Advisory Committee on the Rules of Civil Procedure found that if they could get adopted a rule change which they were recommending, which has to do with the substitution of parties in suits brought against Government officials in their private capacity, if they could get that rule changed in time to make it effective, there would be very, very wide-

spread savings, both to litigants and particularly to the U.S. Government. These are cases where some Government official is sued in his official capacity and then he leaves office, and the problem comes up of what do you do with the suit as far as his successor is concerned. Under the rules as they formerly were, you had to go make a motion in every single instance where there was to be a substitution, and show that there was need for making the substitution, and then get an order. The rule change accomplishes these substitutions automatically, so the hundreds of motions in hundreds of actions all over the country would be eliminated.

To make that effective, however, the Advisory Committee, after they had concluded that this was a practical rules change, had to have their rule distributed widely and get the views of the bench and the bar all over the country before it was settled on, then submit it to the Judicial Conference of the United States and have it approved there. The Conference, in turn, had to submit it to the Supreme Court for adoption, and the Court had to take action adopting that rule before the Congress ended, because these rules do not become effective when the Supreme Court adopts them, but only after Congress has had at least 3 months, I think, to consider them. Then they become effective.

That was the situation with respect to this rule that relates to substitution of parties.

We had another situation in admiralty—

Mr. ROONEY. Will you relate this matter of substitution of parties moneywise to the \$79,540 which was allowed by the Congress, the full amount requested?

PRINTING COSTS

Mr. OLNEY. Yes, I will. In May the committee meetings had been held. Those costs had all been incurred. What we were then up against were very heavy bills for printing. The reason they were so heavy was because of the emergency nature of them. We had to have the printing expedited, and it was a very large amount.

Mr. ROONEY. How much was the printing bill?

Mr. OLNEY. The total for the year for printing and reproduction costs of duplicating by the Administrative Office was \$7,066.82.

Mr. ROONEY. Was this for the rules group?

Mr. OLNEY. That is correct.

Mr. ROONEY. When was this printing ordered?

Mr. AIRHART. Excuse me, Mr. Olney. You have two figures there—printing and reproduction of \$9,688, and duplicating by the Administrative Office of \$7,000.

Mr. ROONEY. Mr. Olney should have given us the figure \$9,688?

Mr. AIRHART. Two figures; for printing and reproduction, \$9,688.97, and for duplicating in our own office charged against the allotment, \$7,066.82.

Mr. ROONEY. What part of these figures applies to the rules group?

Mr. OLNEY. All of it.

Mr. ROONEY. So we have \$16,700 for printing and reproduction for the rules group; is that correct?

Mr. OLNEY. That is right.

Mr. ROONEY. Can you tell us, with regard to the substitution of parties matter you have referred to, when that printing was ordered?

Mr. OLNEY. There were several printings. There were these preliminary drafts which were first printed, and those were not on an expedited basis. Those are the ones that were sent to law schools—

DISTRIBUTION OF OVERTIME—PRINTING MATERIAL

Mr. ROONEY. Which was the printing which was done by double-time over in the Government Printing Office?

Mr. OLNEY. That is the last one, the last part.

Mr. ROONEY. How much was that?

Mr. OLNEY. I am sorry, we do not have that.

Mr. ROONEY. After that double-time printing, that very expensive overnight printing, I take it, the material was permitted to sit around for quite some time, was it not, before it was sent out?

Mr. OLNEY. No, sir.

Mr. ROONEY. What was the elapsed time between the receipt of that high-cost printing and the time it was used?

Mr. OLNEY. I cannot tell you.

Mr. ROONEY. Have you any idea?

Mr. OLNEY. No, sir, but it was not anything considerable.

Mr. ROONEY. I understand that it was. It is my information that, after spending money for double-time printing, it was permitted to sit around for quite some time before it was sent out, and that there was not originally any basis for having it done other than in the ordinary way.

Mr. OLNEY. That is not correct.

Mr. ROONEY. Will you tell me in what regard I am wrong?

Mr. OLNEY. It never sat around without reason for any considerable length of time. I will find out what the facts are on that.

Mr. ROONEY. Would you let us have the dates with regard to the time the printing was ordered, the amount that it cost, and when the material was finally mailed out?

Mr. AIRHART. Yes, sir.

Mr. ROONEY. You never heard of this?

Mr. OLNEY. No, sir. And we will give the reason why, if it sat around.

Mr. ROONEY. I do not think we need the reason. We have now gotten so far that the reason would be immaterial, in view of your answers.

Mr. OLNEY. There are time elements involved there.

Mr. ROONEY. You cannot have your cake and eat it, too.

Mr. OLNEY. After the rules were adopted by the Supreme Court and we had these completed rules that had been printed, we could not distribute them then until the time had expired when they became effective.

Mr. ROONEY. Why was it done at double time in the first place?

Mr. OLNEY. So we would not have to do it twice. We had to get the thing out in the first instance to get it to the Supreme Court so they could approve it and then get it and have it under consideration by the Congress. Then after the Congress gets it and it becomes effective, we have to have a very broad distribution of it and as soon as possible at that time, because the whole purpose of this is to notify the members of the bar that these proceedings are useless, that they do not have to do them, that this is automatic. That is why the

printings on these are so large. Some of them—not this expedited one, but some of the distributions have been as many as 20,000 copies.

Mr. ROONEY. You will furnish us with that information. I want to know exactly when the printing was ordered, how much it cost, when it was used and sent out, and what is still over there.

Mr. OLNEY. May I make this clear, too. Precisely this situation exists in connection with the admiralty rules. The emergency there was due to a different reason, but it deals with the same thing.

Mr. ROONEY. That is the second item that you referred to at the outset?

Mr. OLNEY. Yes.

Mr. ROONEY. You also had very expensive fast-time printing done with regard to that?

Mr. OLNEY. That is correct, for the same reason.

Mr. ROONEY. Give us the same information with regard to that, the dates and the amounts, when it was ordered and when it was used.

Judge McGUIRE. Mr. Olney, do I understand Judge Prettyman and the Deputy Attorney General, Mr. White, will address themselves to these matters tomorrow?

Mr. OLNEY. They will.

Mr. ROONEY. Of course, this is pertinent now, Judge McGuire, because it was approved by Mr. Olney.

Judge McGUIRE. I understand.

Mr. ROONEY. What amount of time, in the ordinary course of things, would there be between a regular printing order down to the Government Printing Office and the method that was used here, the double time, overtime printing?

Mr. OLNEY. I cannot tell you offhand.

Mr. ROONEY. Does anybody here know that?

Judge McGUIRE. I merely alluded to those two gentlemen to make the record clear this was a matter that did not come before the Budget Committee in the ordinary way.

Mr. ROONEY. It had been my understanding that the Budget Committee had nothing at all to do with this.

Judge McGUIRE. That is correct.

Mr. ROONEY. That this was Mr. Olney and the rules group.

Mr. OLNEY. That is true.

Mr. ROONEY. It is also my understanding—and I hope I am wrong; I hope I have been misinformed—that it was a glaring waste of taxpayers' money to have this done by an expensive, overtime operation rather than in the ordinary course of things. Can anybody tell us the difference in costs between the ordinary operation of having that printed for the court and an overtime operation?

Mr. OLNEY. We will do that together with the information you have asked for.

(The information supplied follows:)

Printing and distribution of admiralty and civil rules

Item	Order		Regular cost		Surcharge for expediting		Total cost	Delivery		Distribution		Stock remaining
	Date	Quantity	Composition	Running	Composition	Running		Date	Quantity	Date	Quantity	
							Quantity					Quantity
Pamphlet: Proposed Amendments to Rules of Practice in Admiralty and Maritime Cases (Judicial Conference printing).	Apr. 13, 1961	1,000	\$593.08	\$153.46	\$296.54	\$84.02	\$1,107.10	Apr. 24, 1961	1,000	Apr. 24, 1961	200	800
Pamphlet: Amendments to Rules of Practice in Admiralty and Maritime Cases (Supreme Court printing).	-----do-----	8,000	425.80	966.82	212.90	116.63	1,662.15	Apr. 25, 1961	8,000	May 2, 1961 After May 2, 1961	6,000 200	1,800
Pamphlet: Proposed Amendments to Rules of Civil Procedure for U.S. District Courts (Judicial Conference printing).	-----do-----	1,000	183.56	78.34	91.78	33.17	386.85	-----do-----	1,000	Apr. 25, 1961	400	600
Pamphlet: Amendments to Rules of Civil Procedure for U.S. District Courts (Supreme Court printing).	-----do-----	8,000	134.62	671.93	67.31	112.97	986.83	Apr. 28, 1961 May 2, 1961	1,050 6,950	May 2, 1961 After May 2, 1961	4,500 350	3,150
Total		18,000	1,337.06	1,810.55	668.53	326.79	4,142.93		18,000		11,650	6,350

NOTE.—Delivery was effected by GPO in 11 to 19 days under the surcharge arrangement. By comparison the pamphlets on Bankruptcy Rules were ordered printed and run on a regular basis and delivery was made in 40 to 46 days.

ALLOCATION OF FUNDS FOR STUDY OF RULES OF PRACTICE
AND PROCEDURE

Mr. ROONEY. How much was requested for this rules group in fiscal year 1962, the current fiscal year?

Mr. AIRHART. The same amount.

Mr. OLNEY. \$81,000.

Mr. ROONEY. Do you plan to stay within this amount?

Mr. OLNEY. We are going to have very, very serious difficulty doing it. We will do it, of course. We have to. This time we will not be confronted, as far as I know, with any such emergency as we have had before. But at the rate that the expenditures are going now, we will be way in the red.

Mr. ROONEY. You are convincing the committee we made a mistake in giving you too much money in other categories so that you could dip into them for this purpose. That is about what this amounts to as a practical matter. What amount are you requesting for fiscal 1963, the current, the instant budget?

Mr. OLNEY. You mean for—

Mr. ROONEY. For the rules group.

Mr. AIRHART. \$126,120.

Mr. ROONEY. At page 171d you set forth the increases only. Do you have a statement there with regard to the amounts which make up the \$126,120? Can you read them into the record?

Mr. AIRHART. The amount would come from a deduction of non-recurring expenses—

Mr. ROONEY. May I see that, please. Have you another one there?

Mr. AIRHART. These are pages 152 and 153.

Mr. ROONEY. Page 153 is no help to us.

Mr. AIRHART. Are you speaking solely about the rules?

Mr. ROONEY. I am speaking solely about the rules group. It does not appear in these justifications. All that appears is the requested increase of \$45,000. You tell us that the amount for 1963 is \$126,120. I am asking for a breakdown of that figure.

Mr. AIRHART. I am sorry.

Mr. GARABEDIAN. I can call and get that breakdown if you will permit me to make a phone call. I do not have the figures with me.

Mr. ROONEY. Please insert at this point in the record a statement indicating the breakdown of the different categories which make up the \$126,120 requested for fiscal year 1963.

(The information requested follows:)

Allocation of funds for the study of rules of practice and procedure

	1962 allotment	Increase requested	1963 estimate
Personnel compensation.....	\$50,000	\$34,000	\$84,000
Personnel benefits.....	2,000	1,000	3,000
Travel and transportation of persons.....	16,000	2,000	18,000
Transportation of things.....			
Rent, communications, and utilities.....	3,000	1,400	4,400
Printing and reproduction ¹	8,000	5,400	13,400
Other services.....	1,000	800	1,800
Supplies and materials.....	1,000	400	1,400
Equipment.....	120		120
Total.....	81,120	45,000	126,120

¹ Includes cost of duplicating in administrative office printing plant.

Mr. ROONEY. Judge McGuire, do I understand that the Budget Committee of the Judicial Conference has not considered this request of \$126,120?

Judge McGUIRE. We have not considered anything in relation to the Rules Committee.

Mr. ROONEY. Could you tell me why?

Judge McGUIRE. I am now giving you merely my own conclusion because nothing specifically was said, but we felt this was a matter of an emergency nature that the Rules Committee was confronted with, and therefore, in the circumstances, they would have to make the explanation themselves. For that reason, Judge Prettyman——

Mr. ROONEY. How about the 1963 request?

Judge McGUIRE. The 1963 request was passed——

Mr. ROONEY. I can very well appreciate your wanting to stay away from this.

Judge McGUIRE. We want to stay away from it generally because really, as a matter of fact, it is an extraordinary item that presumably is not recurring, although it is recurring again this year. I think this would be the end of it. As a matter of fact, since you put words in my mouth, I prefer to stay away from it.

Mr. ROONEY. Fair enough.

INCREASE IN ADMINISTRATIVE OFFICE COSTS

Mr. Bow. I have some questions relating to page 152 and on from there, in relationship to the 21 positions for the Administrative Office. I call your attention to the summary which was handed to us across the table this morning, the "Increases in Judiciary Appropriation Required to Implement the Omnibus Judgeship Legislation," which shows a request for 1963 for the 21 positions of \$110,000. The right-hand column on page 152 shows \$118,000. I notice that you have Administrative Office total estimate of \$125,000, and then Administrative Office, nonrecurring, \$8,000. How do you explain that?

Mr. ANDERSON. The \$110,000 on the statement to which you refer is the item of recurring costs, to which should be added \$8,000 non-recurring costs, Mr. Bow, which makes up the \$118,000.

Mr. Bow. Looking at page 160, "Grand total, Administrative Office, 21 positions, \$100,479."

Mr. ANDERSON. That is the total annual salaries of the 21 positions from which we deduct a lapse figure and arrive at an estimate for personnel compensation of \$96,600, to which is added, on the next page, \$7,800 for related benefits and \$13,600 for total related expenses.

Mr. Bow. It says here \$118,000.

Mr. ANDERSON. Yes, sir.

Mr. Bow. Are all these positions related to the 73 new judges?

Mr. ANDERSON. Yes.

Mr. Bow. These are the positions shown on pages 159 and 160, is that correct?

Mr. AIRHART. That is correct.

SPACE AND COMMUNICATIONS ASSISTANT

Mr. Bow. Let us look at some of these. Let us take the first item, "Space and communications assistant, GS-7, at \$5,366." How many people are in that work right now?

Mr. ANDERSON. Five.

Mr. BOW. What is the total number of judges that they were handling before you had this new bill?

Mr. GARABEDIAN. In 1961, there were 394 judges, which included 75 senior judges and 6 resigned judges.

Mr. BOW. What does a space and communications assistant do?

Mr. ANDERSON. He is a man who coordinates with the General Services Administration and the Post Office Department, depending on who is operating the court building, in arranging for the telephone service to be put in, providing additional office space for the new judges or for the present judges, things of that nature.

Mr. BOW. What does "p.a." mean?

Mr. ANDERSON. Per annum.

Mr. BOW. These five that you have in there presently could not handle the new positions? Is that right? You could not handle this in your existing group?

Mr. OLNEY. That is right.

Mr. BOW. You need one man just to take care of these new people. What is he going to do after he gets the space located and the telephone service in? What will this fellow do?

Mr. ANDERSON. I would say he would continue to do the same thing. This is not a closing proposition. Let me explain it this way: We have had the experience now of having 59 of these judges come on board that we have had to take care of. It has been a terrific burden to try to get them—

Mr. BOW. You have had 59 of them come aboard with the 5 you had in there, and they handled it, did they not?

Mr. ANDERSON. I cannot say it has been handled. We have fallen behind in our service to the courts.

Mr. BOW. In what area have you fallen behind?

Mr. ANDERSON. In business administration, Mr. Bow, we have fallen behind in every area.

Mr. BOW. I am talking now about space and communications. How far behind are you in finding space for these judges?

Mr. ANDERSON. Perhaps Mr. Olney can speak to that.

Mr. OLNEY. This document, incidentally, is a report which Mr. Collier, who is the Chief of the Division of Business Administration, submitted to me under date of December 7, on the conditions in his Division, and under the Service Section, which includes the Procurement Unit, he reports that the general correspondence in this Unit is 2 weeks behind. The preparation of purchase orders is approximately 2 months behind, except for urgent requirements, which we are endeavoring to keep current. We are 2 weeks behind in the preparation of requisitions for the Federal Supply Service.

The Law Book Unit is 6 weeks behind, and the situation is becoming worse daily.

The Printing and Binding Unit report that we have become almost current in this area.

In the Supply Requisition Unit, the people who process the requisitions clerically are approximately 2 weeks behind. This involves the typing of the requisitions and the preparation of the invoices. However, we are approximately 8 weeks behind in effecting stockroom shipments.

In the Space and Communications Unit we are now 1 week behind, but this situation is deteriorating daily.

Mr. Bow. That is the one where, although you have five people now, you need another one to take care of these judges?

Mr. OLNEY. That is right.

PROCUREMENT UNIT

Mr. Bow. How many people do you have working as purchasing clerks?

Mr. OLNEY. In the Procurement Unit? How many people?

Mr. ANDERSON. There are five people in that particular unit, Mr. Bow.

Mr. Bow. How about the clerk-stenographers?

Mr. ANDERSON. The clerk-stenographer would go also in the Purchasing Unit.

Mr. Bow. You have that as a separate item here. I want to know how many you have under this item of clerk-stenographer, GS-4, \$4,040 per annum.

Mr. ANDERSON. You want to know how many clerk-stenographers we have?

Mr. Bow. Yes, presently, who make up that group to which you wish to add.

Mr. ANDERSON. Two.

Mr. Bow. You have two, and you want to add one. Right?

Mr. ANDERSON. Yes, sir. That is correct.

WAREHOUSEMEN

Mr. Bow. Now the warehouseman, WB-9, \$2.53 per hour. How many do you have in there?

Mr. ANDERSON. Eight, sir.

Mr. Bow. How many are you going to put on?

Mr. ANDERSON. Two.

Mr. Bow. What do these warehousemen do that is so necessary to these 71 new judges?

Mr. ANDERSON. We have a supply stockroom in the administrative office, Mr. Bow, which is used for this purpose. We buy stocks in large quantities, stock them in the administrative office, and then distribute them in smaller packages as the courts request the supplies.

Mr. Bow. These eight people you have in there now are not able to go in and pick up these stocks and ship them out?

Mr. ANDERSON. They are so far behind now, we are getting letters of complaints. For the first time in my experience in the administrative office, we are not filling the orders timely.

Mr. Bow. Is this just because of the new judges, or is it because of other reasons?

Mr. AIRHART. Mr. Bow, may I say we realize we are going to have a peak workload here as the new judges come on, but what we are really asking for here is what we think is going to be the continuing need for coping with 73 judges and probably 400 people, roughly, in addition, because these are all going to be continuing.

Mr. Bow. Where do you keep these supplies?

Mr. AIRHART. In our own stockroom.

Mr. BOW. What is your present inventory? Have you no inventory? Have you no value assessed for the supplies you have down there?

Mr. AIRHART. Much of it is forms. We do not keep a running value inventory; no, sir.

Mr. BOW. You have no idea what it amounts to?

Mr. AIRHART. We would be up here asking for more people if we did that.

RETIREMENT, INSURANCE, AND PAYROLL SECTION REVIEWER

Mr. BOW. How many reviewers do you have now?

Mr. ANDERSON. This is in the Retirement, Insurance, and Payroll Section. We have none. This is a new kind of position.

Mr. BOW. Is this fellow going to review only the new 71 judges?

Mr. ANDERSON. No, sir.

Mr. BOW. This is a new position which has nothing to do with the 71 new judges, then?

Mr. ANDERSON. The 73 additional judgeships are the reason we need additional help in this area. The reviewer is the one who would be working with the judges' previous service records to establish that record under the judicial survivors annuity system.

Mr. BOW. Actually, what you have here is this one person. You have nobody in there now, but because of the omnibus judges bill we are adding one additional person to the unit.

Mr. ANDERSON. That is correct.

Mr. BOW. This is to take care of the 394 who were there before as well as the 71 new ones.

Mr. ANDERSON. That is correct.

Mr. BOW. It is just a new position.

Mr. ANDERSON. That is correct.

PAYROLL CLERK

Mr. BOW. How about the payroll clerks?

Mr. ANDERSON. We have two of those at the present time.

Mr. OLNEY. Mr. Bow, could I give you—

Mr. BOW. Let me finish on this first, please.

What will the payroll clerk do?

Mr. ANDERSON. The payroll clerks receive the payrolls from all over the country. As you know, we disburse through the U.S. marshals. They actually draw the payroll checks. The payrolls are prepared in the courts and are submitted to the Administrative Office following payment. In the Administrative Office are maintained all of the payroll records.

Mr. BOW. How is this done? How do you handle it?

Mr. ANDERSON. The payroll actually comes to these two people now, and they prepare them for machine processing. We use punch-card machines to add them up.

Mr. BOW. Do they have machines there?

Mr. ANDERSON. No; we use the machines in our Procedural Studies Division.

Mr. BOW. How far behind are your payroll clerks?

Mr. ANDERSON. Our payroll clerks are current for the reason that—I have to say this—W-2's are due by the end of this month. We

have been working night, day, and weekends. That is the only reason they are current. I must say they are current.

Mr. Bow. That is because of the W-2's at the end of the year. How about the rest of the time?

Mr. ANDERSON. They were over a month behind, approaching W-2 time.

Judge McGUIRE. They are still behind, are they not, Mr. Anderson? I know from the situation in our own court where employees pay their income tax on the 1st of January, they have not gotten the W-2's yet and will not get them, I am given to understand, until the 31st of this month, which in some instances would result in a penalty to the individual taxpayer.

Mr. ANDERSON. I do not know about that. The law provides we may deliver W-2's by January 31, and we are going to do it. This is the reason we pulled this one up, Mr. Bow. We had to do it.

Mr. Bow. How about the Audit Section? How many do you have in there now?

Mr. ANDERSON. We are talking about an accounting clerk. We now have seven such positions.

Mr. Bow. You are adding one?

Mr. ANDERSON. Yes, sir.

