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# ANNUITIES OF WIDOWS OF JUSTICES OF THE SUPREME COURT

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## HEARING

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BEFORE THE

### SUBCOMMITTEE ON

### IMPROVEMENTS IN JUDICIAL MACHINERY

OF THE

### COMMITTEE ON THE JUDICIARY

### UNITED STATES SENATE

### NINETY-SECOND CONGRESS

### SECOND SESSION

ON

## S. 2854 and S. 1480

### ANNUITIES OF WIDOWS OF JUSTICES OF THE SUPREME COURT

FEBRUARY 2, 1972

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## CONTENTS

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Statement of—	Page
Joseph F. Spaniol, Jr., Assistant Director for Legal Affairs, Administrative Office of the United States Courts.....	10
Accompanied by Miss M. Patricia Carroll, Chief of the Retirement, Insurance, and Payroll Section, Administrative Office of the United States Courts.....	24



# RELATING TO ANNUITIES OF WIDOWS OF JUSTICES OF THE SUPREME COURT

WEDNESDAY, FEBRUARY 2, 1972

U.S. SENATE,  
SUBCOMMITTEE ON IMPROVEMENTS IN  
JUDICIAL MACHINERY  
OF THE COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10 a.m., in room 2228, New Senate Office Building, Senator Quentin H. Burdick (chairman of the subcommittee) presiding.

Present: Senator Burdick.

Also present: Michael J. Mullen, assistant counsel; Thomas L. Burgum, deputy counsel, and Miss Kathryn M. Coulter, chief clerk. Senator BURDICK. The subcommittee will be in order.

The subcommittee meets today to hold a hearing on two bills—S. 2854 and S. 1480—both of which have the purpose of bringing Supreme Court Justices under the provisions of the Judicial Survivors Annuity Act.

The Judicial Survivors Annuity Plan (Public Law 84-973), August 3, 1956, is set forth in section 376 of title 28, United States Code. It provides benefits to the widows and dependent children of district and circuit judges who elect to participate in the plan by contributing 3 percent of their salary, which is matched by a 3 percent contribution by the Federal Government.

Supreme Court Justices are not included in this plan, but their widows are entitled to a \$5,000 annuity under section 375 of title 28. Under the Judicial Survivors Annuity Plan, a widow's benefit is computed at 1¼ percent for each year of service.

Under both bills here under consideration, Supreme Court Justices are given the option to join the Judicial Survivors Annuity Plan. They would contribute 3 percent of their salary to the fund created by the 1956 act and their survivors, either a widow or dependent children, would receive the same benefits as the survivors of other Federal judges.

A noncontributory annuity of \$5,000 is presently payable to widows of Justices under authority of section 375 of title 28. This annuity was enacted by Congress in 1954 and the act granted to Justices' widows the same annuity paid to presidential widows. The amount of the annuity was set at \$5,000 by reference to a 1937—the so-called Grace Coolidge law—which provided a \$5,000 pension to Mrs. Coolidge and to other presidential widows.

If Supreme Court Justices are to be brought into the J.S.A. plan, then their survivors should be treated the same as the survivors of district and circuit court judges. The widows' annuity of \$5,000 under section 375 should not be a double benefit on top of a Judicial Survivors Annuity payment. This is accomplished by a provision in both bills that if a Justice elects to join the Judicial Survivors Annuity Plan, his widow is ineligible to receive the annuity under section 375.

In addition, S. 2854 contemplates the gradual phasing out of the \$5,000 pension under section 375. This is accomplished by a provision in section 2 of the bill making section 375 inapplicable to a widow whose spouse becomes a Justice of the United States after the date of enactment of the bill.

While this explains the essence of these bills, S. 2854 contains several provisions to take care of special circumstances in an equitable way.

First, the widows' pension under section 375 is undoubtedly an emolument of the office which, under section I of article III of the Constitution, cannot be diminished while a Justice remains in office.

Therefore, section 1 of S. 2854 contains a proviso to the effect that if an existing Justice of the Court, including retired Justices, does not elect to come under the J.S.A. plan, his widow would still be eligible to receive a pension of \$5,000.

Secondly, because the Judicial Survivors Annuity Plan requires a contribution for a minimum of 5 years service, and assuming an existing Justice of the Court elects to come under the J.S.A. plan, there may be a gap in coverage if the Justice were to die before meeting the 5-year minimum. In this event, the same proviso to section 1 specifies payment of a \$5,000 annuity.

Third, S. 2854 would eliminate an inequity affecting the seven widows of deceased Justices of the Supreme Court. The \$5,000 pension for presidential widows was increased to \$10,000 in 1958 by an act of Congress (Public Law 85-745; 72 Stat. 838). Thus, the annuity of \$5,000 established in 1937 for presidential widows was determined to be inadequate in 1958 and it was increased to \$10,000.

Despite the fact that Congress had set Justices' widows pensions at the same figure as presidential widows in its action in 1954, the increase in 1958 did not inure to the benefit of Justices' widows because the general law was not in the form of an amendment of the 1937 private bill for the benefit of Mrs. Grace Coolidge, S. 2854 would correct this congressional oversight. The inflationary trends of the last 17 years would alone justify this action.

At this time, S. 2854 and S. 1480 are incorporated in the record.

(The bills referred to follow :)

92<sup>d</sup> CONGRESS  
1<sup>st</sup> SESSION

# S. 2854

---

## IN THE SENATE OF THE UNITED STATES

NOVEMBER 12, 1971

Mr. BURDICK (for himself, Mr. HARTKE, and Mr. HRUSKA) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To amend title 28, United States Code, relating to annuities of widows of Supreme Court Justices.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3 That, section 375 of title 28, United States Code is amended:

4       (a) By striking from subsection (2) the words "in the  
5 amount payable to the beneficiary under the Act of January  
6 14, 1937 (50 Stat. 923, chapter 3)" and substituting in lieu  
7 thereof the words "of \$10,000".

8       (b) By adding at the end thereof the following new  
9 subsection:

10       “(c) If a Justice of the United States who was in reg-  
11 ular active service on the date of the enactment of this Act

1 or who resigned or retired under the provisions of this  
2 chapter prior to the date of the enactment of this Act and  
3 who on that date was receiving salary under section 371 of  
4 title 28, United States Code, gives notice in writing to the  
5 Director of the Administrative Office of the United States  
6 Courts of an election to become subject to section 376, the  
7 widow of such Justice shall be ineligible to receive an an-  
8 nuity under this section after the date of such notice: *Pro-*  
9 *vided, however,* That if such Justice does not elect to become  
10 subject to section 376, or, having elected to become subject  
11 to section 376, he fails to make the deposit required by  
12 section 376 (c) or, in the alternative, does not complete five  
13 years of service for which deductions were made under  
14 section 376 (b), his