VOUCHER EXAMINERS

Mr. Bow. How about voucher examiners?

Mr. ANDERSON. We have three voucher examiners.

Mr. Bow. This is to add one?

Mr. ANDERSON. Yes, sir.

Mr. Bow. To hear you people talk about how far behind you are and all the trouble you are having down there, I am amazed that you have been able to operate. You are running a pretty bad shop. We have not heard about this before.

Mr. OLNEY. You have not even heard about how bad off we really are. If you are interested in that, I can give you what is in this report.

Mr. Bow. I would like to complete my examination, and then I will be glad to hear it. It is amazing to me that, now that we have 71 new judges in here, you find you have had all this trouble with your others. I do not remember hearing much about how far behind you were and the difficulties you were having.

Mr. ROONEY. Mr. Bow, would you yield to me?

Mr. Bow. Yes, sir.

INCREASE IN EXPENSES OF ADMINISTRATIVE OFFICE SINCE 1953

Mr. ROONEY. This might be the proper point to observe that it is amazing what might be wrong with this operation because, looking at page 384 of the committee print, it appears that the appropriations for the Administrative Office have practically tripled since 1953. You compare that with every other item in this bill that has to do with the administration of justice, and you will find that none of them is more than twice as much, whether the FBI, the Immigration Service, the Customs Court, or any of the operations we have been talking about. None of them is more than twice as much in that period, but this Office has tripled.

BUDGET OFFICE

Mr. Bow. In the Budget Office, how many do you have doing the work for which you want to add a GS-7 accounts maintenance clerk?

Mr. ANDERSON. One.

Mr. Bow. You have one. You have been handling 394, and now you are in trouble.

Clerk-stenographer, Budget Office.

Mr. ANDERSON. We have just one.

Mr. Bow. Records Section, mail and file clerk. How many do you have in there?

Mr. ANDERSON. We have three mail and file clerks now.

Mr. Bow. Offset printing plant, offset press operator.

Mr. ANDERSON. We have four.

Mr. Bow. Personnel Section, personnel assistant.

Mr. ANDERSON. We have one such position now.

Mr. Bow. Clerk-stenographer.

Mr. ANDERSON. We have two.

Mr. Bow. Division of Procedural Studies and Statistics. This is something that is rather amazing, because with 73 new judges you have to beef this up. I thought this was all being done now.

Mr. AIRHART. This is due in large part to the fact that our budgeting and accounting records and payroll records, all of these things we have been talking about in the Business Administration Division, fall also on the Statistical Section of the Division because their machines are the ones that are used.

Mr. Bow. Let us find out how many statistical assistants (civil) you have now.

Mr. ANDERSON. One.

Mr. Bow. And criminal?

Mr. ANDERSON. One.

Mr. Bow. Coding clerk.

Mr. ANDERSON. One.

Mr. Bow. Clerk-statistical typist?

Mr. ANDERSON. We have no such position as that at the present time.

Mr. Bow. Tabulation machine operator?

Mr. ANDERSON. We have one. It does not bear exactly that title, but it is like that, electronic machine operator.

Mr. Bow. Punch operator?

Mr. ANDERSON. Five.

Mr. Bow. Except for the punch operator, you are doubling the size of your staff because of 71 new judges where you had 394 before. Is that right?

Mr. ANDERSON. Yes, sir.

COMMUNICATIONS EXPENSE

Mr. Bow. What is your present communications expense?

Mr. ANDERSON. Communications expense for the administrative office?

Mr. GARABEDIAN. Our total expenditures for rent, communications, and utilities during 1961 were \$66,000 of which roughly \$36,000 was for the rental of IBM equipment.

Mr. Bow. I am talking about the item under "Related expenses" on page 161, communications, which is increased by \$2,700 because of the 71 new judges.

Mr. GARABEDIAN. Our current communications are roughly \$30,000.

Mr. Bow. \$30,000.

Mr. GARABEDIAN. That includes postage and fees paid to the Post Office, sir.

EQUIPMENT AND FURNITURE FOR NEW OFFICES

Mr. Bow. How many new offices are you setting up, complete new offices, physical, referring to equipment and furniture of \$8,000? What will that include? Where is your list of furniture you are going to buy with the \$8,000?

Mr. ANDERSON. The \$8,000, Mr. Bow, is computed on the basis of an average of \$850 per employee. Some areas will need a desk and a typewriter, and in some areas a desk and perhaps a dictating machine, and some areas nothing. For instance, for the warehouseman we will add nothing except his salary.

Mr. Bow. Actually, this is just an average that you have picked up here. You do not know exactly what you will buy yet.

Mr. ANDERSON. I do not know the exact items we will buy; no, sir.

Mr. Bow. That is all, Mr. Chairman.

Mr. ROONEY. Mr. Cederberg.

Mr. CEDERBERG. How much of an increase in personnel did you originally request in your budget before it was finalized?

Mr. OLNEY. Did we request of whom, sir? We made the same request for 21 people.

Mr. CEDERBERG. And 21 were approved?

Mr. OLNEY. Last year, none.

REVIEW OF BUDGET BY JUDICIAL CONFERENCE

Mr. ROONEY. The Bureau of the Budget does not go into these requests for the judiciary. Whatever the judiciary formulates goes to the Bureau of the Budget and is automatically approved, being a separate branch of the Government.

Mr. CEDERBERG. Does not the judicial group have a budget committee which oversees this?

Judge MCGUIRE. Yes; we do that. We went along with the recommendation made here because of the increase in the number of judges and the personnel that usually goes along with the increase in the number of judges. There is a large amount of work of related but necessary character from a functional point of view that goes along with these clerks. For that reason, we felt that the justification was a proper justification in the circumstances.

Let me give an example of some of the additional work required by judicial decisions. For example, our court of appeals here about a year ago required that all arraignments be typed. In other words, an individual appears before a court for arraignment on a criminal charge. You had to take down not only verbatim by the reporter what was said at that time, which ordinarily we would file in case there was any question raised, but then it had to be typed by the reporter. So the reporters naturally resented that type of thing. Finally, before the Judicial Conference, because Judge Connally raised

the question as to the circumstances in Texas and the difficulties he was having, you were enabled to take it down by a tape recording, which is perfectly proper, and sometimes much better than the verbatim report you take because you have the living voice of the participants. Nevertheless, in the circumstances the reporters have to certify, and they also have to file a rather complicated questionnaire as to their activities.

So all of this business comes down to the information that is required with reference to the activity of the courts.

I might say this. I served on a committee appointed by Judge Prettyman 2 or 3 years ago, and the matter is still pending before the Judicial Conference. They made no report this year. This business of cases pending actually is no reflection of the true business of the courts. For example, there was a directive by the Judicial Conference this year that all cases 3 years old or older must be tried. Then finally there was a qualification that all cases that were triable, 3 years old or older, must be tried. We had an audit made of our situation in the District of Columbia, and at a cursory glance it appeared that a substantial number of cases, 310 actually, were 3 years old or older and had not been tried, but when it came down to a formalization and down to detail, it developed that half of those cases had been settled by counsel but no praecipes were filed in the court, so therefore they were kept on the court docket as a pending case when the parties themselves had disposed of the matter. Then, in addition to that, we found other cases were pending because other cases in the court of appeals would be dispositive of the issues raised in those cases, and they were pending. Then we had cases involving foreign judgments, cases being tried in other jurisdictions which would resolve the controversy here.

It all comes down to, the information that is required must be kept, and yet nevertheless the information itself as kept is not purely reflective of the business of the courts.

That question was raised and the Judicial Conference is now studying what can be done about the statistics as they are given to you and as they are given to us. Nevertheless, as a consequence of that type of thing, it requires a great deal of clerical work. So, on that basis we concluded that the request made was not a request that was overly outsize.

With reference to the Administrative Office generally and the constant increase in positions from the standpoint of its budget and from the standpoint of its work, if the work could be cut down, so to speak, if these requirements were not made of the administrative work, then the Administrative Office, I would assume, would fall back into a situation where it would ask for so much and that would be the end. But where these demands are being made upon them and the presentations made before the Budget Committee and the Budget Committee recommends to the Conference and the Conference directs, there does not seem to be anything that can be done but ask. Whether they get it or not is something else again, but they should ask because the work is there.

Mr. CEDERBERG. The reason I asked the question, Judge, was that it appears that most of the work here is other than the type of work that you describe in regard to the *Texas* case.

Judge McGUIRE. For the ordinary employee now we have insurance which we did not have some years ago. We have withholding. We have a lot of things in the nature of laminations that have been added functionally to the responsibility of the Administrative Office as a consequence of benefits conferred upon the individual. I do not know what the experience of other departments is. I am completely in the dark. I did know with reference to the Department of Justice 20 years ago, but things have changed and changed perceptibly.

The thing that bothers me—and I am quite certain it bothers Mr. Olney and everybody else here concerned—is that every year, through no fault of the Administrative Office, you have this constant accretional process going on of asking for more money. Money has to be asked. I am quite certain, as far as the budget committee is concerned, we have cut it down where we think it should be cut down. We have been very peremptory about it. In certain instances we have presented the matter because we felt in the circumstances it was justified.

Mr. CEDERBERG. That answers my question. Then your budget group has reviewed the request of the Administrative Office for this additional personnel and you feel they are justified?

Judge McGUIRE. We have reviewed it in general. We have not gone down specifically in detail the way you gentlemen have. We are satisfied that in the circumstances, in such detail as we got into, it is a justified budget.

I would like to come up here some time and be able to say, "Gentlemen, we are not asking for any more money," and walk out. I hope that will be next year, if I live that long.

Mr. ROONEY. That would be a great pleasure, Judge McGuire.

Judge McGUIRE. It will be a double pleasure for me, Mr. Chairman.

Mr. OLNEY. Might I add something on this subject. I think this will show what has been happening over the years. Questions were raised here about our Retirement, Insurance and Payroll Section, for example. In 1940 when the Administrative Office started, when that section was first set up, all they had to do in connection with payroll deductions was to take the gross salary and the retirement, and come up with the net salary. That is all there was to it. Now what we have to do is to start with the gross salary. We have the retirement we have to figure; then the Federal tax, savings bonds, FICA, then State tax, life insurance, health benefits, and JSAF, and then you come down to a net salary.

Mr. CEDERBERG. Of course, in 1941 we did not have computers, either, to handle these things more quickly.

Mr. OLNEY. That is true.

Mr. ROONEY. These same things apply to the FBI and the Immigration Service.

Mr. OLNEY. They do.

Mr. ROONEY. And they have not had such a proportionate increase as has the Administrative Office. You see, in 1953 it took \$580,000 a year to run the Administrative Office. Now you are in here with a budget of \$1,609,000.

Mr. OLNEY. But look at it in comparison with the number of people that our organization has to deal with, for example. Between 1940 and 1962, the judiciary and its personnel, the personnel we have to deal with, increased a total of 3,198 positions, with increased work on every one of them. At the same time, the number of people in the

Administrative Office increased only 93. The ratio, which certainly is indicative of something, of the number of people that were in the judicial system was one in the Administrative Office as against 25.8 in the judicial branch in 1940. At the present time it would be one in the Administrative Office for 30 in the judicial branch, notwithstanding all this increase in work which could not possibly be accomplished excepting for improvements in methods.

Mr. ROONEY. I should like to point out, Mr. Olney, that while your administrative expenses have been increasing threefold, we find that under "Salaries and expenses, general administration," for the entire Department of Justice, they have increased less than twofold. The same matters to which you have just referred also refer to the employees of the Department of Justice. There were many more employees, and they have insurance, withholding statements, and so on.

Mr. CEDERBERG. That is all I have.

EXPENSES RELATED TO ADDITIONAL POSITIONS

Mr. ROONEY. I have just one further question. At page 161 of these justifications, the items of \$13,600 for related expenses and \$7,800 for Government contributions are dependent upon the allowance of the 21 requested additional positions, are they?

Mr. ANDERSON. In full; yes, sir.

Mr. ROONEY. That is all. Thank you.

SALARIES OF REFEREES

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
11 Personnel compensation:			
Permanent positions.....	1,599	1,845	2,278
Positions other than permanent.....	363	363	285
Total, personnel compensation.....	1,962	2,208	2,562
12 Personnel benefits.....	145	162	188
Total obligations.....	2,107	2,370	2,750

Personnel summary

	1961 actual	1962 estimate	1963 estimate
Total number of permanent positions.....	112	129	160
Full-time equivalent of other positions.....	33	32	24
Average number of all employees.....	142	158	181
Number of employees at end of year.....	178	190	205

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities: Salaries and benefits (total obligations).....	2,107	2,370	2,750
Financing: Unobligated balance lapsing.....	18		
New obligational authority (appropriation).....	2,125	2,370	2,750

Mr. ROONEY. The next item is entitled "Salaries of referees." It is to be found at page 387 of the committee print and beginning at page 173 of the justifications. We shall insert at this point in the record pages 173 through 183 of these justifications.

(The pages referred to follow:)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act.....	\$2,370,000
Base for 1963.....	2,370,000
Net difference, 1963 over 1962:	

	Requirements			
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)	
Personnel compensation and benefits.....	\$2,370,000	\$2,750,000	+\$380,000	+380,000
Total estimate for 1963.....				2,750,000

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
11 Personnel compensation.....	\$2,208,000	\$2,562,500	+\$354,500
12 Personnel benefits.....	162,000	187,500	+25,500
Total obligations.....	2,370,000	2,750,000	+380,000

Summary of increased requirements for 1963

Nature of expense (or savings):	Amount
1. 15 additional full-time referees, 10 at \$15,000 and 5 at \$12,500:	
Compensation.....	\$212,500
Benefits.....	15,500
	\$228,000
2. Conversion of 16 part-time referees to full-time status:	
Compensation.....	100,000
Benefits.....	7,000
	107,000
3. Salary adjustments for referees who are required to devote a greater amount of time to the work of the courts:	
Compensation.....	42,000
Benefits.....	3,000
	45,000
Increase, 1963 over 1962.....	380,000

JUSTIFICATION

Language changes

None.

Objectives

The district courts of the United States are constituted courts of bankruptcy, vested with original jurisdiction at law and in equity in proceedings brought under the bankruptcy statutes. This jurisdiction primarily is exercised through referees appointed by the several district courts. Their compensation and benefits are

paid from this appropriation, which is derived from a special fund in the Treasury to which are deposited payments of fees and charges by parties to the proceedings. No appropriation from the general fund of the Treasury is required.

References to basic statutory authorities are contained in section O of the "Digest of Appropriations, the Judiciary," on file with the Bureau of the Budget and the Appropriations Committees of the Congress.

General justifications

The number of bankruptcy cases filed in fiscal year 1961 reached another alltime high of 146,643. The number of cases filed, the numerical increase, and the rate of increase from 1956 through 1961 follows:

Fiscal year	Cases filed	Increase		
		Number	Annual	Cumulative
		Percent		Percent
1956.....	62,086			
1957.....	73,761	11,675	18.8	18.8
1958.....	91,668	17,907	24.3	47.6
1959.....	100,672	9,004	9.8	62.2
1960.....	110,034	9,362	9.3	77.2
1961.....	146,643	36,609	33.3	136.2

On July 1, 1960, there were 94,990 cases pending. During the year, 117,943 cases were closed as compared with 146,643 cases filed, resulting in an increase in the pending caseload of 28,700 cases or 30.2 percent. This compares with an increase in the pending caseload in 1960 of 10,719 cases or 12.7 percent. The number pending on June 30, 1961, was 123,690, a new alltime high. The number closed in 1961 (117,943) also was a new high. Exhibits J and K show the number of bankruptcy cases filed and pending, fiscal years 1905-61 and the number and ratio of business to nonbusiness bankruptcies commenced, fiscal years 1940-61.

Of the total cases filed in 1961, 89.6 percent were nonbusiness bankruptcies (wage earners) and 10.4 percent were business bankruptcies (which includes merchants, manufacturers, others in business, farmers, and the professional groups). The rate of increase in the nonbusiness group is slightly higher than the business bankruptcies; however, there has been an alarming rate of increase in both categories. The following table shows the volume and ratio (percentage) of business to nonbusiness filings for the past 10 years.

Fiscal year	Nonbusiness	Percent of total	Business	Percent of total	Total filings
1952.....	28,331	81.2	6,542	18.8	34,873
1953.....	33,315	83.1	6,772	16.9	40,087
1954.....	44,248	83.3	8,888	16.7	53,136
1955.....	50,219	84.5	9,185	15.5	59,404
1956.....	52,608	84.8	9,478	15.2	62,086
1957.....	63,617	86.3	10,144	13.7	73,761
1958.....	80,264	87.6	11,404	12.4	91,668
1959.....	88,943	88.3	11,729	11.7	100,672
1960.....	97,750	88.8	12,284	11.2	110,034
1961.....	131,402	89.6	15,241	10.4	146,643

It is estimated that the number of bankruptcy cases to be filed in 1962 will approach 170,000, and that in 1963 the total filings will be in the vicinity of 185,000, or 40,000 in excess of the number of cases filed in 1961. The average caseload per referee has increased 322 percent over the past 10 years from 314 in 1952 to 1,011 in 1961. In 1952 a referee was required to handle on the average of 59 business bankruptcies and 255 nonbusiness bankruptcies whereas in 1961, the average caseload of a referee included 105 business bankruptcies and 906 nonbusiness bankruptcies. Assuming the 170,000 filings forecast for 1962 materializes, the caseload per referee would increase to approximately 1,056. The additional full-time referee positions included herein and the conversion of some part-time referees to a full-time status will, on the basis of 185,000 cases forecast for fiscal year 1963, bring the average caseload of referees down slightly to 1,005 (100 business bankruptcies and 905 nonbusiness bankruptcies). The following

table shows the total filings, the number of authorized referee positions, and the average caseload for the past 10 years, including estimates for the current and budget years:

Fiscal year	Total filings	Number of authorized referees positions ¹	Average caseload
1952	34,873	111	314
1953	40,087	109	368
1954	53,136	110	483
1955	59,404	117	508
1956	62,086	121	513
1957	73,761	126	585
1958	91,668	134	684
1959	100,672	137	735
1960	110,034	141	780
1961	146,643	145	1,011
1962	² 170,000	161	1,056
1963	² 185,000	184	1,005

¹ Full-time equivalent.

² Estimated.

At the beginning of fiscal year 1962 the balance of the "Referees salary and expense fund" was approximately \$8,425,000. It is estimated that receipts to be deposited into the fund during fiscal year 1962 will aggregate \$7,540,000, bringing the total available for appropriation to \$15,965,000. Deducting the appropriations of \$2,370,000 for "Salaries of referees" and \$4,210,000 for "Expenses of referees," a balance of \$9,385,000 would remain in the fund at the end of the year. Taking into account the proposed supplemental for 1962 of \$190,000 for "Expenses of referees," the balance in the fund at the beginning of fiscal year 1963 will be \$9,195,000. The supplemental estimate is, of course, tentative and subject to revision.

It is estimated that during fiscal year 1963 receipts to be deposited into the fund will aggregate \$8,065,000. Deducting the appropriation estimates for fiscal year 1963 of \$2,750,000 for salaries of referees and \$5,290,000 for expenses of referees there would be a net gain (surplus) of \$25,000. At the end of fiscal year 1963 the surplus would exceed \$9.2 million. This surplus cannot be used for any purpose other than the support of the bankruptcy courts, and, therefore, it is apparent that parties to the proceedings are now paying for a service which the bankruptcy courts cannot possibly render with the limited number of referees and clerical personnel that are currently authorized.

Detailed justification

The appropriation request for 1963 for "Salaries of referees," is \$2,750,000, or \$380,000 in excess of the obligational authority granted for fiscal year 1962. The items of increase are explained as follows:

Additional full-time referees

It is requested that funds be provided for the employment of 15 additional full-time referees, 10 at the salary of \$15,000 per annum and 5 at \$12,500 per annum. The amount that will be required to establish these positions is \$228,000, of which \$212,500 is for personnel compensation and \$15,500 for related benefits, Government contributions to the civil service retirement fund, for group life insurance, and health benefits.

In the past, much of the increased work has been absorbed by the gradual change of part-time referee positions to a full-time status and by increasing salaries to compensate referees for the devotion of a greater portion of their time to the work of the courts. In many instances, however, it is no longer possible to make such changes and new positions must be created. Provisions for clerical staffs, office space, furniture, and equipment required by the new referees are included under the appropriation "Expenses of referees."

Conversion of part-time referee positions to full-time

The additional sum of \$107,000 (\$100,000 for compensation and \$7,000 for related benefits) is requested to permit the conversion of 16 part-time positions to full-time. Referees who formerly were designated to serve in a part-time capacity are currently handling caseloads comparable to that of full-time referees and, therefore, it is proposed that they be so designated and compensated.

Salary adjustments

It is requested that the additional sum of \$45,000 be provided for the adjustment of the salaries of referees in bankruptcy who, due to increased caseloads, are required to devote a greater amount of time to the work of the courts. The estimate includes \$42,000 for personnel compensation and \$3,000 for related benefits.

INCREASES REQUESTED FOR 1963

Mr. ROONEY. These pages indicate that the request is in the amount of \$2,750,000, which would be an increase of \$380,000 over the amount appropriated for salaries of referees in the current fiscal year. The increases are shown at page 175.

At pages 177 and 178 we find a statement with regard to the number of cases filed over fiscal years 1956 through 1961, and also a statement at page 178 with regard to the volume and ratio of business to non-business bankruptcy filings in the past 10 years.

It appears from these pages that you are requesting 15 additional full-time referees, 10 at \$15,000 a year and 5 at \$12,500 a year; that you want to convert 16 part-time referees to full-time status, and that \$45,000 is requested for salary adjustments for referees who are required to devote a greater amount of time to the work of the courts. Is that correct?

Mr. OLNEY. That is correct.

Mr. ROONEY. What was the balance in the referees' fund as of June 30, 1961?

Mr. JACKSON. \$8,425,000, Mr. Chairman.

Mr. ROONEY. I might say at this point that the committee sincerely regrets the inability of Mr. Covey to be present. We understand he is ill.

Mr. JACKSON. That is right.

Mr. ROONEY. And we would ask you to convey to him our best wishes for a speedy and complete recovery.

What was the answer to the previous question?

Mr. JACKSON. \$8,425,000 as of June 30, 1961.

Mr. ROONEY. What is the estimate for June 30, 1962?

Mr. JACKSON. We estimate \$9,385,000 as of that date.

Mr. ROONEY. And what is estimate for the end of fiscal 1963, June 30, 1963?

Mr. GARABEDIAN. Our estimate is \$9,410,000.

Mr. ROONEY. Does this fund now pay for all the expenses of the bankruptcy system according to the act?

Mr. JACKSON. Yes, sir.

Mr. ROONEY. And how many referees do you presently have?

Mr. JACKSON. At the present time we have 129 full-time and 64 part-time referees.

Mr. ROONEY. And the total salary for those 129 plus 64 referees, do you have that handy?

Mr. JACKSON. The obligation as of the end of December, I can give you and the unobligated balance. The obligation as of December 31, was \$1,150,987. The unobligated balance was \$1,219,013, which will carry us to the end of the fiscal year.

Mr. ROONEY. At page 175 of the justifications what do you mean by—

Salary adjustments for referees who are required to devote a greater amount of time to the work of the courts.

Mr. JACKSON. That is primarily for increases in salaries of part-time referees who are also practicing lawyers. When the volume of business increases to the point that the referees must give less time to their law practice and more time to the bankruptcy work, we consider a salary adjustment. These adjustments are usually made in increments of \$500 to \$1,000 for part-time referees.

Mr. ROONEY. Mr. Magnuson?

Mr. MAGNUSON. Why the difference between \$15,000 and \$12,500?

Mr. JACKSON. That depends a great deal on the territory to be served by the referee, its extent, and the character and type of business that comes before him. It is a matter of judgment. It is one of the jobs the Bankruptcy Division does in analyzing the work and recommending to the Judicial Conference the salary to be fixed.

Mr. MAGNUSON. That is all.

Mr. ROONEY. Mr. Marshall?

REASON FOR INCREASE IN BANKRUPTCY CASES

Mr. MARSHALL. I have been wondering why the increase in bankruptcy cases. I notice in the justifications there is a chart, exhibit J, which shows a tremendous increase starting in the year 1953 up to the present time. What is the reason for that increase in the bankruptcy cases?

Mr. JACKSON. Sir, I do not believe I can tell you the reason for it. The only thing I can tell you is the character and kind of cases coming before the courts. The majority are filed by salaried people. The proportion runs now about 90 percent employees or salaried people and 10 percent business firms. I think Mr. Covey would say, if he were here, that primarily the reason for the salaried person going into bankruptcy is overextended credit.

Mr. MARSHALL. Has there been a greater increase in some sections as compared to others?

Mr. JACKSON. Yes, sir. The increase in the sixth and ninth circuits has been the greatest.

Mr. ROONEY. For the record, the ninth circuit is where?

Mr. JACKSON. The west coast.

Mr. MARSHALL. Has there been any change in court procedures in those areas that would contribute to the increase in bankruptcy cases?

Mr. JACKSON. Not that I know of, sir.

Mr. MARSHALL. Do you know whether or not such things as installment buying may have contributed to the increase in bankruptcy cases?

Mr. JACKSON. Sir, that is what I meant by overextended credit.

Mr. MARSHALL. And is there some indication that there might be more installment purchasing in some parts of the country than in others?

Mr. JACKSON. No, sir.

Mr. MARSHALL. I think that is all I have, Mr. Chairman.

Mr. ROONEY. Mr. Bow?

ANTICIPATED INCREASE IN BANKRUPTCY FILINGS

Mr. Bow. I note that you anticipate in 1963 a considerable increase in your filings. In 1962 you anticipated 170,000 and in 1963 you estimate your total filings will be in the vicinity of 185,000 or about 40,000 in excess of the number filed in 1961. Is that correct?

Mr. JACKSON. That is correct, sir.

Mr. Bow. Mr. Marshall has suggested the increase from 1953. I suggest that the filings for 1953 through 1960 were about 590,000. Now you are anticipating 3 years after 1960, for 1961, 1962, and 1963, a total of 400,000 cases. Is that correct?

Mr. JACKSON. That is correct.

Mr. Bow. That is all.

Mr. ROONEY. Mr. Cederberg?

Mr. CEDERBERG. I would like to ask one question:

How close to the estimates have the actual filings been in the past?

Mr. JACKSON. Mr. Covey has a reputation for being uncannily correct in that. I think he missed it in 1961 with his original estimate.

Mr. CEDERBERG. What was his original estimate?

Mr. JACKSON. I think 130,000 and it turned out to be 146,000.

Mr. CEDERBERG. But generally he has been within 5 percent, would you say?

Mr. JACKSON. I could not speak to that. I have never checked that.

Mr. AIRHART. Generally he has been within 1,000 or 2,000 cases.

Mr. CEDERBERG. That is all.

EXPENSES OF REFEREES

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
11 Personnel compensation:			
Permanent positions.....	2,430	2,899	3,549
Positions other than permanent.....	300	235	235
Other personnel compensation.....	11	1	1
Total personnel compensation.....	2,742	3,135	3,785
12 Personnel benefits.....	193	230	281
21 Travel and transportation of persons.....	85	88	120
22 Transportation of things.....	8	7	10
23 Rent, communications, and utilities.....	333	372	587
24 Printing and reproduction.....	27	33	48
25 Other services.....	17	18	19
26 Supplies and materials.....	104	88	102
31 Equipment.....	123	241	338
Total obligations.....	3,633	4,210	5,290

Personnel summary

	1961 actual	1962 estimate	1963 estimate
Total number of permanent positions.....	565	610	730
Full-time equivalent of other positions.....	75	60	60
Average number of all employees.....	595	663	780
Number of employees at end of year.....	676	698	815

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities:			
Clerk hire and miscellaneous expenses of referees (total obligations).....	3,633	4,210	5,290
Financing:			
Unobligated balance lapsing.....	18		
New obligational authority (appropriation).....	3,651	4,210	5,290

Mr. ROONEY. The next item is entitled "Expenses of Referees" and it appears at page 389 of the committee print and beginning at page 184 of the justifications.

We shall insert at this point in the record pages 184 through 205 of the justifications.

(The pages follow:)

Statement relating appropriation estimates to current appropriation

1962 appropriation in annual act.....	\$4,210,000
Base for 1963.....	4,210,000
Net difference, 1963 over 1962.....	

	Requirements			
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)	
Clerk hire compensation and benefits.....	\$3,364,500	\$4,066,000	+\$701,500	
Miscellaneous expenses.....	845,500	1,224,000	+378,500	
Total.....	4,210,000	5,290,000	+1,080,000	+1,080,000
Total estimate for 1963.....				5,290,000

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
11 Personnel compensation.....	\$3,135,000	\$3,785,000	+\$650,000
12 Personnel benefits.....	229,500	281,000	+51,500
21 Travel and transportation of persons.....	87,500	119,500	+32,000
22 Transportation of things.....	7,000	10,000	+3,000
23 Rent, communications, and utilities.....	372,000	587,000	+215,000
24 Printing and reproduction.....	33,000	48,000	+15,000
25 Other services.....	17,500	19,000	+1,500
26 Supplies and materials.....	87,500	102,500	+15,000
31 Equipment.....	241,000	338,000	+97,000
Total obligations.....	4,210,000	5,290,000	+1,080,000

Summary of increased requirements for 1963

Nature of expense (or savings):	<i>Amount</i>
1. Deduction for nonrecurring expenses authorized for 1962.....	-\$91, 500
2. Provision for within-grade salary advancements:	
Compensation.....	66, 500
Benefits.....	4, 500
Subtotal.....	71, 000
3. Additional clerical personnel (120 positions) required to handle increased caseload:	
Compensation.....	583, 500
Benefits.....	47, 000
Furniture and equipment (nonrecurring).....	66, 000
Subtotal.....	696, 500
4. Expenses relating to additional referees requested under the item "salaries of referees":	
Travel.....	12, 000
Transportation of things.....	3, 000
Communications.....	7, 500
Rental of office space.....	60, 000
Printing and reproduction.....	5, 000
Other services.....	1, 500
Supplies and materials.....	15, 000
Furniture and equipment, including library facilities (nonrecurring).....	105, 000
Subtotal.....	209, 000
5. To cover increased subsistence (per diem) allowance and parking fees authorized pursuant to the Travel Expense Act, as amended.....	10, 000
6. Travel expenses of new referees incident to attendance at meetings concerning bankruptcy administration practices and procedures, when incurred on written authorization of the Director of the Administrative Office.....	10, 000
7. Increase in postage and fees based on anticipated caseload.....	87, 500
8. Rental of office space for referees expected to be displaced by new judges.....	60, 000
9. Printing requirements for standardizing dockets, filing and reporting procedures in bankruptcy cases.....	10, 000
10. Furniture and furnishings required incident to the occupancy of new buildings scheduled to be completed during fiscal year 1963 or within 90 days thereafter:	
Hartford, Conn.....	4, 506
Memphis, Tenn.....	6, 100
San Francisco, Calif.....	2, 452
Thomasville, Ga.....	539
Montpelier, Vt.....	3, 431
Bryson City, N.C.....	539
Subtotal.....	17, 500
Net increase, 1963 over 1962.....	1, 080, 000

JUSTIFICATION

Language changes

None.

Objectives

Office and other expenses of referees, including compensation and benefits of clerical employees, are payable upon authorization of the Director of the Administrative Office of the U.S. Courts. This appropriation is derived from a special fund in the Treasury to which are deposited payments of fees and charges by

parties to the proceedings. No appropriation from the general fund of the Treasury is required. Reference to basic statutory authorities is contained in section P of the Digest of Appropriations, The Judiciary, on file with the Bureau of the Budget and the Appropriations Committees of the Congress.

General justification

On the basis of 185,000 filings in bankruptcy forecast for fiscal year 1963, 40,000 more than in 1961, a further expansion of the personnel of the bankruptcy courts is required. Caseload data appear in the account for "Salaries of referees."

The current ratio of nonbusiness to business bankruptcies is 9 to 1 whereas 10 years ago the ratio was about $4\frac{1}{2}$ to 1. There has been a greater increase in nonbusiness bankruptcies, however, business bankruptcies also have increased at an alarming rate, from 6,772 in 1952 to 15,241 in 1961. While the cases filed by employee debtors and others not in business ordinarily do not involve extensive assets, they are, nevertheless, important and must receive the same careful attention of the referee and his staff. The nonbusiness cases require considerable clerical effort, whereas the referees must devote more time and attention to the business bankruptcies. The following table shows the number of nonbusiness cases filed as compared with the authorized permanent clerical force for each of the past 10 years including a forecast of filings for 1962 and 1963:

Fiscal year	Nonbusiness bankruptcies	Authorized permanent clerical positions ¹	Average per clerical employee	Fiscal year	Nonbusiness bankruptcies	Authorized clerical permanent positions ¹	Average per clerical employee
1952.....	28,331	262	108	1958.....	80,264	419	192
1953.....	33,315	273	122	1959.....	88,943	499	178
1954.....	44,248	291	152	1960.....	97,750	526	186
1955.....	50,219	347	145	1961.....	131,402	590	223
1956.....	52,608	374	141	1962.....	² 153,000	635	241
1957.....	63,617	386	165	1963.....	² 166,500	³ 755	221

¹ Part-time positions included at the full-time equivalent.

² Estimated.

³ Includes 120 additional clerical positions requested herein.

As is evident from the above table, the ratio of nonbusiness bankruptcies to clerical employees has more than doubled in 10 years. During this same period the business bankruptcies in relation to the number of clerical employees has remained constant. During 1961 there were on the average of 26 business bankruptcies per clerical employee as compared with an average of 25, 10 years ago.

Substantial increases in both business and nonbusiness bankruptcies are forecast for fiscal years 1962 and 1963. In order that the referees may cope with the rising caseload, it is imperative that their clerical staffs and facilities be expanded. A request for a supplemental appropriation for fiscal year 1962 is proposed for later transmission.

Detailed justifications

The appropriation request for 1963 is \$5,290,000, or \$1,080,000 in excess of the obligatory authority granted for 1962.

Deduction for nonrecurring expenses

The following nonrecurring expenses authorized for fiscal year 1962, have been deducted in establishing the budgetary requirements for 1963:

Nature of expense:	Amount deducted
Equipment and furniture for new referees.....	\$52,500
Furniture and equipment for the new clerical positions.....	16,000
Furniture and furnishings required incident to the occupancy of new buildings scheduled for completion in 1962 or within 90 days thereafter.....	23,000
Total deduction.....	91,500

Provision for within-grade salary advancements

All of the clerks to referees are subject to the promotional plan for judicial personnel and will be granted step increases corresponding with those provided for by title VII of the Classification Act of 1949, as amended.

It is estimated that these within-grade salary advancements will cost \$71,000, of which \$66,500 represents increases in compensation and \$4,500 related benefits—Government contributions to the civil service retirement fund and for group life insurance. The estimate, which represents approximately 80 percent of the full potential cost of step increases, is net of anticipated savings due to turnover of personnel and the filling of vacancies at lower rates of pay. The requirements of 1963 are higher than in 1962 due to the rather substantial increase in the number of clerical positions authorized for referees.

Additional clerical personnel

The sum of \$696,500 is requested for the employment of 120 additional clerical employees as follows:

	Number of positions	Total salary, benefits, and related expenses
Personnel compensation:		
Clerks (legal), GS-9, at \$6,435 per annum.....	20	\$128, 960
Chief clerks, GS-7, at \$5,355 per annum.....	30	160, 922
Clerks, GS-6, at \$4,830 per annum.....	20	96, 928
Clerks, GS-5, at \$4,345 per annum.....	20	86, 944
Clerks, GS-4, at \$4,040 per annum.....	30	121, 680
Total permanent.....	120	595, 504
Deduct lapses (normal savings due to vacancies).....	(-)3	(-)12, 000
Net permanent (average number, net salary).....	117	583, 500
Personnel benefits:		
Retirement.....		37, 900
Life insurance.....		2, 100
Health benefits.....		7, 000
Total benefits.....		47, 000
Related expenses: Furniture and equipment (nonrecurring).....		66, 000
Total cost.....		696, 500

The amount stated above for furniture and equipment was derived by application of a unit cost of \$550, which is believed to be sufficient to provide the new clerks with typewriters, desks, chairs, and other miscellaneous equipment. The expense, of course, is nonrecurring and will, if allowed, be deducted in establishing the budgetary requirements for fiscal year 1964.

Expenses relating to request for additional referees

Under the appropriation "Salaries of referees" funds have been requested for the compensation and benefits of 15 additional full-time referees and for the conversion of 16 part-time referees to a full-time status. The sum of \$209,000 is included in this appropriation to cover the expenses (including the cost of equipment, furniture, and library facilities) of the new referees and to provide for an expansion of the facilities of part-time referees who are to be converted to a full-time status. The expenses are itemized below:

Travel.....	\$12, 000
Transportation of things.....	3, 000
Communication services.....	7, 500
Rental of office space.....	60, 000
Printing and reproduction.....	5, 000
Other services.....	1, 500
Supplies and materials.....	15, 000
Furniture and equipment, including library facilities (nonrecurring).....	105, 000
Total.....	209, 000

The cost of travel, rent, communications, printing, supplies, and materials are estimated on a unit cost basis. Unit costs are derived from samplings of expenses currently being incurred by established offices.

The sum of \$105,000 representing the cost of furniture and equipment, including library facilities, is the amount that will be required to establish the offices of the

15 new full-time referees. It is estimated that approximately \$7,000 will be needed for each new office (exclusive of furniture and equipment required for clerical personnel) as follows:

Chambers.....	\$1,730
General office space.....	2,490
Courtroom.....	2,845
Total.....	\$7,065

¹ Nonrecurring.

Increased subsistence (per diem) allowance and "parking fees"

The travel expenses of referees in bankruptcy, incident to holding bankruptcy court at the various places of holding court within their respective territories, are paid from this appropriation. When a referee holds court away from his official station, he usually is accompanied by a member of his staff who serves in the capacity of a minute clerk. Expenses of travel incurred by clerks to referees also are paid from this appropriation.

Pursuant to the provisions of section 6 of Public Law 87-139, approved August 14, 1961, at the direction of the Judicial Conference of the United States, officers and employees of the Federal courts were authorized to claim per diem in lieu of subsistence at the rate of \$16 and parking fees while in an official travel status on and after September 25, 1961. A per diem allowance of \$8 was fixed for travel not involving overnight absence. The rates in effect prior to September 25, 1961, were \$12 and \$6, respectively, and no parking fees were allowable. The 10 cents mileage allowance for the use of privately owned automobiles was not increased, notwithstanding the fact that Public Law 87-139 authorized a maximum mileage allowance of 12 cents.

It is estimated that an additional \$10,000 will be required in fiscal year 1963 to cover the increase in the subsistence (per diem) allowance and parking fees. A supplemental appropriation request for fiscal year 1962 is proposed for later transmission.

The following is a distribution of the total actual obligations for travel incurred during fiscal year 1961:

Expenses of travel by common carrier.....	\$10,242
Travel by privately owned automobile (mileage).....	45,082
Other, cab fares, tolls, etc.....	2,103
Subsistence, per diem in lieu of.....	27,750
Total.....	\$85,177

On the basis of a 33½ percent increase in the per diem allowance, from \$12 to \$16 payments for subsistence in 1963 will aggregate \$37,000, or \$9,250 more than in 1961. An additional \$750 has been included to cover parking fees.

Travel of referees incident to attending meetings concerning bankruptcy administration, practices and procedures

The Judicial Conference of the United States authorized the Director of the Administrative Office to include in the 1963 estimates a request for funds to cover expenses of travel and subsistence to be incurred by newly appointed referees incident to attending administrative and procedural training courses. Referees shall attend these meetings only upon the written authorization of the Director of the Administrative Office. The cost of such a meeting is estimated at approximately \$10,000.

Thirty-one new referees were appointed during an 18-month period ending July 1, 1961. Relatively few of these new appointees will have extensive prior experience in bankruptcy administration. It is believed that an administrative and procedural training program would be highly advantageous and the benefits to be derived will unquestionably result in the improvement of the services rendered through the bankruptcy system.

Increased volume of mail

It is estimated that an additional \$87,500 will be required in fiscal year 1963 to cover an increase in the volume of mail. Postage and fees (formerly penalty mail) are paid for mailing notices of bankruptcy proceedings to creditors and other parties in interest. This cost averages almost \$1.50 and on the basis of an estimated 185,000 cases forecast for fiscal year 1963, the sum of approximately \$277,500 will be required for this purpose. The sum of only \$190,000 is currently available in the base appropriation.

Rental of office space for referees expected to be displaced by new judges

It is expected that a number of referees who currently occupy space in Federal buildings will be asked to vacate such space so as to make it available for new judges appointed pursuant to the act of May 19, 1961. In those instances where space in other Federal buildings is not available to house the referees, it will be necessary to lease office and courtroom space in commercial buildings. Normally, a full-time referee and staff require 1,500 square feet of space, including a courtroom of 600 square feet. First-class office space rents at approximately \$4 per square foot. On this basis, the sum of \$6,000 would be required to provide quarters for a full-time referee in a commercial building, and the estimate of \$60,000 included herein would be sufficient to provide space for 10 referees and supporting staffs.

Standardizing dockets, filing, and reporting procedures in bankruptcy cases

A committee consisting of several clerks of court, referees in bankruptcy, representatives of the Administrative Office, and of the National Archives recently approved new docket and report forms to be used in bankruptcy cases. It was agreed that several districts conduct an experiment using the new forms and procedures which were outlined by the committee. The experiment is to commence January 1, 1962, and will be evaluated after the expiration of a period of 6 months. In anticipation of the experiment being a success the estimate for fiscal year 1963 includes a request for an additional \$10,000 with which to provide all of the referees in bankruptcy and clerks of court with new dockets, forms, and other material. It is believed that the new procedures will eliminate considerable duplication of effort which now exists and will greatly improve the recording and reporting of bankruptcy cases.

Furniture requirements incident to the occupancy of new buildings

The General Services Administration in fiscal year 1963 is to assume budgeting for all of the furniture requirements of the courts. An exception was made with respect to the requirements of referees in bankruptcy in view of the fact that the bankruptcy system is financed out of a special fund in the Treasury.

Furniture and furnishings required by referees in bankruptcy incident to the occupancy of new buildings scheduled for completion during fiscal year 1963 are as follows:

Location	Date scheduled for completion	Amount
Hartford, Conn.....	September 1962.....	\$4,506
Memphis, Tenn.....	October 1962.....	6,100
Thomasville, Ga.....	December 1962.....	539
Bryson City, N.C.....	February 1963.....	539
Montpelier, Vt.....	April 1963.....	3,431
San Francisco, Calif.....	May 1963.....	2,452
Rounded.....		17,567
		17,500

The estimates were furnished by the General Services Administration in accordance with an agreement between the Director of the Administrative Office of the U.S. Courts and the Administrator of the General Services Administration.

The estimates were prepared by the General Services Administration's regional offices subject to review and summarization by the Central Office of the General Services Administration.

INCREASES REQUESTED FOR 1963

Mr. ROONEY. These pages indicate the request is in the amount of \$5,290,000, which would be a staggering increase of \$1,080,000 over the appropriations to date for the current fiscal year. There is a table of increases at pages 186 through 189.

ADDITIONAL EMPLOYEES

This would entail the addition of 120 additional employees to the payroll?

Mr. JACKSON. Yes, sir. Most of that increase, Mr. Chairman, is keyed to additional referees, but I think I should say now that if we did not get the additional referees in 1963 fiscal year we would still need these people, because the work will be there and somebody has to do it.

Mr. ROONEY. Can you get along without the referees if you get these people?

Mr. JACKSON. No, sir, not very well.

Mr. ROONEY. I should never have asked that question.

FURNITURE AND EQUIPMENT

With regard to the furniture item at page 186 entitled "Furniture and equipment (nonrecurring), \$66,000" and the further item with regard to "Furniture and equipment, including library facilities (non-recurring), \$105,000" at page 187, do you have a breakdown of these items?

Mr. JACKSON. I do not have that.

Mr. ROONEY. How did you arrive at these figures?

Mr. ANDERSON. I have it, Mr. Chairman. The item of \$105,000 for furniture and equipment breaks down this way:

Mr. ROONEY. May we look at that? Perhaps we can save some time.

Mr. ANDERSON. I am sorry. I do not have it in table form.

Mr. ROONEY. What is the breakdown?

Mr. ANDERSON. \$1,730 for furniture for chambers; \$2,845 for furniture for the courtroom; \$2,490 for general office space furniture.

Mr. ROONEY. What else makes up the \$105,000?

Mr. ANDERSEN. That is the unit cost, times 15 new referees. I was giving you the unit cost.

PARKING FEES

Mr. ROONEY. At page 200 of the justifications we find we are in the parking business again. There is an item of \$750 for parking fees. This can become quite an item overall in the Government, can it not?

Mr. AIRHART. It could indeed. As a matter of fact we have been surprised at our actual cost because at the time the legislation was under consideration there was much testimony from all agencies of the Government that this was a very sizable cost to their traveling people.

Mr. ROONEY. For instance, with regard to these 120 additional employees in bankruptcy, would they be reimbursed for parking fees if they drove downtown to the referee's chambers to go to work each day?

Mr. AIRHART. No. This is only when they are traveling.

Mr. ROONEY. Only when they are in traveling status; is that correct?

Mr. AIRCRAFT. Yes, sir.

Mr. ROONEY. Any questions?

Mr. CEDERBERG. I was intrigued about this parking-fee item. That \$750 is to cover how many referees?

Mr. JACKSON. 129.

Mr. CEDERBERG. How much do you have in the budget for judges' parking?

Mr. ANDERSON. We testified to that. The \$60,000 item for traveling and miscellaneous would include judges' parking fees.

Mr. CEDERBERG. You do not know how much is for parking?

Mr. ANDERSON. \$60,000 is for parking fees.

Mr. CEDERBERG. \$60,000 is for parking fees for how many judges? How many judges will that \$60,000 cover? You have \$750 for 129 referees and \$60,000 for parking for how many judges, 300-some plus supporting personnel?

Mr. JACKSON. I think the reason is that not all referees hold court away from their regular place of office. Many have a fixed place of office and do not travel outside their headquarters.

Mr. CEDERBERG. Is the difference so great between traveling referees and traveling judges?

Mr. AIRHART. A large part of it is for probation officers.

Mr. CEDERBERG. The parking fee is the same for a judge as for a referee. That is why I raise the question. You have \$750 for 129 referees and \$60,000 for 300 judges.

Mr. GARABEDIAN. \$37,500 of that \$60,000 is for probation officers only. Probation officers travel primarily by private automobiles and they are frequently parking. They are going from place to place and parking five or six times a day. On occasion, it may cost a nickel for a meter and downtown it may cost \$1 or \$2 or \$3. That is the bulk of the estimate. However, that figure is not materializing.

Mr. CEDERBERG. That is all I have.

Mr. ROONEY. That concludes the hearings for today with the exception of the Supreme Court, which we expect at 3 o'clock.

At this time, Judge McGuire, I would like to say that I think I bespeak the thoughts of all the members of this committee when I say we very much appreciate your cooperation and that of Chief Judge Campbell. We know what you have been trying to do to clear up the operation of the courts so that it is done in an economical and sensible way. I have never met two finer gentlemen than Judge Campbell and you and have never had better cooperation than we have had from you in all the many years I have been on this committee.

I wish you would be so kind as to extend to Judge Campbell the wishes of all members of this committee that his wife will have a speedy and complete recovery.

Judge McGUIRE. Thank you very much, Mr. Chairman and you gentlemen. That makes all our efforts worthwhile.

SUPREME COURT OF THE UNITED STATES

WITNESSES

HON. TOM C. CLARK, ASSOCIATE JUSTICE

T. PERRY LIPPITT, MARSHAL

DINA R. ZUCCONI, ASSISTANT TO THE MARSHAL

J. GEORGE STEWART, ARCHITECT OF THE CAPITOL

WALTER L. RUBEL, COORDINATING ENGINEER

CHARLES A. HENLOCK, ADMINISTRATIVE ASSISTANT

Mr. ROONEY. The final item for today is the request for the Supreme Court of the United States. This appears beginning at page 355 of the committee print, and beginning at page 1 of the justification book.

The total request for the Supreme Court of the United States in

the coming fiscal year is in the amount \$2,067,000, which would be an increase of \$84,100 over the amounts appropriated to date in the current fiscal year.

We shall insert at this point in the record page 1 of the justifications. (The material referred to follows:)

Summary statement relating appropriation estimate to current appropriation

1962 appropriation in annual act.....¹ \$1,982,900
Base for 1963.....¹ 1,982,900
Net difference, 1963 over 1962:

	Requirements		
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)
1. Salaries, Supreme Court.....	\$1,479,000	\$1,494,000	+\$15,000
2. Printing and binding Supreme Court Reports.....	92,000	108,000	+16,000
3. Miscellaneous expenses, Supreme Court.....	82,800	96,200	+13,400
4. Care of the building and grounds, Supreme Court.....	284,400	327,000	+42,600
5. Automobile for the Chief Justice, Supreme Court.....	6,700	6,800	+100
6. Books for the Supreme Court.....	38,000	35,000	-3,000
	1,982,900	2,067,000	+84,100
Total estimate for 1963.....			\$2,067,000

¹ Includes \$38,000 estimate for activities previously carried under "Books for the Supreme Court, Library of Congress."

Mr. ROONEY. We are indeed honored to have with us the distinguished Associate Justice of the Supreme Court, the Honorable Tom Clark of Texas. It is again a pleasure, Mr. Justice Clark, to greet you. You have been here many times over all of the years, previously as the Attorney General, and it is always a pleasure to hear from you.

Mr. Justice CLARK. Thank you, sir.

Mr. ROONEY. We await your statement with regard to the requested appropriation, if you care to make one.

GENERAL STATEMENT

Mr. Justice CLARK. Very well, sir.

You might say that the request is about the same, if not identical, with last year's with two or three exceptions.

As the chairman said, the figures show an increase of \$84,100 and \$15,000 of that is for within-grade increases and retirement benefits that are required by statute.

I suppose that the largest item that comes under our category is the printing and binding. We seemed to be a little bit more voluminous last year in our writings.

Our cases have involved more complicated constitutional problems requiring additional writing of about 1,000 pages.

This estimate in this budget proposal is the same as it was last year because we anticipate that it will run about the same for this coming year. In any event, heretofore the appropriation was around \$90,000 and I think we expended only around \$70,000 a year for quite a few years. It has gone up on account of the increased number of cases resulting in an increased number of volumes. I think four volumes will be necessary to cover the Court's work for last term.

The miscellaneous expense item is in fact a little lower than last year, lower than what you authorized, and we still have the cases which are covered—

Mr. ROONEY. Those are the display cases, not legal cases, Mr. Justice?

Mr. Justice CLARK. That is right. They are the display cases.

Mr. ROONEY. They are now here for the fourth time?

Mr. Justice CLARK. I think three. I still think they would be most helpful and justified and are needed, but I will stand on the justifications put into the written request.

The balance of the request is covered by the Architect except for some small items, such as the Chief Justice's car and things of that type, which are the same. The increase there is about \$100 and that is an in-grade promotion.

I would say that, on the whole, our budget, with the exception of the statutory increases and the printing and binding, is about the same as it was last year.

If there are any questions, I will be happy to answer them.

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
11 Personnel compensation:			
Permanent positions.....	1,278	1,315	1,329
Positions other than permanent.....	68	79	79
Other personnel compensation.....	4		
Total personnel compensation.....	1,349	1,394	1,408
12 Personnel benefits.....	81	85	86
Total obligations.....	1,430	1,479	1,494

Personnel summary

	1961 actual	1962 estimate	1963 estimate
Total number of permanent positions.....	166	168	168
Full-time equivalent of other positions.....	18	20	20
Average number of all employees.....	178	183	183
Number of employees at end of year.....	193	205	205

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities:			
Salaries, Supreme Court (total obligations).....	1,430	1,479	1,494
Financing:			
Unobligated balance lapsing.....	10		
New obligational authority (appropriation).....	1,440	1,479	1,494

Mr. ROONEY. The first of the six items which make up the request for the Supreme Court of the United States is entitled "Salaries, Supreme Court," and is to be found at page 355 of the committee print.

We shall insert at this point in the record pages 2 through 8 of the justifications.

(The pages follow:)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act..... \$1,479,000
 Base for 1963..... 1,479,000
 Net difference, 1963 over 1962:.....

	Requirements			
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)	
Salaries, Supreme Court.....	\$1,479,000	\$1,494,000	+\$15,000	+15,000
Total estimate for 1963.....				1,494,000

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
11 Personnel compensation.....	\$1,394,000	\$1,408,000	+\$14,000
12 Personnel benefits.....	85,000	86,000	+1,000
Total.....	1,479,000	1,494,000	+15,000

Summary of increased requirements for 1963

Nature of expense (or savings):

1. Provision for within-grade salary advancements (compensation \$14,000 and benefits \$1,000)..... Amount \$15,000

Increase, 1963 over 1962..... 15,000

JUSTIFICATION

Language changes

None.

Objectives

The appropriation here requested is to provide the necessary moneys to pay the salaries of the members of the Supreme Court of the United States, the officers of the Court, their respective staffs, and the Court's custodial employees.

General justification

The following statement reflects the casework of the Court for the past three terms:

Statement showing number of cases filed, disposed of and remaining on dockets at conclusion of October terms 1958, 1959, and 1960

[October term 1960 ended June 19, 1961, corresponds to fiscal year 1961]

	Original			Appellate			Miscellaneous			Total		
	1958	1959	1960	1958	1959	1960	1958	1959	1960	1958	1959	1960
Number of cases on dockets.....	15	12	12	1,041	1,047	1,046	1,006	1,119	1,255	2,062	2,178	2,313
Number disposed of during terms.....	3	0	1	886	860	887	892	962	1,040	1,781	1,822	1,928
Number remaining on dockets.....	12	12	11	155	187	159	114	157	215	281	356	385

	Terms		
	1958	1959	1960
Distribution of cases disposed of during terms:			
Original cases.....	3	0	1
Appellate cases on merits.....	245	215	259
Petitions for certiorari.....	641	645	628
Miscellaneous docket applications.....	892	962	1,040
Distribution of cases remaining on dockets:			
Original cases.....	12	12	11
Appellate cases on merits.....	84	116	85
Petitions for certiorari.....	71	71	74
Miscellaneous docket applications.....	114	157	215

An appropriation of \$1,494,000 is requested for salaries of the Supreme Court staff for 1963. This represents an increase of \$15,000 over the 1962 appropriation for this item.

Detailed justification

	Actual 1961			Estimate 1962			Estimate 1963		
	Number of positions	Average number employed	Cost	Number of positions	Average number employed	Cost	Number of positions	Average number employed	Cost
Full-time employment.....	166	160	\$1,277,597	168	163	\$1,315,306	168	163	\$1,329,306
Part-time employment.....	20	18	64,583	20	20	73,694	20	20	73,694
Temporary employment.....			2,968			5,000			5,000
Regular pay in excess of 52-week base.....			3,899						
Employer's contributions:									
Life insurance.....			4,110			4,500			4,500
Health benefits.....			9,477			10,500			10,500
Retirement fund.....			67,243			70,000			71,000
Subtotal.....	186	178	1,429,877	188	183	1,479,000	188	183	1,494,000
Savings.....			10,123						
Total, appropriation or estimate.....			1,440,000			1,479,000			1,494,000

Provision for within-grade salary advancements

The sum of \$15,000 is required to grant regular within-grade promotions which will become due in 1963. The estimate includes \$14,000 to cover increases in compensation and \$1,000 for related benefits—agency contributions to the civil service retirement fund.

Mr. ROONEY. These pages indicate that the request for salaries is in the amount of \$1,494,000 which would be an increase of \$15,000.

Mr. Justice Clark, this increase, as you previously stated, is entirely for within-grade promotions, retirement benefits, and so forth?

Mr. JUSTICE CLARK. That is right; no increase in employees.

Mr. ROONEY. No increase in positions?

Mr. JUSTICE CLARK. Yes, sir.

PRINTING AND BINDING SUPREME COURT REPORTS

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities: Printing and binding Supreme Court reports (total obligations) (object class 24).....	90	92	108
Financing: New obligational authority (appropriation).....	90	92	108

Mr. ROONEY. The second item is to be found at page 357 of the committee print and is entitled "Printing and binding, Supreme Court reports."

We shall insert here in the record pages 9 through 13 of the justifications, which indicate that the request is in the amount of \$108,000. This would be an increase of \$16,000 over the amount appropriated for printing and binding in the current fiscal year.

(The pages follow:)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act.....	\$92,000
Base for 1963.....	92,000
Net difference, 1963 over 1962:	

	Requirements			
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)	
Printing and binding, Supreme Court reports.....	\$92,000	\$108,000	+\$16,000	+16,000
Total estimate for 1963.....				108,000

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
24 Printing and reproduction.....	\$92,000	\$108,000	+\$16,000
Total.....	92,000	108,000	+16,000

Summary of increased requirements for 1963

Nature of expense (or savings):

- Increase for printing and reproduction of slip opinions, preliminary prints, and bound volumes of Supreme Court reports... Amount \$16,000

Increase, 1963 over 1962..... 16,000

JUSTIFICATION

Language changes

None.

Detailed justification

An appropriation of \$108,000 is requested for printing and binding Supreme Court reports in 1963, an increase of \$16,000 over the amount appropriated for 1962. This work is required by statute and is performed by the Government Printing Office at rates fixed by that agency. The actual cost during the past 3 years has been as follows:

	1959	1960	1961
For slip opinions.....	\$50,860	\$53,531	\$53,009
For preliminary prints and bound volumes.....	32,977	31,590	36,991
Total.....	83,837	85,121	90,000

It is estimated that approximately \$108,000 will be required in 1962—the amount of the present request. The appropriation of \$92,000 granted for 1962 appears to be inadequate and it may be necessary to seek a supplemental appropriation.

The cost of printing and binding Supreme Court reports depends upon the volume of material to be printed and bound and the rates being charged by the Government Printing Office at the time the work is done. The total pages of material to be printed and bound increased from 2,738 pages in 1960 to an estimated 3,436 pages in 1961. The request for 1963 is based upon the assumption that the volume of material to be printed and bound in 1963 will be the same as that for the last completed court term, 1960 (fiscal year 1961).

Mr. ROONEY. Reference has been made to this item by Mr. Justice Clark. If we were to appropriate the \$108,000 and you were not to use it for the purpose of printing and binding the Supreme Court reports, it would lapse into the Treasury?

Mr. Justice CLARK. Right.

MISCELLANEOUS EXPENSES

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
21 Travel and transportation of persons.....	1	1	1
22 Transportation of things.....	1	2	2
23 Rent, communications, and utilities.....	15	15	15
24 Printing and reproduction.....	14	15	15
25 Other services.....	5	10	6
26 Supplies and materials.....	22	19	19
31 Equipment.....	11	21	38
Total obligations.....	70	83	96

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities: Miscellaneous expenses, Supreme Court (total obligations).....	70	83	96
Financing: New obligational authority (appropriation).....	70	83	96

Mr. ROONEY. The third item is entitled "Miscellaneous expenses" and it appears at page 358 of the committee print.

We shall insert at this point in the record pages 14 through 20 of the justifications, which indicate that this request is in the amount of \$96,200, which would be an increase of \$13,400. This increase is set forth at page 16. This is the item in which we find the first of two parts for the bronze display cases. We find that once again we have a request for the purchase of eight bronze display cases in the amount of \$17,200; \$13,400 being arrived at by deducting a nonrecurring item of \$3,800 for the portrait of Chief Justice John Marshall.

I do not know if we need go into any detail with regard to these display cases.

(The pages referred to follow:)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act.....	\$82,800
Base for 1963.....	\$2,800
Net difference, 1963 over 1962:	

	Requirements			
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)	
Miscellaneous expenses, Supreme Court.....	\$82,800	\$96,200	+\$13,400	+13,400
Total estimate for 1963.....				96,200

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
21 Travel and transportation of persons.....	\$1,000	\$1,000	
22 Transportation of things.....	2,000	2,000	
23 Rent, communications, and utilities.....	15,000	15,000	
24 Printing and reproduction.....	15,000	15,000	
25 Other services.....	10,000	6,200	-\$3,800
26 Supplies and materials.....	19,000	19,000	
31 Equipment.....	20,800	38,000	+17,200
Total.....	82,800	96,200	+13,400

Summary of increased requirements for 1963

Nature of expense (or savings):

- | | |
|---|----------|
| 1. Deduction for the nonrecurring expense of restoring the Peale portrait of Chief Justice John Marshall..... | Amount |
| 2. For the purchase of 8 bronze display cases..... | -\$3,800 |
| | 17,200 |

Net increase, 1963 over 1962..... 13,400

JUSTIFICATION

Language changes

None.

Objectives

This appropriation provides for the miscellaneous expenses of the Supreme Court which include the purchase of office, janitorial, and other housekeeping supplies, materials and equipment; travel (including automobile transportation

for the Court and its officers); communication services; and penalty mail. Printing and binding, except for the U.S. reports, also is paid for from this appropriation.

General justification

An appropriation of \$96,200 is requested for 1963 to supply the Court's needs for supplies and equipment, and for other miscellaneous expenses. The amount requested is \$13,400 in excess of last year's appropriation.

Deduction for nonrecurring expense of restoring Peale portrait of Chief Justice John Marshall

The sum of \$3,800 which was provided in last year's appropriation for cleaning, restoring, and repairing the Court's portrait of Chief Justice John Marshall has been deducted in establishing the budgetary requirements for 1963. A 5-year program for the renovation of the portraits of former Justices of this Court has been completed.

Purchase of eight bronze display cases

Following the disallowance last year of the request for \$17,200 for documentary exhibit cases, the justification for the proposed expenditure was carefully reconsidered. For reasons summarized below it was concluded that the proposal offers a sound solution to a substantial problem, and the request for the necessary funds is therefore respectfully resubmitted.

Because the Court does not meet continuously and because the seating capacity of the courtroom is severely limited, 85 to 90 percent of the half million people who visit the Supreme Court Building each year do not see the Court in session. The proposed exhibit would provide a worthwhile display for all who visit the building. It would also utilize what is now a largely wasted asset: the priceless collection of historic documentary materials reflecting the origin and function of the Federal judiciary.

In reexamining the proposal for the exhibit two possible objections were explored.

The first was that the exhibit might detract from the essential character of the Supreme Court Building as a courthouse. A reexamination of the proposed design and location of the exhibit cases confirmed the conclusion that the installation would enhance rather than diminish the classic dignity of the building. A design for the cases has been developed by the Architect of the Capitol which is in keeping with the existing decor and which blends with and enhances the structural dignity of the hall area in which the cases would be installed. This area is on the ground floor of the building, physically separated from the courtroom itself which is on the floor above. Other facilities on the same floor as the proposed exhibit include the police room, the press room, the public telephone, and a public cafeteria. It seems evident that the installation of an exhibit of the type proposed would aid in creating an atmosphere of institutional dignity in the area involved. Drawings and photographs showing the proposed cases in place will be submitted to the committee for its consideration at the hearing.

The second possible objection considered was that the documentary materials involved might better (and more economically) be displayed in the new Museum of History and Technology or in some existing exhibit facility. Inquiry was made of Dr. Leonard Carmichael, Secretary of the Smithsonian Institution, who advised that the new Museum would exhibit physical objects rather than documentary materials, and that no present or future use of the latter was proposed. So far as could be determined, no other agency has or is contemplating plans which would make these historic materials available to the public.

DISPLAY CASES

Mr. Justice CLARK. As I said, there are some three pages in the justifications that explain this and we think they are most helpful to us in displaying some of the memorabilia of the Supreme Court. We have quite a large number of people who come there every year, as I explained last year. I do not see any need now for my taking the time of the committee to go over that again.

Mr. ROONEY. Most of us are familiar with that. Unfortunately we have a couple of Directors of the Smithsonian Institution here.

Mr. Justice CLARK. Is that so? Good. Then they can understand the importance of it.

Mr. ROONEY. They think they should be down in the new Smithsonian Institution.

Mr. Justice CLARK. There is an item in our justification in explanation of our position. We take issue with that and I understand the new building will not include such exhibits.

Mr. ROONEY. The total requested amount in the budget of the Supreme Court for the display cases is \$17,200, plus what?

Mr. HENLOCK. \$3,600.

Mr. ROONEY. A total of \$20,800.

AUTOMOBILE FOR THE CHIEF JUSTICE

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
11 Personnel compensation: Permanent positions.....	5	5	5
26 Supplies and materials.....	1	1	1
Total obligations.....	7	7	7

Personnel summary

	1961 actual	1962 estimate	1963 estimate
Total number of permanent positions.....	1	1	1
Average number of all employees.....	1	1	1
Number of employees at end of year.....	1	1	1

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities: Automobile for the Chief Justice (total obligations).....	7	7	7
Financing: New obligational authority (appropriation).....	7	7	7

We will now take up the item of the automobile for the Chief Justice which appears on page 361 of the committee print and is a request in the amount of \$6,800 which compares with \$6,700 in the current fiscal year, an increase of merely \$100.

BOOKS FOR THE SUPREME COURT

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities: Purchase of books and periodicals (total obligations) (object class 31).....	35	38	35
Financing: New obligational authority (appropriation).....	35	38	35

Mr. ROONEY. If there is no objection, gentlemen, we will pass now to the item entitled "Books for the Supreme Court," which is to be found at page 362 of the committee print.

Mr. Justice CLARK. Mr. Chairman, I overlooked something and I hope that you will pardon me.

Mr. ROONEY. It is just as well you did. That is a decrease of \$3,000, is it not?

Mr. Justice CLARK. The appropriation for books has been in another appropriation and it was just transferred to ours. It is a decrease.

Mr. Bow. It was in the Library of Congress appropriation and I suggested last year this would be a proper place for it.

Mr. Justice CLARK. That is right. I trust that it will make you very happy to see this decrease.

Mr. ROONEY. We shall insert at this point in the record pages 41 through 46 of the justifications, which indicate that the request is in the amount of \$35,000 as compared with an appropriation of \$38,000 in the current fiscal year.

(The pages follow:)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act.....	\$38,000
Base for 1963.....	\$38,000
Net difference, 1963 over 1962:	

	Requirements			
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)	
Books for the Supreme Court.....	¹ \$38,000	\$35,000	-\$3,000	-3,000
Total estimate for 1963.....				35,000

¹ Activities previously carried under "Books for the Supreme Court, Library of Congress."

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
31 Equipment.....	¹ \$38,000	\$35,000	-\$3,000
Total.....	38,000	35,000	-3,000

¹ Activities previously carried under "Books for the Supreme Court, Library of Congress."

Summary of increased requirements for 1963

Nature of expense (or savings):

1. Deduction for the nonrecurring expense of purchasing sets of the new "Modern Federal Practice Digest." (The activity for the purchase of books and periodicals was previously carried under "Books for the Supreme Court, Library of Congress").....	Amount -\$3,000
Decrease, 1963 over 1962.....	-3,000

JUSTIFICATION

Language changes

The new language for this appropriation is as follows: "For books and periodicals for the Supreme Court, to be purchased by the Librarian of the Supreme Court, under the direction of the Chief Justice." This item, formerly in the budget of the Library of Congress, is placed in the budget of the Supreme Court by direction of the Committee on Appropriations of the House of Representatives. The committee stated at page 11 of House Report No. 419, May 19, 1961: "The committee thinks this appropriation should in the future be budgeted under the judiciary rather than the legislative. The present arrangement is illogical. The money is appropriated to the Library of Congress, but the books are purchased by the Librarian of the Supreme Court with the advice and the assistance of the Members of the Court and the disbursements are made by the Marshal of the Court. They are also in the physical possession of the Court."

The Librarian of Congress has stated that he has no objection to the change. (P. 71, hearings, Subcommittee on the Committee on Appropriations, House of Representatives, legislative branch appropriations for 1962.)

Detailed justification

An appropriation of \$35,000 is requested for "Books for the Supreme Court" for fiscal year 1963, a decrease of \$3,000 over the 1962 appropriation for this item.

Our estimates for fiscal year 1963 are as follows:

Continuations:

Citators, codes, congressional hearings, court reports, digests, encyclopedias, legal periodicals, looseleaf services, pocket supplements, session laws, statutes, etc.....	\$28,500
New books and additional materials.....	6,500
Total estimate.....	35,000

The estimate for "continuations" represents the same amount requested and appropriated for the fiscal year 1962. The estimate for new books and additional materials reflects a \$3,000 decrease from the amount requested and appropriated for the fiscal year 1962. This was a nonrecurring item requested to purchase sets of the new "Modern Federal Practice Digest."

Mr. ROONEY. As has just been stated by Mr. Bow, this was previously in the legislative bill and was transferred to this budget by direction of the Subcommittee on Appropriations for the legislative branch, of which Mr. Bow is a member.

Is the language exactly the same as it was previously set forth?

Miss ZUCCONI. It has changed.

Mr. ROONEY. In what respect and why?

Miss ZUCCONI. This is on page 44, Mr. Chairman, and I do not have the old language with me.

Mr. Justice CLARK. This is on the appropriation for books.

Mr. ROONEY. Apparently all that has been done here was to strike out the language " * * * to be a part of the Library of Congress * * * "

Miss ZUCCONI. That is correct.

Mr. Justice CLARK. I suppose they would have to change the language some in order to take out any surplusage.

Mr. ROONEY. Also, the language " * * * and purchased by the Librarian * * * ." It looks all right to me.

Mr. Justice CLARK. The purpose was only to transfer the purchases from one budget to the other.

Mr. ROONEY. Are there any questions on the matters we have covered up to now with regard to the Supreme Court?

EFFECTIVENESS OF BIRDPROOFING

Mr. MAGNUSON. What is the status of the birds over at the Supreme Court?

Mr. Justice CLARK. They are gone.

Mr. ROONEY. They really have left?

Mr. Justice CLARK. Yes, sir. We had them for a while, I understand, in the courtyard but they are gone.

Mr. LIPPITT. Occasionally a small bird gets up there.

Mr. Justice CLARK. We hope they are not in your place.

Mr. MAGNUSON. Does that system require much maintenance cost?

Mr. RUBEL. No, sir; practically none.

Mr. MAGNUSON. Is it electrical?

Mr. RUBEL. Yes, sir.

Mr. STEWART. I might add, Mr. Chairman, that on the grounds here we have not seen a starling this year.

Mr. MAGNUSON. You mean for the whole Capitol?

Mr. STEWART. Yes, sir.

Mr. Justice CLARK. I notice that at the entrance to the building itself there is quite a difference and it has been most helpful not only from a sanitary but appearance standpoint. In the long run, it will also save our marble. It was a good investment.

Mr. ROONEY. We will proceed now to the item for "Care of the buildings and grounds."

CARE OF THE BUILDINGS AND GROUNDS

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
11 Personnel compensation:			
Permanent positions.....	184	188	194
Other personnel compensation.....	44	49	49
Total personnel compensation.....	229	237	243
12 Personnel benefits.....	15	17	17
25 Other services:			
General annual repairs.....	5	9	9
Annual painting.....	2	3	3
Maintenance, air-conditioning system.....	2	2	2
Pointing exterior stonework.....	12		10
Installation of bronze display cases.....			4
Lighting improvements.....			33
Roof repairs.....		10	
Clean and birdproof 4 inner courtyards.....	13		
26 Supplies and materials.....	5	6	6
31 Equipment, annual.....	1	1	1
Total obligations.....	283	284	327

Personnel summary

	1961 actual	1962 estimate	1963 estimate
Total number of permanent positions.....	33	33	33
Average number of all employees.....	33	33	33
Number of employees at end of year.....	33	33	33

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities:			
Structural and mechanical care of Supreme Court Bldg. and grounds, including supplying of mechanical furnishings and equipment (total obligations).....	283	284	327
Financing:			
Unobligated balance lapsing.....	4		
New obligational authority (appropriation).....	287	284	327

Mr. ROONEY. The final item today, gentlemen, is to be found at page 359 of the justifications and it is entitled "Care of the building and grounds, Supreme Court."

The justifications concerning this item are to be found at page 21 through 35. We shall insert at this point in the record these pages which indicate that the request is in the amount \$327,000, an increase of \$42,600 over the appropriation for the current fiscal year.

(The pages follow:)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act.....	\$284,400
Base for 1963.....	284,400
Net difference, 1963 over 1962:	

	Requirements			
	1962 appropriated	1963 estimate	Difference, increase (+) or decrease (-)	
Care of building and grounds.....	\$284,400	\$327,000	+\$42,600	+42,600
Total estimate for 1963.....				327,000

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
11 Personnel compensation.....	\$237,100	\$243,200	+\$6,100
12 Personnel benefits:			
Payment to employees' life insurance fund.....	700	700	
Payment to employees' health benefits fund.....	3,600	3,600	
Contribution to retirement fund.....	12,300	12,300	
25 Other services:			
General annual repairs.....	9,000	9,000	
Annual painting.....	3,000	3,000	
Maintenance, air-conditioning system.....	1,800	1,800	
Snow removal.....	150	150	
Pointing exterior stonework.....		10,000	+10,000
Installation of bronze display cases.....		3,600	+3,600
Lighting improvements.....		32,900	+32,900
Roof repairs.....	10,000		-10,000
26 Supplies and materials.....	6,000	6,000	
31 Equipment: Annual.....	750	750	
Total.....	284,400	327,000	+42,600

Summary of increased requirements for 1963

Nature of expense (or savings):	Amount
1. Deduction for the nonrecurring cost of repairs to roof authorized in 1962-----	-\$10,000
2. Cost of wage rate changes authorized by Public Law 763-----	6,100
3. To complete pointing of exterior stonework of the Supreme Court Building (nonrecurring)-----	10,000
4. For the installation of bronze display cases (nonrecurring)-----	3,600
5. Improvement of lighting as follows:	
Reference Desk Section of Bar Library-----	12,600
2 rooms adjoining Reference Desk Section-----	8,600
East and west conference rooms-----	11,700
Total cost of improvements (nonrecurring)-----	32,900
Net increase, 1963 over 1962-----	42,600

JUSTIFICATION

Objectives

This appropriation, for expenditure by the Architect of the Capitol, is to provide for the structural and mechanical care of the U.S. Supreme Court Building and grounds, including maintenance and operation of mechanical equipment. The Architect performs his duties under authority of the act of May 7, 1934 (48 Stat. 668).

The mechanical equipment includes such items as the air conditioning, refrigeration, and ventilating systems with more than 1,000 pieces of equipment; electrical transformer stations; 300 plumbing fixtures and related piping; 8 elevators and 5 dumbwaiters; electric fixtures and wiring.

A force of 33 employees is required for the fiscal year 1963 to cover 3 shifts daily and is made up of 1 supervising engineer; 1 foreman, 3 mechanics, 5 attendants and 4 assistant attendants in the heating, ventilating, air-conditioning and refrigeration department; 1 electrician foreman and 3 electricians; 1 steamfitter-plumber foreman, 1 steamfitter and 1 steamfitter-plumber; 1 elevator mechanic foreman and 1 mechanic; 1 marble mason; 1 woodwork finisher and painter; 1 oiler and greaser; 1 laborer-gardener foreman and 2 grounds maintenance men; 1 substation helper; 1 storekeeper and 2 general laborers.

Detailed justifications

The following table is a comparison of the cost of full-time employment and other objects of expenditures for the fiscal years 1961, 1962, and 1963; also of savings realized in 1961:

	Actual, 1961			Estimate, 1962			Estimate, 1963			Employment September 1961
	Posi- tions	Man- years	Cost	Posi- tions	Man- years	Cost	Posi- tions	Man- years	Cost	
Personnel compensa- tion:										
Full-time employ- ment-----	33	33	\$228,684	33	33	\$237,100	33	33	\$243,200	33
Other objects of expenditure-----			54,483			47,300			83,800	
Savings-----			4,033							
Total estimate or appropriation-----			287,200			284,400			327,000	

Personnel compensation (increased from \$237,100 to \$243,200), \$243,200.—This allotment provides for 33 positions, the same number as allowed for 1962, 2 of which are compensated under the Classification Act of 1949, as amended, and 31 on a prevailing wage-rate basis under the provisions of Public Law 763, 83d Congress. For 1963, an increase of \$6,100 is requested to meet the cost of wage-rate changes authorized by Public Law 763.

Payment to employees' life insurance fund (no change), \$700.—This item is the same as allowed for 1962 and is requested to cover the cost of Government insurance contributions required by Public Law 590, 83d Congress, "Federal Employees' Group Life Insurance Act of 1954."

Payment to employees' health benefits fund (no change), \$3,600.—This item is the same as allowed for 1962 and is requested to cover the cost of Government contribution to the employees' health benefits fund required by Public Law 86-382, 86th Congress, approved September 28, 1959.

Contribution to retirement fund (no change), \$12,300.—This is the same as allowed for 1962 and is requested to cover the cost of Government contribution to retirement fund required by Public Law 854, 84th Congress, "Title IV, Civil Service Retirement Act Amendments of 1956."

General annual repairs (no change), \$9,000.—This is the same as allowed for 1962 and provides for the regular annual repair and structural upkeep of the building and its mechanical equipment, such as repairs to elevators, roof, carpentry, electrical, plumbing, heating, ventilating and steam equipment, kitchen and other miscellaneous equipment, and general structural repairs and improvements. It also provides minor repairs on the grounds, such as repairs to fountains, drains and catch basins, lawn sprinkler system, and paving.

Annual painting (no change), \$3,000.—This is the same as allowed for 1962 and provides for necessary painting throughout the building.

Maintenance, air-conditioning system (no change), \$1,800.—This is the same as allowed for 1962 and provides for the annual care and maintenance of the air-conditioning and refrigeration systems. The breakdown of the estimate follows;

Air-conditioning estimate

Maintenance:		
Air filters.....	-----	\$500
Oil and grease.....	-----	100
Cleaning equipment.....	-----	100
Paint.....	-----	100
Refrigerants.....	-----	100
Contingency for special repairs.....	-----	300
Miscellaneous.....	-----	100
Repairs:		
Refrigeration.....	-----	300
Automatic controls.....	-----	100
Miscellaneous.....	-----	100
Total estimate.....	-----	1,800

Snow removal (no change), \$150.—This is the same as allowed for 1962 and provides for snow removal from walks and approaches.

Pointing exterior stonework (nonrecurring expense), \$10,000.—Allotments, totaling \$36,000, were allowed for the fiscal years 1960 and 1961 for pointing the exterior stonework of the Supreme Court Building. Most of the exterior stonework was pointed under these allotments. There remain to be pointed, in order to complete the work, part of the Maryland Avenue side of the building and the four inner courtyards. An allotment of \$10,000 to complete this work is requested for the fiscal year 1963, for the proper preservation of the building.

Installation of bronze display cases (nonrecurring expense), \$3,600.—The Marshal of the Court, in his estimates for 1963, has resubmitted a request for funds for the purchase of eight bronze display cases to be used in exhibiting historical documents in the main corridor, ground floor, of the U.S. Supreme Court Building.

If this item is allowed by the committee for 1963, then it will be necessary to provide \$3,600 under the estimates of the Architect of the Capitol for the cost of installation of these cases. In order to install these cases, it will be necessary to cut through the marble floor to make the necessary electrical connections, install a marble wainscot 3 feet 9 inches high to support the cases, and fasten the cases into the joints of the wall by the use of anchors, bolts, and washers.

The estimate is based on \$2,800 for the marble wainscot; \$200 for the anchors, bolts, and washers; \$400 for skilled labor for cutting joints and drilling marble; and \$200 for electrical materials.

Lighting improvements (nonrecurring expense), \$32,900.—At the direction of the Chief Justice, an estimate of \$32,900 is submitted for the fiscal year 1963 to improve the illumination in the reference desk section of the bar library and two adjoining rooms on the third floor, and in the east and west conference rooms on the first floor.

The existing lighting in these areas is primarily of a decorative character, generated by chandeliers installed at the time the building was constructed. The chandeliers are ornate and architecturally appropriate, but the illumination produced is grossly inadequate for the activities of the occupants.

Reference desk section of bar library

The reference desk of the bar library is a large room, 36 by 36 feet, with a 27-foot ceiling height, completely devoid of daylight. The present illumination is provided by a single central chandelier of ornamental design, totally inadequate for the needs of this area. The average illumination at the working plane now is 1 foot-candle or less. The walls are finished in dark walnut paneling, and the decorative ceiling has little reflective capacity. Several desk lamps are provided for the occupants at the reference desk, but these are seriously detrimental to eyesight because of the high brightness contrast between the desk level and the background environment.

Under the funds requested for 1963, it is proposed to install eight 500-watt ceiling-mounted down lights which will provide an average illumination on the working plane of 30 foot-candles. The down lights will be recessed in the ceiling in the location of existing air supply outlets and will be concealed by ornamental rosettes having 5-inch apertures for light emission. The existing airducts will be enlarged to house the new down lights and to provide adequate space for airflow. To compensate for the additional heat load generated by the 500-watt lamps, the supply air temperature will be lowered by the addition of a direct-expansion coil in the main supply duct. To alleviate brightness contrasts, continuous rows of fluorescent tubes will be installed on top of the projecting molding on the four walls.

Two rooms adjoining reference desk section

There are two adjoining rooms on opposite sides of the reference desk section which are also inadequately lighted by two existing ornate chandeliers. Under the funds requested for 1963, it is proposed to remove these two chandeliers and to install two new ornamental chandeliers designed to provide adequate illumination, both direct and indirect.

East and west conference rooms

In the two conference rooms, the general illumination produced by the existing chandeliers is about 5 foot-candles, a value far below present-day standards for rooms of this character. The wall paneling is dark walnut of low reflective value, and the reflectance of the highly ornate ceiling is also quite low as compared to that of a white ceiling. The highly decorative character of the conference room ceilings presents a serious problem for proper lighting. The recommended illumination level for conference rooms in general, where the reading of reports and other printed matter is part of the activities of the occupants, is 25 foot-candles at the working plane.

Under the funds requested for 1963, it is proposed to install continuous rows of fluorescent tubes on top of the projecting molding in these rooms, with suitable reflectors designed to direct the artificial light over the entire surface of the ceiling and then, by reflection, to transfer a portion of the ceiling illumination to the working level. The combination of the existing illumination obtained from the two existing ornamental chandeliers and the supplementary illumination reflected from the ceiling will produce 12 to 15 foot-candles of illumination on the table top. To produce a level of 25 foot-candles in the conference rooms would require a costly installation of ceiling-mounted downlights architecturally incorporated into the existing ceiling rosettes. Because of the high cost of this type of installation, the fluorescent installation proposed in the 1963 estimates is recommended.

Breakdown of estimate

Reference desk section:	
Installation of 8 downlights, including wiring to nearest panel-board.....	\$4, 500
Installation of fluorescent tubes, including wiring to nearest panel-board.....	5, 100
Air-conditioning alterations and additions.....	3, 000
Total.....	12, 600
2 rooms adjoining reference desk section: Installation of 2 ornamental chandeliers.....	8, 600
East and west conference rooms: Installation of fluorescent tubes, including wiring to nearest panelboard, dimming equipment, and other accessories.....	11, 700
Total estimate.....	32, 900

Supplies and materials (no change), \$6,000.—This is the same as allowed for 1962. The item provides supplies and materials for the structural and mechanical care of the building: heating, plumbing, electrical, carpentry, hardware, and other general miscellaneous supplies.

It also provides supplies and materials for the care of the grounds: plant material, seed, soil, sod, sprays, fertilizers, and other miscellaneous supplies.

Annual equipment (no change), \$750.—This is the same as allowed for 1962 and provides tools, mowers, brushes, miscellaneous equipment, and repairs to same.

The total therefore requested for the care of the Supreme Court Building and Grounds for the fiscal year 1963 under the Architect of the Capitol amounts to \$327,000.

SUMMARY OF REQUEST

Mr. ROONEY. At page 23 is to be found a summary of the increased alleged requirements for 1963 and this is the item in which is to be found \$3,600 of the display case money. What about this, Mr. Stewart?

Mr. STEWART. Mr. Chairman, may I present a short statement I have prepared containing a summary explanation of our items?

Mr. ROONEY. Yes, surely.

Mr. STEWART. There is an increase of \$6,100 for wage rate increases authorized by Public Law 763, 83d Congress.

Mr. ROONEY. Nothing can be done about that.

Mr. STEWART. We are asking a nonrecurring item of \$10,000 for pointing exterior stonework. Allotments totaling \$36,000 were allowed for the fiscal years 1960 and 1961 for pointing the exterior stonework of the Supreme Court Building. Most of the exterior stonework was pointed under these allotments. There remain to be pointed, in order to complete the work, part of the Maryland Avenue side of the building and the four inner courtyards. An allotment of \$10,000 to complete this work is requested for 1963 for the proper preservation of the building.

The sum of \$3,600 is requested for installation of eight bronze display cases, and we have discussed that item.

LIGHTING IMPROVEMENTS

We are asking a nonrecurring item of \$32,900 for lighting improvements requested by the Court for areas now inadequately illuminated: \$12,600 is to improve lighting conditions in the reference desk section of the bar library; \$8,600 for two rooms adjoining the reference desk section; \$11,700 for the east and west conference rooms.

The breakdown of the estimate is given on page 34 of the justifications and a more detailed explanation on pages 30 to 34, inclusive.

If there are any questions, I have with me my coordinating engineer, Mr. Rubel, who prepared the lighting estimate and is familiar with the details. If there are any questions on this item, he will be happy to answer them.

Mr. ROONEY. Very well, Mr. Rubel.

Tell us why this work cannot be deferred until next year.

Mr. RUBEL. Mr. Chairman, the lighting over there is the original lighting installed approximately 30 years ago. It is primarily decorative lighting, decorative for architectural purposes and not suitable for utilitarian purposes. For instance, the lighting in this room in which you are now holding these hearings is in the order of 60 foot-

candles, whereas the lighting in the reference desk section of the Supreme Court Building now averages about 1 foot-candle. In other words one-sixtieth of what you have in this room. The reference desk section is an extremely dark area and employees working there frequently refer to card index files and other printed matter.

There are tables in the reference desk section intended for reading but the lighting is not adequate for this purpose, and the same is true in the conference rooms. They are highly decorated rooms, beautiful rooms from an architectural standpoint, but they are insufficiently lighted to permit reading without eyestrain.

You asked me why this work cannot be deferred and I cannot say that it could not possibly be deferred a year, because they have been existing with it for many years, but the condition is very bad and should not be allowed to continue.

Mr. ROONEY. This is the first time we have ever heard anything about this.

Mr. RUBEL. I know you realize that 30 years ago, when this building was built, artificial lighting was not considered a very important subject. In fact, there was no adequate lighting equipment available for producing good lighting without altering the architectural appearance of the space. Since that time the public in general has become accustomed to better lighting, not only because it is easier to read but also because it is protection for their eyesight.

Mr. ROONEY. This means you have to get new chandeliers?

Mr. RUBEL. Yes, sir; in two spaces, and add supplementary lighting in the other areas. The proposed installations are rather expensive because of the highly decorative character of the rooms.

Mr. ROONEY. I am glad you said that, because I was afraid to suggest it was expensive.

Mr. RUBEL. It is, sir. It is expensive, but we have to contend with very ornate ceilings, with painted decorations and gilded ornaments. The walls are of dark walnut paneling and the architectural features must not be adversely affected by the lighting changes. It would be unforgivable to hang commercial fixtures and ruin the esthetics of the building. What new lighting is added must be done in a very subtle manner so that good light is obtained without realizing the source of its origin. That runs into money.

Mr. MARSHALL. How much detailed reading work is done in this conference room?

Mr. RUBEL. They hold conferences about once a week I understand. The Justices hold conferences periodically and people from foreign countries attend these conferences and reports are presented.

There is a large conference table, larger than this table, and reports are read and discussed. I think they do that perhaps about once a week.

Mr. MARSHALL. What percentage of their time is spent reading material over there in the conference room? Would you say half of the time?

Mr. RUBEL. Of their weekly time?

Mr. MARSHALL. I assume that this Conference Room is a room that is just what it says it is. It is where they hold conferences.

Mr. RUBEL. Yes, sir.

Mr. MARSHALL. As far as the use of the room is concerned, you have explained that, but I wondered what percentage of the time they spend in these conferences would be spent reading something?

Mr. RUBEL. Well, it is hard for me to answer that because I have never been present, sir. I would say, however, they spend at least 2 hours continuously in this room and perhaps longer.

Mr. MARSHALL. You think the lighting is such that in that 2 hours time they would be spending there, that would handicap them?

Mr. RUBEL. I do, sir. Yes, sir.

Mr. MARSHALL. That is all, Mr. Chairman.

Mr. ROONEY. Mr. Bow?

Mr. Bow. Reference is made here to the bar library and the two adjoining rooms on the third floor and the east-west conference room on the first floor.

How much of this is going to go to that conference room on the first floor and how much of it goes to the bar library and the two adjoining rooms on the third floor?

Mr. HENLOCK. Page 34 covers that point.

Mr. Bow. The east-west conference room. This apparently is the one you are speaking of where the justices meet?

Mr. RUBEL. Yes, sir.

Mr. Bow. That is \$11,700?

Mr. RUBEL. That is for the two conference rooms.

Mr. Bow. This is the east and west conference rooms. Then you have the reference desk section and that is \$12,600 and to what extent is this reference desk section used by the bar?

Mr. RUBEL. It is used every day, sir.

Mr. Bow. How many people are using it? What is your count?

Mr. RUBEL. There are eight employees in the reference desk section who work there every day.

Mr. Bow. They are the ones who get the books down off the shelves for the lawyers. They are not reading there constantly?

Mr. RUBEL. On the contrary, most of their time is spent in extensive research work, requiring constant use of their eyes. Then there are visitors who come in during the day. I have never personally taken count of how many people come in daily.

Mr. Bow. There are not many people. I have been there.

How do you measure the light in this room?

Mr. RUBEL. We measure it by means of this meter [indicating].

Mr. Bow. Have you ever used that meter to measure the light in the offices in the New House Office Building the Members have?

Mr. RUBEL. Yes, sir.

Mr. Bow. What do we get over there?

Mr. RUBEL. It is poor lighting over there.

Mr. Bow. What do we get there?

Mr. RUBEL. About 10-foot candles.

Mr. Bow. What is considered good lighting for reading?

Mr. RUBEL. In the order of 50-foot candles, is considered good lighting for reading.

Mr. Bow. Each one of the Members' offices is way under that standard of what you consider good lighting?

Mr. RUBEL. Very deficient.

Mr. STEWART. It is planned in the alteration of those two buildings to bring the lighting up to standard.

Mr. RUBEL. May I demonstrate this to you by turning off some of the lights in this room?

Mr. BOW. Please do.

Mr. STEWART. If your office is not an outside room, provided with a little outside light, in those two old buildings, you are unfortunate. Lighting in the interior rooms is bad, as many of the rooms are.

SUMMARY OF ANNUAL ITEMS

Mr. Chairman, I would like at this point to state for the record the annual items for which no increases occur. They are all the same as allowed for 1962 and are broken down as follows: \$700 for payment to employees' life insurance fund required by Public Law 590, 83d Congress, Federal Employees' Group Life Insurance Act of 1954; \$3,600 for payment to employees' health benefits fund required by Public Law 86-382, 86th Congress, approved September 28, 1959.

Mr. ROONEY. These are all in the justifications?

Mr. STEWART. That is right, but I have them summarized here and I thought my summary might be of some help to you: \$12,300 for Government contribution to retirement fund required by Public Law 854, 84th Congress, "Title IV, Civil Service Retirement Act Amendments of 1956"; \$9,000 for general annual repair and structural upkeep of the building and its mechanical equipment; also repair and upkeep of the grounds; \$3,000 for annual painting, which provides for necessary painting throughout the building; \$1,800 for annual maintenance and upkeep of the air-conditioning system; \$150 for snow removal; \$6,000 for annual supplies and materials for the structural and mechanical care of the building and grounds; \$750 for miscellaneous annual equipment and repairs to the same.

VISITORS TO BAR LIBRARY

At this point I would like to insert in the record a statement showing the number of readers and visitors who frequented the bar library during the past year.

1961		1961		1961	
	Readers	Visitors		Readers	Visitors
January.....	290	114	August.....	269	192
February.....	309	117	September.....	283	139
March.....	427	250	October.....	404	301
April.....	323	187	November.....	330	181
May.....	350	149	December.....	275	172
June.....	302	309			
July ¹	74	50	Total.....	3,636	2,161

¹ Closed: July 10 through July 30, 1961.

Mr. ROONEY. If there are no further questions, we thank you Mr. Architect and gentlemen.

This will conclude our hearings for the day.

CUSTOMS COURT
SALARIES AND EXPENSES

TUESDAY, JANUARY 16, 1962.

WITNESSES

Hon. WEBSTER J. OLIVER, CHIEF JUDGE

Hon. SCOVEL RICHARDSON, JUDGE

Hon. IRVIN C. MOLLISON, JUDGE

Object classification

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
11 Personnel compensation:			
Permanent positions.....	697	767	778
Positions other than permanent.....	17	7	7
Other personnel compensation.....	2		
Total personnel compensation.....	716	774	785
12 Personnel benefits.....	45	50	50
21 Travel and transportation of persons.....	17	22	25
22 Transportation of things.....	3	5	5
23 Rent, communications, and utilities.....	10	11	11
24 Printing and reproduction.....	7	9	9
25 Other services.....	12	3	13
26 Supplies and materials.....	6	6	6
31 Equipment.....	18	16	15
Total obligations.....	834	895	919

Personnel summary

	1961 actual	1962 estimate	1963 estimate
Total number of permanent positions.....	89	92	92
Full-time equivalent of other positions.....	4	2	2
Average number of all employees.....	86	93	93
Number of employees at end of year.....	95	93	93

Program and financing

[In thousands of dollars]

	1961 actual	1962 estimate	1963 estimate
Program by activities: Salaries and expenses (total obligations).....	834	895	919
Financing: Unobligated balance lapsing.....	7		
New obligational authority (appropriation).....	840	895	919

Mr. ROONEY. The committee will now please come to order.

This morning we shall consider the appropriation requested for the U.S. Customs Court.

This item is to be found at page 366 of the committee print and beginning at page 53 of the justifications.

We shall insert at this point in the record pages 53 through 60 of these justifications.

(The pages follow:)

Statement relating appropriation estimate to current appropriation

1962 appropriation in annual act	\$895,000
Base for 1963	895,000
Net difference, 1963 over 1962:	

	Requirements			
	1962 appro- priated	1963 estimate	Difference, increase (+) or de- crease (-)	
Salaries and expenses	\$895,000	\$919,000	+\$24,000	+24,000
Total estimate for 1963				919,000

Statement showing analysis by object

Object	1962 estimate	1963 estimate	Increase (+) or decrease (-)
11 Personnel compensation	\$774,000	\$785,000	+\$11,000
12 Personnel benefits	49,500	50,200	+700
21 Travel and transportation of persons	22,000	25,300	+3,300
22 Transportation of things	5,000	5,000	-----
23 Rent, communications, and utilities	10,600	10,600	-----
24 Printing and reproduction	9,000	9,000	-----
25 Other services	3,100	12,700	+9,600
26 Supplies and materials	6,200	6,200	-----
31 Equipment	15,600	15,000	-600
Total obligations	895,000	919,000	+24,000

Summary of increased requirements for 1963

Nature of expense (or savings):	Amount
1. Deduction for nonrecurring cost of equipment and furniture for new personnel authorized for 1962	-\$600
2. Provision for within-grade salary advancements:	
Compensation	11,000
Benefits	700
	11,700
3. To cover increased subsistence (per diem) allowance for judges and court personnel authorized pursuant to the Travel Expense Act, as amended	3,300
4. For supplement to the Customs Court Digest	9,600
Net increase, 1963 over 1962	24,000

JUSTIFICATION

LANGUAGE CHANGES

None.

OBJECTIVES

The estimate under this title is to provide for the salaries of the judges and supporting personnel of the U.S. Customs Court, and the necessary operating expenses of the court, including traveling expenses, expressage, communication services, printing and binding, supplies, equipment including furniture, new books and regular continuations of reports, encyclopedias, digests, and pocket parts for various sets, and miscellaneous items of expense for the fiscal year 1963. For data as to the functions of the court, its jurisdiction and basic statutory authorities, reference is made to section G of the "Digest of Appropriations, the Judiciary," on file with the Bureau of the Budget and the appropriations committees of Congress.

DETAILED JUSTIFICATION

An appropriation of \$919,000 is requested for 1963, a net increase of \$24,000 over the appropriation for 1962. The increase in requirements for 1963 is explained below:

DEDUCTION FOR NONRECURRING EXPENSES AUTHORIZED FOR 1962

The sum of \$600, a nonrecurring sum in fiscal year 1962, representing the cost of equipment and furniture for new personnel authorized for that year, has been deducted from the equipment item for fiscal 1963.

PROVISION FOR WITHIN-GRADE SALARY ADVANCEMENTS

It is estimated that \$11,700 will be required in fiscal year 1963 to grant court employees within-grade salary advancements corresponding with those provided by title VII of the Classification Act of 1949, as amended. Of the total requested, \$11,000 is for personnel compensation and \$700 for related agency contributions to the retirement fund and for group life insurance. The estimate is net of anticipated savings due to turnover and it represents the minimum amount that will be required to meet such costs in 1963.

INCREASED SUBSISTENCE (PER DIEM) ALLOWANCE

Three thousand three hundred dollars additional funds is requested due to the increase in per diem rate for judges and court personnel.

SUPPLEMENT TO CUSTOMS COURT DIGEST

Because of the specialized nature of the subject matter included in the Customs Law Digest there has been a limited demand among private law practitioners, law libraries, and other private sources for the Customs Law Digest and the supplements thereto. The original Customs Law Digest was produced and paid for on a work and services basis, just as State governments pay for compilations and revisions of their State statutes and session laws of their legislatures because of the limited demand for such statutory compilations and the high cost of editorial services and printing, material, ink and other materials, and printing labor costs.

The publishers of the Customs Law Digest originally estimated a 3 volume work of moderate sized volumes, but the resulting work was a 5 volume work of fairly large sized volumes. During the 4-year period of completion the publishers experienced many salary and wage increases and increased printing and material costs.

After completion of the digest at the contract price to the Customs Court the publisher's sale to private persons has been very modest; and of course there has been no sale to governmental sources since the Customs Court has distributed without charge or cost digest sets and supplements to five U.S. departments, three U.S. courts, several congressional committees, and several officers in the executive branch. In addition the Customs Court, in accordance with law, has distributed 150 sets of the digest to the Library of Congress for its use and for the purposes of its international exchange with foreign libraries. All of this has been done in addition to caring for the needs of the Customs Court itself.

Under the contract, the publisher was not obligated to make or produce a supplement at its own risk or cost. There was only an expressed hope by the court and by the publisher that the private sale of the Digest would be large enough to justify or encourage the publisher, from a business standpoint, to make and produce a supplement at its own cost. However, the sale of the digest has not been extensive enough, and the publisher has informed the Customs Court that it could not make or produce the supplement without a subsidy or payment of some kind on a work-and-services basis. And for these reasons the court is compelled to include in its budgetary estimate the item for \$9,600 for the annual supplement for the year 1962. Two volumes of Customs Court reports are published each year and one volume of the customs reports of the Court of Customs and Patent Appeals. In addition, the customs decisions or action of the Supreme Court must be included in the Digest supplements, and all of these additional customs decisions must each year be digested and included and integrated into

and made a part of the comprehensive digest system of the Customs Law Digest. If this is not done annually, there will accumulate many undigested volumes of customs decisions and the whole idea and usefulness of a law digest will be defeated or seriously impaired. In such event the judicial work of the judges of the Customs Court will be seriously impaired and hampered.

INCREASE REQUESTED FOR 1963

Mr. ROONEY. The justifications indicate that the request is in the amount \$919,000 which would be an increase of \$24,000 over the amount appropriated in the current fiscal year for the Customs Court. The list of increases is to be found at page 55 of the justifications. It would appear that there are no additional positions requested; is that correct?

Judge RICHARDSON. That is correct.

Mr. ROONEY. Do you wish to make a statement with regard to this, Chief Judge Oliver?

Judge OLIVER. I first want to apologize to the committee for not being here yesterday and also to express our appreciation to the committee for hearing us this morning.

WORKLOAD

Each year in the course of the hearing questions are asked about the workload and we always say that we will send you down a chart, but today we anticipated this and we will now file with you here a set of copies of the workload for the last 5 years.

Mr. ROONEY. We shall insert your workload chart at this point in the record.

(The chart follows:)

Workload chart

Fiscal year	Classification cases received	Reappraisal cases received (appeals, reviews, petitions, and remands of protests)	Total all cases received in court	Classification cases decided	Reappraisal cases decided (appeals, reviews, petitions, and remands of protests)	Total all cases decided in court	Classification cases pending at close of fiscal year	Reappraisal cases (appeals, reviews, petitions, and remands of protests) pending at close of fiscal year	Total all cases pending at close of fiscal year
1957.....	24,670	16,427	41,097	19,931	25,410	45,341	136,306	76,215	212,521
1958.....	25,047	27,283	52,330	38,478	16,299	54,777	122,875	87,199	210,074
1959.....	33,829	22,493	56,322	26,094	21,074	47,168	130,610	88,618	219,228
1960.....	33,397	20,031	53,428	50,336	32,499	82,835	113,671	76,150	189,821
1961.....	28,212	26,917	55,129	47,098	12,973	60,071	94,785	90,094	184,879

Mr. ROONEY. Do you have anything further?

Judge OLIVER. Nothing further. Judge Richardson has the details on this and he will explain them to the committee.

Mr. ROONEY. Very well, Judge Richardson. You may proceed.

GENERAL STATEMENT

Judge RICHARDSON. Mr. Chairman, we would like to express appreciation on behalf of all of the judges for the consideration shown our budget request last year.

We are not making any request for additional personnel or for salary adjustments. The only increase we expect with respect to personnel is the amount for within-grade salary advancements and for the usual benefits that go along with employee status.

The workload chart indicates our work remains about the same as it was last year. There was a slight increase in the number of cases received.

The number of cases received in court in 1961 was 55,129 and the total cases decided still remains fairly high.

I explained last year that our figure of 82,835 cases disposed of was especially large because of the disposition of some key issues under which several thousand cases have been suspended. Of course, the total of our cases is still being reduced and it is now 184,879 as against 189,821 the previous year.

PER DIEM ALLOWANCE

We have asked for one increase so far as operations are concerned, and that is in the travel account, an increase of \$3,300. This is to cover the per diem allowance that was authorized in the 1961 Travel Expense Act.

Mr. ROONEY. You are speaking of the increase from \$25 to \$30 a day?

Judge RICHARDSON. More specifically the increase from \$12 to \$16 a day. That is part of it.

Mr. ROONEY. What is the plan of the Customs Court with regard to the increase from \$25 to \$30 a day?

Judge RICHARDSON. Well, there may be some increases in which expenses may exceed the \$25 a day, but we will try to stay within it.

Mr. ROONEY. Are you familiar with the fact that the Judicial Conference decided to set it at \$25 a day rather than \$30 a day, allowed by law?

Judge RICHARDSON. I knew that was the ruling but I did not know it was final. For this next year, as I said, ours is based principally upon the days traveled.

Mr. ROONEY. Is there any reason why the Customs Court should not follow this decision of the Judicial Conference insofar as saving money is concerned?

Judge RICHARDSON. No.

Mr. ROONEY. You plan to do so?

Judge RICHARDSON. Yes.

MILEAGE

Mr. ROONEY. With regard to mileage, what is your position? I refer to the increase from 10 cents a mile.

Judge RICHARDSON. We are still operating under the 10 cents a mile.

Mr. ROONEY. Do you plan to do so in the coming year?

Judge RICHARDSON. We will cooperate with whatever the decision of the Judicial Conference is.

Mr. ROONEY. Fine. That is exactly the answer we wanted on that.

Judge RICHARDSON. As I say, ours is based principally on the per diem increase, based on the number of days a judge travels and the court reporter, who travels with him.

CUSTOMS LAW DIGEST

The only other increase in our budget is for the Customs Law Digest.

With the growing importance of our foreign trade, it is becoming increasingly important to have a digest and index of our decisional law and we are trying to continue to keep our supplements to the Customs Law Digest up to date.

Judge MOLLISON, who has appeared before you in other years on this matter, is here this morning and I will ask him to speak with respect to the justifications for the supplement.

Judge MOLLISON.

Mr. ROONEY. Very well. You may proceed, Judge MOLLISON.

Judge MOLLISON. Mr. Chairman, first I would like to thank the Congress for giving us the money to get the Digest made. It took 4 years to make the Digest and it was a worthwhile effort. We got the work done for \$60,000 when it had been estimated by two very large publishers that it would take \$100,000 to \$125,000 to do this.

Since the Digest was published in 1960, we have had 1 supplement which concluded 12 volumes. That was paid for by the \$15,000 given us as a supplemental appropriation and since that supplemental appropriation we have had the 1961 supplement which has just been completed. We paid for that out of savings that the Customs Court effected out of the last appropriation; and in 1962 we will need another supplement.

Mr. ROONEY. How much was that supplement, Judge?

Judge MOLLISON. \$9,600. We paid for that out of money that was generally appropriated and out of savings which were effected, but for the coming year we will need \$9,600 to pay for this supplement.

We feel that the very essence of the Digest is to keep it up to date and make it really useful to the judges and other people. We feel that the Digest is not merely useful to the Customs Court. It is very useful to us, but we are distributing it without cost and without charge to other branches of the Government and the number of these Digests, including the supplement—

Mr. ROONEY. Do you have authority in law to do that?

Judge MOLLISON. Yes, I think we have.

Mr. ROONEY. What is the authority?

Judge MOLLISON. I cannot quote any section but I think—I think we do have the authority.

It was represented that when we got the Digest we would distribute certain sets to other branches of the Government if the Customs Court were allowed to make it. Upon that plan, we have distributed two sets to the Ways and Means Committee, the Finance Committee, and one set to the Joint Printing Committee.

We have also given without charge sets to the Supreme Court, the Court of Customs and Patent Appeals, and the Court of Claims.

Mr. ROONEY. How many sets of the original Digest did you get for the \$75,000?

Judge MOLLISON. 300, of which, Mr. Chairman, we distributed 150 copies to the Library of Congress. That is provided for by law, as well as the five Departments; Department of Justice, Department of the Treasury, Department of State, the Department of Agriculture, and the Department of Commerce.

(The following was subsequently furnished for the record.)

Three hundred digest set covered by the \$60,000 original appropriation and the first supplement, including 12 volumes (8 customs court and 4 appellate court), paid for by \$15,000 from \$18,000 supplemental appropriation, \$3,000 unused of the supplemental appropriation went back into the Treasury. So that for \$75,000 we got the 300 digest sets and 300 sets of the first supplement which included digest of 12 volumes. We distributed 150 copies to the Library of Congress; that is provided for by law. We also distributed digest sets in various numbers to the five executive departments.

We have also distributed a set to the Executive Office of the President and we have given the House library two sets, as well as the Senate library.

We feel that this is not only important to the court but important to all of the branches of the Government. The reason why we have to get the \$9,600 is that the demand for the Customs Law Digest is rather limited.

We have a limited number of practitioners who practice in our court. The number of sets sold by the publisher is relatively rather small and also the 300 sets provided for the court have been distributed to these agencies of the Government, including committees and so forth, and other courts.

This has reduced the demand for the Digest to that extent so that the publisher is left to sell to private practitioners and any libraries that may have the money to buy such an expensive set of books.

We think that this is an expensive operation. It is a cumulative digest and supplement and you have to repeat in each supplement what has been previously included in the other supplements. It is a worthwhile effort and it is very valuable to the court. It is indispensable.

We think that we should get enough money given to us to continue this Digest and keep it up to date.

Mr. ROONEY. Mr. Marshall?

Mr. MARSHALL. Yes, Mr. Chairman.

WORKLOAD

I have been looking at your workload chart and I note that under cases pending at the close of fiscal year, you had 184,879. I note that you had total cases decided in court in 1960 of 82,835. In 1961, you had settled in court 60,071 cases, and this also shows that you had 22,764 cases less settled in court in 1961 than you had in 1960.

What is the reason for that?

Judge RICHARDSON. As I explained it, Congressman, or at least I wanted to get over to you, the point, last year we had several key issues under which a number of cases were disposed. For instance, we may have any number of shiploads of certain merchandise which would come in over a period of months, and this will all involve the same merchandise and the same legal issue. The lawyers will agree on a test case and suspend the other cases. As time goes on, and the case is being tried, cases will continue to build up under that test

case. When the test case is disposed of, the Government, if it is satisfied without the decision going to the Court of Customs and Patent Appeals, or even the Supreme Court in some cases, will stipulate with the importers on these cases that were suspended so that thousands of them will be disposed of in one year.

It is not a normal situation where you will get the same number. The 82,000 in that group involved some 40,000 under one issue, such as the internal revenue tax involving distilled spirits.

Now, it is building up again in the case of what we call the *MITI* case—the Japanese Ministry of International Trade and Industry—there are a number of cases being suspended, and also under plywood. When those two key issues are disposed of, you will get another large group of cases that will come off in 1 year.

One decision will dispose of thousands of cases sometimes, and it depends on what the buildup is under those test cases as to how many and when you are going to get an unusual year, such as you did in 1960.

Mr. MARSHALL. I would like for you to estimate, if you could, how many you expect to have pending at the end of this coming year. Have you made any estimate along that line?

Judge OLIVER. Mr. Carey, can you help us at all on that? It is hard to project and you cannot tell how many new cases will be filed and how many will be disposed of.

Judge RICHARDSON. Do you have any idea how many cases there are under the *MITI* case?

Mr. CAREY. The receipts are coming along just about the same as they have in the last year, and our decision work is a little bit under last year, so far, but what the next 6 months will bring is very hard to estimate. Using the first 6 months as a guide, you have the 3 months in there which is the normal vacation period of July, August, and September, and normally you decide less cases in that period of time than you do in the second period, the latter 6 months of the year.

I think we will pick up somewhat in our decision work in the latter 6 months of the year by comparison, but I think—and this is just a projection—we will probably have a few more cases pending at the close of this year than we had at the close of last year.

Our receipts are running fairly high.

Mr. MARSHALL. Some of these cases must have been pending for some time in order to build up your load of 184,000.

Judge RICHARDSON. Sometimes they do.

Mr. MARSHALL. Are you carrying some there that for all practical purposes are still before you for consideration but actually closed?

Judge RICHARDSON. No; when they are closed they come off. If you will notice in the sixth column there are 60,000 cases shown as decided in court in 1961 which is still a large number of cases disposed of.

If you will look back at the years 1957, 1958, and 1959, when they ranged from 45,000 up to 54,000—

Mr. MARSHALL. It seems to me that that is still quite a backlog of cases that must have been quite old to have been there as long as they have.

Judge RICHARDSON. You are right. You see what happens, Congressman, is that they can retry an issue a second time and sometimes a third time as they did in the internal revenue cases. One group of lawyers will take the position that the test case did not

contain certain information they have since been able to get abroad, and when the cases come off of these suspension calendars, they may start a new case.

The Government likewise may start a new case.

Judge OLIVER. In other words the doctrine of *res judicata* is not applicable in our court. They can try a new issue when they have new evidence or make a different approach to a claim.

Mr. MARSHALL. That is all, Mr. Chairman.

Mr. ROONEY. Mr. Bow?

EFFECT OF ASSIGNMENT OF A MEMBER OF COURT TO ANOTHER DISTRICT

Mr. BOW. Does your court sit en banc?

Judge RICHARDSON. No; they sit in groups of threes on protest matters, and evaluation cases, we sit as individual judges.

On circuit, we sit as individual judges.

Mr. BOW. This backlog has not been reduced too much. What effect does the assignment of a member of your court to another district have on your caseload?

Judge RICHARDSON. I do not know that I understand.

Judge OLIVER. I understand the question.

Mr. ROONEY. So do I.

Mr. BOW. Let us say one of the members of the court is assigned to another district for 30 days. Does that affect your caseload in any way? Why not?

Judge OLIVER. Because when you talk about sitting en banc, cases on our calendar for the June term or whatever the month may be, if there are not the three judges present to sit as a complete division of three, one judge may be on circuit, the two judges who are there will sit and the case goes on just the same. On that particular point you are making there, Congressman, that does not have any effect on it. There is nothing held up because of his absence.

Mr. BOW. If he were on circuit work for the Customs Court in those cases, where the individual judge sits, he would be relieving your docket somewhat, would he not?

Judge OLIVER. He would not be away from our court if he were assigned to any out-of-town dockets, of course.

This must be in the period when he would ordinarily be assigned to his monthly assignment in our court in New York. No judge would go away from our court or any other court—I am assuming generally all over the judicial system—if his work were not up to date or in shape, or he could not afford to go.

Mr. BOW. This record does not show your court up to date.

Judge OLIVER. The statistics showing thousands of cases on our calendar do not mean trial issues. You know this from past explanations and you are familiar with that situation.

CUSTOMS LAW DIGEST

Mr. BOW. Yes, but what has been the total cost of this digest up to date?

Judge MOLLISON. Let me see; originally the amount appropriated was \$60,000 and we got \$18,000 and \$15,000 of it was spent for the first supplement. Then we paid \$9,600 out of that money that we saved and that comes to \$84,600.

Mr. Bow. You have had how much up to date?

We can anticipate supplements coming each year, can we? \$9,600 is something we can look for each year?

Judge MOLLISON. Yes. Maybe not \$9,600 exactly but it might be. Mr. Bow. Somewhere in that area?

Judge MOLLISON. It would be less than that, we hope.

Mr. Bow. You have no anticipation at this time that the sales will be sufficient to handle the supplement?

Judge MOLLISON. Not the way it is going. I made an inquiry last Friday as to how many sets have been sold by the publisher.

Mr. Bow. Who is the publisher?

Judge MOLLISON. Bobbs-Merrill Co., Inc., of Indianapolis, Ind.

Mr. Bow. Are we subsidizing them some for the printing of this set?

Judge MOLLISON. I think this is a subsidy.

Mr. Bow. What credit do we get for those that they sell?

Judge MOLLISON. We do not get any credit of any kind and the only thing we accomplish is that the court gets the digest made. Otherwise, the publisher has refused to make it at its own account, and its own cost; if we do not subsidize it, then we will not get the supplement.

Mr. Bow. How many sets have they sold?

Judge MOLLISON. 201 sets.

Mr. Bow. Have been sold by Bobbs-Merrill?

Judge MOLLISON. Yes.

Mr. Bow. What do they sell for?

Judge MOLLISON. \$150 less 5 or 6 percent discount. We are talking about the ordinary individual.

Mr. Bow. 200-some sets, and how many published?

Judge MOLLISON. 300 were published and given to the Customs Court under contract. They have sold under their own efforts 201 sets up to December 31, 1961.

Mr. Bow. That would be a total of 500-some sets published?

Judge MOLLISON. Yes. Incidentally, that is the estimate. When the court was investigating this matter before we got into the contract stage, the estimates not only of Bobbs-Merrill, but other publishers, were that 300 or 400 sets would saturate the field so far as the demand in this matter is concerned. That included the demand by the agencies of the Government. As a matter of fact, the 200 sets that have been sold over and above, we will say, the governmental amount of 300, is quite an excellent sale. This is a hard matter to sell at \$150.

We have a copy here of the digest I would like to show you.

Judge OLIVER. I think the Congress would recognize that the ordinary lawyer would have no need or use for this unless he were practicing customs law. It is a highly specialized line.

You might go to any one of a hundred lawyers and you will never find a set of our reports or digest there because they have no need for them at all.

Mr. ROONEY. Five volumes make up the set?

Judge MOLLISON. Yes, sir.

I wanted to say originally that the publisher thought this work would be about three volumes of less size than these here [indicating] but they thought it also would take 3 years to make the set. It took 4 years and resulted in the five volumes of, roughly, 4,500 pages in all.

Here [indicating] is a copy of our 1961 supplement and this is a cumulative supplement. It includes everything that has gone on in the previous supplement and with the additional cases in the current issue.

Here is a document that answers your questions about sales. The original digest set covered the first 33 volumes of Customs Court reports and the first 42 volumes of the appellate customs courts. The digest when published had taken 4 years to make, and we naturally were way behind on the coverage in the original volumes of the set and that is the reason why we had to get \$15,000 to make the first supplement which more or less rendered us able to cope with the situation from year to year.

Mr. Bow. I would assume that if we do not continue the supplements, we would tend to make your present sets and what you have already spent obsolete?

Judge MOLLISON. I would say that is a fact.

Mr. Bow. Once starting it, we are pretty much in the position of either throwing this down the drain or keeping it up; is that right in your opinion?

Judge MOLLISON. I am afraid that the publisher, being in business for profit and for the stockholders, simply will not make it without some sort of a subsidy.

Under the present sale of the digest, they have been able to sell 200 sets which are a reasonable number. It is a good number and they made a big effort to sell it.

Mr. Bow. What do they get for the supplement?

Judge MOLLISON. I think \$15 but I would say the price is reasonable because the cost of printing is so high, to say nothing of other kinds of paper costs, ink, and materials, and editorial costs.

Mr. Bow. How much is it costing the court over and above the actual printing cost of these supplements? Do you have anybody assigned to work with the editors on this to furnish them materials? Do they do that themselves?

Judge MOLLISON. The court has no employee or employees assigned to work with the editors of Bobbs-Merrill and the court does not furnish materials to the Bobbs-Merrill Co., Inc. The company does all the work of making the digest, editorially and otherwise.

Mr. Bow. They are doing the editing and nobody from your court or staff is contributing time or effort to the Bobbs-Merrill Co., Inc.?

Judge MOLLISON. No, sir. The only thing we do is to select certain cases which are to be digested. There are certain cases that have nothing in them which is legally digestible and we eliminate them and, therefore, save that money.

Mr. Bow. Is this done by the court?

Judge MOLLISON. That is done by the court. The selection is done by the court.

Mr. Bow. That is all. Thank you.

TRAVEL EXEMPTIONS

Mr. ROONEY. What effect, if any, has the reduction in the amount of exemptions had on the work of the court?

Judge OLIVER. I do not think I quite understand.

Mr. CAREY. The travel exemptions?

Mr. ROONEY. Yes.

Mr. CAREY. None at all.

Mr. ROONEY. Thank you very much, gentlemen.

Judge OLIVER. Thank you, Mr. Chairman.

STUDY OF RULES OF PRACTICE AND PROCEDURE

TUESDAY, JANUARY 16, 1962.

WITNESSES

HON. E. BARRETT PRETTYMAN, U.S. CIRCUIT JUDGE, U.S. COURT OF APPEALS, DISTRICT OF COLUMBIA

BYRON B. WHITE, DEPUTY ATTORNEY GENERAL, DEPARTMENT OF JUSTICE, WASHINGTON, D.C.

Mr. ROONEY. We shall now revert to the item in the budget of the Administrative Office of the U.S. Courts, which concerns the Committee on Rules. We shall bear the advice of the distinguished judge from the District of Columbia, Judge Barrett Prettyman and the distinguished Deputy Attorney General, Byron White.

Will you please proceed, gentlemen.

GENERAL STATEMENT OF JUDGE PRETTYMAN

Judge PRETTYMAN. Mr. Chairman and gentlemen of the committee, my name is E. Barrett Prettyman and I am a U.S. circuit judge in the U.S. Court of Appeals, but I am here this morning in my capacity as the Chairman of the Advisory Committee on Appellate Rule of the Judicial Conference, United States.

I have before me a prepared statement which will not take very many minutes to read.

Mr. ROONEY. Proceed in your own fashion, Judge.

Judge PRETTYMAN. The two great criticisms of the judicial process in this country are: one, delay, and two, expense. It takes too long and costs too much for people to get their rights decided and their disputes settled by the court. Many people make speeches and many writers write learned articles on these subjects.

The situation is known and condemned.

There are two causes for undue delay and unnecessary expense. One is lack of judges and the other is less than efficient procedures.

The Congress has attempted to meet these at present in the way of the need for judges in the Federal system. This would be a great step toward the cure of that need and the project we are here to discuss this morning is one that the Congress has directed and the Judicial Conference of the United States has put into motion, which is a major effort to work out curative steps for the causes of these defects; that is, in the rules of procedure.

Congress has directed that the Judicial Conference examine the rules of procedure of the courts and that it set up a continuous study of those rules and make suggestions from time to time for improvements in the interests of economy, efficiency, and fair determinations.

The statute is now codified—28 U.S.C. 331—and accordingly the Chief Justice by direction of the Conference appointed a standing committee on rules and five advisory committees.

These committees got well underway during the past year and they are now in full swing.

A sixth advisory committee is contemplated and which I shall explain in a moment.

This sort of project costs money, as the Congress must well know, when it directed that it be done. These committees are composed of judges and outstanding lawyers from all over the country. They serve without pay and none of the money we suggest you supply goes to any member of these committees.

On their part this is an uncompensated public service, and if this work is to be done, skilled staff work and plenty of it is essential.

I venture to suggest that you gentlemen of Congress could work yourselves into complete nervous breakdowns and still not do more than a fraction of the load of work upon you if you did not have adequate, competent staffs to do the spade work and attend to the formalities of arranging schedules, printing, consultations, and all of the work necessary to put proposed legislation into shape where you can consider it and decide on it.

Similarly, this business of making and improving procedures in the Federal courts, we do not need money for the judges and lawyers who will do the considering and deciding, but we do need money for staff people who will gather the vast quantities of data we need and arrange it, analyze it, reproduce it, and otherwise supply us with the wherewithal for decided improvements, if any are needed.

Last year we asked and you gave us \$81,000 and that was a forecast of our first full year's work in this matter. It is not enough if we are not to prolong this task beyond the necessities.

We are asking for \$45,000 more, and I would like to outline the basis for the request.

I will leave the arithmetic and the calculations to the experts in those fields, but I turn first to the new undertaking now under consideration by the standing committee. That is the preparation of uniform rules of evidence for the Federal courts.

Astonishing though it is—it was to me when I realized it—the Federal courts do not have uniform rules of evidence except in the vaguest, most general sense.

The rule governing the admissibility in civil cases is rule 43(a) that evidence shall be admitted if it is admissible (1) under the statutes of the United States, (2) under the rules applied before 1938 in Federal courts in suits in equity, and (3) under the rules of evidence applied in the courts of the State in which the U.S. court is held.

The rule says that the competency of a witness to testify shall be determined in the same way.

The rule in criminal cases, rule 26, says:

Admissibility shall be governed in the absence of a statute "by the principles of common law as they may be interpreted by the courts of the United States in the light of reason and experience."

In admiralty cases, there are a great many specific rules concerning admiralty law, although they do not contain the general rule on admissibility. The courts in admiralty cases decide on their own rules. Generally speaking, the general law of evidence has been relaxed somewhat. In bankruptcy cases, the rule is that the rules will be followed as nearly as may be possible. Needless to say, the rules of

evidence now in use in the Federal courts need clarification, simplification, abbreviation, and modernization.

Strong recommendations to that effect have been made by eminent people ever since the day of William Mitchell, who spoke on the subject in 1938.

Chief Justice Warren this past year named the Chairmen of the five Advisory Committees with Professor Moore as chairman of a special group to recommend whether an effort should be made to write uniform rules of evidence for the Federal courts. That special committee had a study made by Prof. Thomas Green of the University of Georgia Law School and it has made a tentative recommendation that the project is feasible, desirable, and ought to be undertaken.

It will be expensive.

The second undertaking which accounts for much of the requested increase is one which the Civil Rules Committee made. One of the principal features of the Federal civil rules is the discovery procedure.

This is an outstanding part of the trial of a civil lawsuit in the Federal law courts today. The rule has been in effect for 20 years and its value is hotly debated. By some it is vehemently debated as a waste of money, time, and energy, and others say vigorously it is the greatest conceivable boon to litigants.

How has it really worked? Is it really worthwhile? Does the present process need revision?

The advisory committee on civil rules is undertaking to find out, but it decided it would not rest an answer on the offhand opinion of any body or bodies, or on the experience of any one lawyer or one judge.

The committee wants to know what the facts are. This is a vast job of basic research. The committee secured the services of a research organization of Columbia University and secured a grant of \$120,000 from a private foundation. They proposed to examine the records of more than a dozen district courts for the past 20 years and to try to persuade a sizable number of practicing lawyers to open their files for inspection.

The gathering of the raw data in the field will cost the Government relatively nothing, but the analysis of all this material and its synthesis into conclusions should and will be done by highly competent assistants to the committee itself. These people must be paid. The proper sort of help at this stage of the undertaking will be expensive.

Besides these two special and expensive projects, all the advisory committees have found that the estimates made before the work began were too low. This is partly the normal human failing the first time on a trip or a suit of clothes or a house or an atomic missile or an atomic bomb. Secondly, we were somewhat amazed at the confusion, complexity, and controversy we encountered. I felt, for example, that the preparation of a few rules to govern appeals in tax cases would be a simple task of a few hours by a few tax experts. I tried it. I discovered that there are many people with many ideas on this relatively small subject, and we are now about to circulate our second general draft.

So it goes.

The work being done by the advisory committees may be briefly summarized.

The present admiralty rules were promulgated in 1921. There has been for a long time a strong belief that these rules ought to be integrated into the civil rules, so an admiralty case will be tried as a civil suit is tried. But a myriad of details is involved. Some opposition is also involved in that proposition. Regardless of whether that integration proves feasible or not, the admiralty rules need revision in many respects—the scraping of a 20-year accumulation of barnacles off the old ship.

The Bankruptcy Committee is charged with the study of the general orders and forms. They have not been examined overall since 1938. Meantime, the act itself has undergone many changes. The committee already as an emergency matter has recommended changes in 12 general orders and 32 official forms. These are noncontroversial changes. The committee is continuing its studies into such matters as greater expeditiousness of small asset cases, possible supervision of lawyers' fees, better handling of petitions to pay fees in installments, and other actions in the interest of efficiency and accuracy.

The Civil Rules Committee, besides its new project on discovery, has gone all out in the study of the existing rules. These have been in effect since 1938, which is 24 years. They are regarded as highly successful, but they have soft spots and are otherwise subject to improvement. Many such possibilities are undramatic but important in the smooth operation of the courts. Such matters as pretrial in protracted cases, substitution for retired public officers, service of process on a nonresident, better definition of judges, appeals in multi-party actions, and many others.

The Advisory Committee on Appellate Rules has undertaken to write a system of uniform rules for the appellate courts. Again, very astonishingly, there are no uniform rules of procedure in the appellate courts, except two or three that are in the civil rules. The advisory committee has as its objective the elimination of expense and delay on appeals. There is much criticism of delay and expense of appeal in Federal courts. They are directing their attention to the records and directing their attention to briefs. They are directing their attention to these matters in ordinary cases, and then a special study for in forma pauperis cases in which the litigants are indigent.

Then we have a special project in appeals from administrative law cases, as to which there are many statutes and many different sorts of appellate procedures in different kinds of cases. They ought to be uniform, and the advisory committee is undertaking that project.

That is a thumbnail sketch, Mr. Chairman, of what the rules committees are attempting to do.

Mr. ROONEY. Very well. Thank you, Judge Prettyman.

Mr. White?

GENERAL STATEMENT OF DEPUTY ATTORNEY GENERAL WHITE

Mr. WHITE. Mr. Chairman and members of the committee, I am here in two capacities. One, I have been a member of the Advisory Committee on Civil Rules since its formation, and two, I am representing the Department of Justice. I have left a prepared statement with the reporter. Since it may be somewhat repetitious, I will not follow it but will mention one or two or three points.

Mr. ROONEY. Excuse me, Mr. Attorney General. Have you copies of that statement?

Mr. WHITE. Yes, I have.

(Mr. White's prepared statement follows:)

In the absence of Judge Maris, the Chairman of the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, and of Dean Acheson, the Chairman of the Advisory Committee on Civil Rules, I am making this appearance to urge this committee to support the work of these committees on the revision of the rules of judicial procedure in the various courts of the United States.

The work being done by the Committee on Rules of the Judicial Conference and its advisory committees is of paramount importance for the improvement of the administration of justice in the United States.

The rules now in effect in the courts need continuing reconsideration as new uncertainties and conflicts arise in litigation. For example, in the proposed amendments to the rules now being considered, rule 58 is being clarified to spell out exactly what constitutes the entry of a judgment. The Government had to litigate this particular issue all the way to the Supreme Court, *United States v. Schaefer Brewing Company*, 356 U.S. 227 (1958).

But a very significant portion of the work of these committees is not just clarifying existing rules. The civil rules need not only continuing attention but, in addition, two special projects have been initiated. These concern, first, a factual study of the actual manner in which discovery procedures are in use in litigation and, second, the development of a uniform code of evidence for use in the Federal courts. The admiralty rules are in urgent need of drastic revision and unification. An important issue under study is the feasibility of integrating the admiralty and civil rules. The appellate courts of the United States at present are all operating under their own rules. It is widely believed that it would be desirable to have uniformity prevail in the procedure used in our courts of appeal. These rules are being worked out with the purpose of economizing in the expenses of litigents and in saving the time of both the litigants and the judges.

The Supreme Court has said that changes in rules, however urgent, are not a matter to be handled by the lower courts. *Miner v. Atlass*, 363 U.S. 651 (1960). By 28 U.S.C. 2072, the power was given to the Supreme Court to prescribe the general rules of civil procedure in the district courts. The Chief Justice is to report suggested new rules to Congress. Such rules take effect 90 days after such reporting. (Same for admiralty rules, 28 U.S.C. 2073.) Those persons who advise the Court on amendments to the rules are the members of the Judicial Conference Committee and its advisory committees. Thus the basic work must be done in these committees. The spirit to work creatively and the willingness to devote the necessary time is present among the distinguished members of these committees. However, they do need financial support.

The Government has a very large stake in the successful performance of these committees. As a matter of principle, we should encourage any arrangements that will lead to a smoother operating and more efficient judiciary. We should further encourage the participation of members of the bar and other interested persons in arriving at our continuing objective of a fair and speedy administration of justice.

The United States is by far the most important litigant in the Federal courts. The latest figures that we have are those in the Annual Report for 1961 of the Director of the Administrative Office of the U.S. Courts. According to the report, (p. VIII(1)-6), in the fiscal year of 1961, a total of 58,293 civil cases were filed in the 91 district courts of the United States. Of this total, 19,843 cases involved the United States either as plaintiff or defendant. Thus, almost one-third of the litigation in the district courts involves the Government. It is clearly to our interest that the procedures used in these courts be just, rational, and as economical as possible.

Actual money savings obviously follow from improvements in the rules of judicial procedure. Litigation over procedural matters is reduced. Speedier trials are possible by eliminating doubts about these matters. Speedier trials and appeals are promptly translated into reduced interest charges on judgments and debts.

For all of these considerations, therefore, I urge this Committee to consider favorably the appropriation of money to support this effort.

Mr. WHITE. I shall just make two or three what I think are significant points.

One, the United States is by far the principal litigant in the U.S. courts. According to the figures for fiscal 1961, there were during that time 58,293 cases filed in the 91 district courts of the United States. Of this total, 19,843 cases involved the United States either as plaintiff or as defendant. Consequently, the United States and the Department of Justice have a great stake in the proper form and operation of the civil and criminal rules operative in the U.S. courts. It is important to the United States that these rules be clear, simple, and just. It is important to the United States that litigation be economical and speedy. Actual money savings obviously follow from improvements in the Rules of Judicial Procedure. Litigation over procedural matters is reduced. Speedier trials are possible by eliminating doubts about these matters. Speedier trials and appeals are promptly translated into reduced interest charges on judgments and debts.

Secondly, I should like to say that I have been very much impressed by the amount of work that has been done by these distinguished members of these committees. All of the advisory committees are made up of representatives of the practice around the country and of recognized scholars in the field. I have been amazed to find out these men really devote a very large amount of time to the subject of the revision of the rules. There has been constant exchange of information, a great deal of paperwork exchange. I think the results have been very evident.

In the civil rules area, already a couple of changes, such as substitution of parties, have been adopted by the Supreme Court. Another circulation of the committee is now out around the country to the Judicial Conference and the bar. I think great progress has been made.

Thirdly, I just want to add my support to these two special projects to which Judge Prettyman called attention. As a rather recent private practitioner, I certainly was aware that there was a great controversy among the lawyers of the country about the operation of the discovery rule.

It always has been apparent that you cannot find what the situation is in this area by the reading of cases, because much of it rests in practice, many decisions are never reported, and so much is done by stipulation between the parties. I think the field study which is being financed by private money will be of great utility.

Mr. ROONEY. Who is financing that study?

Mr. OLNEY. The Ford Foundation.

Mr. WHITE. The field work I think will be rather widespread. As the judge said, it will be expensive. It also will require a great deal of judgment to consume the results of that study. That is where it will cost the committee some money.

I also think the project on uniform code of evidence for the Federal courts is a very important one. I participated somewhat at the outset in discussing this matter with Professor Moore and others. I think it is a very worthy project. I think it will be difficult to come up with a uniform code of evidence for the Federal courts because one of the governing principles which always has been evident is that practice in the Federal courts should conform, to some extent anyway, with the practice in the State courts. The way it is now, if there is a rule of admissibility applicable in the State courts, the Federal courts will

follow it. On the other hand, if there is an exclusionary rule in the State courts, they do not follow it. These rules in the Federal courts are toward admissibility rather than exclusion. I think there will be great debate on this, but it is a very worthy project.

Consequently, both as a member of the committee and as representing the Department of Justice, I certainly urge full support of this committee for the work of the Rules Committee.

Thank you.

Mr. ROONEY. Thank you, Mr. White.

STATUS OF FUNDS

Mr. Olney, have you the details with regard to the expenditures or expected expenditures of the \$81,120 in fiscal 1962?

Mr. OLNEY. Yes, sir; I have. This is the status of the funds for 1962 as of December 31, 1961.

Mr. ROONEY. We shall insert this statement, the status of funds, at this point in the record.

(The statement referred to follows:)

Status of funds allotted for the study of rules of practice and procedure as of Dec. 31, 1961

Available.....		\$81,120
Obligations of record:		
Personnel compensation:		
Administrative Office personnel.....	\$5,199	
Advisory committees:		
Civil Rules.....	\$8,948	
Criminal Rules.....	3,100	
Bankruptcy Rules.....	3,412	
Admiralty Rules.....	5,149	
Appellate Rules.....	3,364	
Rules of Evidence.....	8,183	
	<u>32,156</u>	
Total, personnel compensation.....	37,355	
Personnel benefits.....	1,293	
Travel.....	6,941	
Communications.....	262	
Printing.....	2,141	
Duplicating (Administrative Office printing plant).....	821	
Other services.....	476	
Supplies.....	28	
	<u>49,317</u>	
Total, obligations of record.....		49,317
Unobligated balance.....		<u>31,803</u>

PERSONNEL COSTS

Mr. ROONEY. How many personnel does this statement of status refer to? Most of this item is for personnel and printing.

Mr. OLNEY. Do you remember?

Mr. AIRHART. No.

Mr. OLNEY. I have here the details as of November 30, 1961, as to exactly who is being paid and at what rate.

Mr. ROONEY. We shall insert this statement of detail at this point in the record.

(The statement referred to follows:)

Study of rules of practice and procedure—Detail of actual and estimated obligations for personal services, fiscal year 1962 as of Nov. 30, 1961

	Incumbent	Appointment status	Services rendered (per reports from committees)			Actual obligations to date	Estimated obligations balance of year ¹	Total estimated obligations
			From—	To—	Length of service			
ADMINISTRATIVE OFFICE PERSONNEL								
Secretary, GS-7, at \$5,620 per annum.	Beck, Rose C.	Permanent	July 1, 1961	Nov. 24, 1961	Full time	\$3,314.40	\$5,548.80	
Secretary, GS-6, at \$4,830 per annum.	Burgess, Glenna	do.	do.	do.	do.	2,975.00	4,932.20	
Total						4,191.00	10,481.00	
CIVIL RULES								
Consultant, ungraded, \$65 per day	Kaplan, Benjamin	Intermittent (not to exceed 130 days)	do.	do.	do.	(?)	5,460.00	
Consultant, ungraded, \$60 per day	Sacks, Albert M.	do.	do.	Aug. 31, 1961	13 days	780.00	4,980.00	
General attorney, GS-11, at \$7,560 per annum.	Handler, Joel F.	Temporary	do.	July 28, 1961	20 days	960.96	960.96	
Law clerk, trainee, GS-9, at \$6,435 per annum.	Payne, Ancl N., Jr.	do.	Aug. 14, 1961	Nov. 24, 1961	75 days	1,860.00	5,704.00	
Clerk-stenographer, GS-3, at \$4,075 per annum.	Green, Constance R.	do.	July 11, 1961	do.	99 days	1,545.36	3,975.76	
Total						5,146.32	21,080.72	
CRIMINAL RULES								
Consultant, ungraded, \$50 per day	Barrett, Edward L.	Intermittent (not to exceed 130 days)	July 1, 1961	Oct. 31, 1961	28 days	1,400.00	4,200.00	
Consultant, ungraded, \$50 per day	Collings, Rex A., Jr.	do.	do.	do.	15 days	750.00	2,400.00	
Total						2,150.00	6,600.00	
BANKRUPTCY RULES								
Consultant, ungraded, \$50 per day	Kennedy, Frank R.	Intermittent (not to exceed 130 days)	do.	do.	28 days	1,400.00	4,200.00	
Legal assistant, GS-6, at \$4,830 per annum.	Erickson, James D.	Temporary when actually employed (not to exceed 700 hours)	do.	Oct. 27, 1961	302½ hours	704.84	1,631.00	
Secretary, GS-3, at \$3,760 per annum.	Beem, Mildred F.	do.	July 10, 1961	Aug. 15, 1961	3 hours	5.43	5.43	
Do.	Holschlag, Judith K.	do.	Sept. 21, 1961	Nov. 24, 1961	22 hours	39.82	39.82	
Do.	Barker, Carol A.	do.	do.	do.	215½ hours	876.94	1,267.00	
Total						2,540.15	7,143.25	

ADMIRALTY RULES									
Consultant, ungraded, \$60 per day...	Currie, Brainerd	Intermittent (not to exceed 130 days). Temporary	July 1, 1961	Nov. 30, 1961	46 days.....	2,760.00	3,780.00	6,540.00	
Legal assistant, GS-6, at \$4,830 per annum.	Booth, Charles H.	Reimbursable services	do.....	Sept. 4, 1961	45 days.....	838.80		838.80	
Secretarial service (Duke University)			do.....	Sept. 30, 1961	3 months.....	505.00	1,515.00	2,020.00	
Total.....						4,103.80	5,295.00	9,398.80	
AFFELATE RULES									
Consultant, ungraded, \$60 per day...	Ward, Bernard J.	Intermittent (not to exceed 130 days). Temporary	do.....	Oct. 31, 1961	40 days.....	2,000.00	4,000.00	6,000.00	
Law clerk, GS-9, at \$6,435 per annum.	Phippard, James R.		do.....	Sept. 17, 1961	55 days.....	1,364.00		1,364.00	
Total.....						3,364.00	4,000.00	7,364.00	
RULES OF EVIDENCE									
Consultant, ungraded, \$60 per day...	Green, Thomas F.	Intermittent (not to exceed 130 days). Temporary	do.....	Sept. 30, 1961	56 days.....	3,360.00	4,440.00	7,800.00	
Attorney, GS-11, at \$7,660 per annum.	Fink, Howard P.		do.....	Nov. 10, 1961	85 days.....	2,475.20	4,804.80	7,280.00	
Legal assistant, GS-5, at \$4,345 per annum.	Williams, Ronald C.	Temporary when actually employed (not to exceed 700 hours).	Aug. 17, 1961	Sept. 28, 1961	74½ hours....	155.70	724.14	879.84	
Clerk typist, GS-3, at \$3,700 per annum.	Rosenthal, Dora G.		Aug. 14, 1961	Nov. 10, 1961	72½ hours....	131.69	302.71	434.40	
Total.....						6,122.59	10,271.65	16,394.24	
Grand total.....						27,618.46	50,843.55	78,462.01	

1 Estimate based on pattern established during 1st 5 months of year.
 2 No report of services rendered, estimate based on previous years service.
 3 Resigned c.o.b. July 28, 1961, paid for 104 hours of accumulated annual leave.

4 Resigned c.o.b. Aug. 17, 1961.
 5 Appointment terminated Aug. 15, 1961.

RULES COMMITTEE MEETINGS

Mr. OLNEY. I have here also a list of the meetings of the Rules Committee between July 1 and December 31, 1961, showing the days on which they met and the number of committee members who were present. All committee meetings are in Washington, D.C., and have been from the beginning. There has been none elsewhere.

Mr. ROONEY. We shall insert this statement with regard to meetings at this point in the record.

(The statement referred to follows:)

Rules Committee meetings, July 1, 1961-Dec. 31, 1961

Admiralty Committee, 1 meeting Sept. 18 and 19, 1961 (all 14 members present).....	Days 2
Appellate Committee, 1 meeting Nov. 16 and 17, 1961 (13 members present, 1 member absent). (Reporter had been appointed, accounting for additional member).....	2
Bankruptcy Committee, 1 meeting, Oct. 23 and 24, 1961 (11 members present, 3 members absent).....	2
Civil committee, 1 meeting Sept. 8 and 9, 1961 (14 members present, 2 members absent).....	2
Criminal Committee, 1 meeting, Oct. 30, 31, and Nov. 1, 1961 (all 12 members present).....	3
Standing committee, meeting.....	None
Special Committee on Evidence, 1 meeting, Dec. 11, 1961 (6 members present, 1 member absent due to illness).....	1
Total.....	12

BASIS FOR ESTIMATE

Mr. ROONEY. With regard to the request of \$45,000 for fiscal 1963, have you the details of those expected expenditures? Do you have a breakdown of the \$34,000?

Mr. OLNEY. No, sir.

Mr. ROONEY. How did you arrive at it?

Mr. OLNEY. By trying to estimate as best we could on the basis of the experience with the other committees. For example, on this matter of the rules of evidence, which has been mentioned here, at the present time there has been no committee appointed to make that study. We do not know how big it will be. Also, we do not know in advance exactly what they are going to need in the way of staff. Already work has been done in this field, for example.

Mr. Bow. This committee is appointed by the Chief Justice?

Mr. OLNEY. Yes, that is right. There have been two attempts to draft uniform codes of evidence for use in the States. The extent that work will be of use to this committee, we have no way of knowing. Not until the committee is actually appointed and has met will we have any clear idea of their needs. Yet we do know it will take money. They will have to have some staff.

Mr. ROONEY. Was the study with regard to rules of evidence included in the \$45,000?

Mr. OLNEY. Yes, sir.

Mr. White was asking me if I had made clear that this \$45,000 is in addition to the \$81,000.

Mr. ROONEY. I understand that. How did you arrive at the \$34,000?

Mr. OLNEY. We knew we were going to need an additional reporter for the discovery work and some additional staff there. We know we are going to need an additional reporter and some additional staff for the evidence rules. On the basis of the experience we have had with other committees, that is as much as we have to go on. We came up with this figure as roughly what we would need.

Mr. ROONEY. Will any of the studies be completed in fiscal 1963?

Mr. OLNEY. I do not believe so. I feel sure they will not be.

Mr. ROONEY. Have you been able to ascertain the detail with regard to the printing matter we discussed yesterday?

Mr. OLNEY. No, sir.

Mr. ROONEY. Mr. Magnuson?

ESTIMATED LIFE OF PROJECT

Mr. MAGNUSON. I notice the justifications say the Judicial Conference has been directed by the Congress to carry on a continuous study of the operation and effect of the general rules of practice and procedure, and so forth. What is meant by "continuous"? Will this be \$45,000 every year?

Mr. OLNEY. No, I would not imagine it would be every year, but it will be considerable amounts every year until the rules are in reasonable shape. It will take a long time to determine, for example, whether admiralty rules should be taken into the rules of civil procedure, and these other studies which have been mentioned here will take a long time.

Mr. MAGNUSON. Is the nature of the project such that it will go on forever? Presumably, changes could arise even after you complete your job.

Mr. OLNEY. No doubt.

Mr. MAGNUSON. There would have to be some further revision.

Mr. OLNEY. That is correct. Of course, the amount which has to be done will vary, no doubt, from year to year. That is the language in the statute.

Mr. MAGNUSON. I understand.

Judge PRETTYMAN. This is the first time there has been a major examination of these fields for many years. There is a bulge at this point. I would think next year might cost more than this year, but after the bulge is over, we shall keep an eye on it from year to year and the cost will go down.

Mr. ROONEY. Mr. Bow.

Mr. BOW. I would like to say I am very much impressed by the statements this morning by Judge Prettyman and the Deputy Attorney General.

REDUCTION IN COSTS TO LITIGANTS

Mr. Attorney General, you have suggested that by the adoption of these rules you may cut the cost to litigants. How will this be done? I have had the feeling right along that perhaps the cost to litigants and court costs were established many years ago and had not kept pace with the increases in other areas. If we are to have a further decrease in costs, that is interesting.

Mr. WHITE. One area Judge Prettyman certainly can address himself to since it is his area. For years and years, records in appellate

courts have been printed. I think, if I am not mistaken, Judge, they are studying ways of simplifying the record in appellate courts.

Mr. BOW. I remember from my days in private practice that many times a litigant was prevented from being able to take an appeal because of the great cost of printing the record. I can understand that.

Mr. WHITE. This is one area where the cost to the litigant can be considerably decreased, in my opinion. I think the committee is working on that, is it not, Judge?

Mr. BOW. I would like to hear your comment on this, Judge. I am very much interested in it.

Judge PRETTYMAN. It used to be, as you well know, the record had to be printed. The committee is studying that. There are quite a few things that can be done. No. 1 is to reproduce only that part of the record which the lawyers want the court to look at. In the District of Columbia in administrative law cases, it used to be lawyers had to designate the parts of the record they wanted printed as the first step in the appellate procedure. They filed the appeal and then designated the parts of the record they wanted the court to read. Due to the human characteristic of lawyers, they put off until the last minute, absent a decision, what points they are going to make and what they wanted the court to read. We adopted in the District of Columbia a very simple little rule to have them designate the parts of the record they want printed after the briefs are in. The lawyers filed their brief and, after that, they designated what parts of the record they wanted the court to read. The savings in cost are unbelievable. We used to get printed records in administrative cases this long [indicating], 20 volumes of printed record. Now, under the new procedure, if we get one bigger than that [indicating], we think we are being imposed on. It is just that simple thing. This committee is considering introducing that rule all over.

Then another cost is illustrated by a case which just came to my attention from Mr. Olney the other day. In indigent cases the cost rests on the Government. In an indigent case, a fellow appeals and demands a copy of the transcript. This is a dramatic and extreme example, but it illustrates the point. North Dakota had a criminal case in which there were 20 defendants originally, and 12 were convicted, all indigent. Ten appealed and demanded a copy of the transcript. The transcript was 16,000 pages. The cost of getting just one copy of the reporter's transcript was——

Mr. OLNEY. Around \$20,000.

Judge PRETTYMAN. It was somewhat over \$20,000. The advisory committee is already dealing with that subject. There are a great many modern methods of reproducing transcripts. We have gone out and gotten information on all this to see whether it is possible to have the reporter use for his typing some kind of reproduction which would be less expensive in and of itself but which would also be used for reproducing such parts of the record as eventually the court is wanted to read. That takes a lot of inquiry into the mechanics. Those are things that are being done.

Mr. WHITE. I might also say that earlier last year the question was, What are you going to do about substitution of parties resulting from the change in administration? The rule then provided that each litigant had to make a motion within 6 months. The rule was changed and laid before Congress 90 days before June 20, to make sure that substitution was automatic. This saved the Department of Justice

and the Government and private litigants, I think, a lot of time and a lot of money.

I would also say that probably one of the most expensive costs of litigation results from uncertainty about the meaning of a rule. When you have to litigate up to the Supreme Court on a procedural matter, it is expensive, and the Department of Justice has done this recently on the question of what is an entry of judgment.

I think clarity in the rule saves people money and simplicity of rule saves people money. In the civil rules, anyway, an awful lot of the lawyers on the Committee would like to urge making the rules as simple as possible. The study on discovery I would hope would make the discovery process much cheaper than it is now. It is a very expensive process now. Many times I think some litigants can afford the discovery process and other litigants cannot.

Mr. Bow. Under this system, you are now anticipating perhaps the adoption of uniform rules of evidence throughout the country?

Mr. WHITE. The procedural rules are uniform in the Federal courts. Judge PRETTYMAN. No.

Mr. Bow. They are not completely. I know various situations where the rules were not the same as in the district in which I practiced.

Mr. WHITE. The procedural rules applicable to Federal district courts are uniform around the country. They may be applied differently in one district from another.

Judge PRETTYMAN. And the different courts have some local rules.

Mr. WHITE. They have their own court rules.

Mr. Bow. This would be in anticipation of trying to get, as nearly as practicable, uniform rules throughout the country.

Mr. WHITE. Right now the appellate rules are pretty well determined by the local court rules of the various circuits, as I understand it. Of course, this effort of the Committee will be to have uniform rules of appellate practice, which I think will be of great advantage.

Mr. Bow. Thank you, Mr. Chairman.

Mr. ROONEY. Mr. Cederberg?

CONGRESSIONAL ACTION ON RULES CHANGES

Mr. CEDERBERG. Do I understand after an agreement has been reached on these changes in the rules and the Chief Justice reports them to the Congress, they automatically take effect 90 days after that reporting?

Mr. WHITE. I think that is true.

Mr. CEDERBERG. Does the Congress have anything to say after they have been reported?

Mr. WHITE. They have had in the past; yes.

Mr. OLNEY. That is the purpose of submitting them.

Mr. CEDERBERG. Unless they are changed by the Congress, they automatically go into effect?

Mr. ROONEY. The same as reorganization plans.

Mr. CEDERBERG. The same as the reorganization plans we work under now.

That is all I have.

Mr. ROONEY. Thank you very much, Mr. Attorney General, Judge Prettyman, and gentlemen.

That completes the hearings with regard to the Federal judiciary.

We shall meet again on Monday morning at 10:30, when we will see you again, Mr. White.

The first part of the document discusses the general principles of the law of contract, and the second part discusses the law of tort. The law of contract is a branch of law that deals with the legal obligations that arise from agreements between two or more parties. The law of tort is a branch of law that deals with the legal liability of one person to another for a wrongful act or omission.

The law of contract is based on the principle of freedom of contract, which means that parties are free to enter into any agreement that they wish, provided that the agreement is not illegal or against public policy. The law of tort is based on the principle of negligence, which means that a person is liable for a wrongful act or omission if they have acted negligently.

The law of contract is a complex and technical subject, and it is important to understand the basic principles of the law of contract. The law of tort is also a complex and technical subject, and it is important to understand the basic principles of the law of tort.

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LIST OF WITNESSES

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The following is a list of the names of the persons who have been admitted to the membership of the Society since the last meeting of the Council, and who have taken the oaths of office and qualification, and are now members of the Society.

1. Mr. J. H. [Name] of [Location]

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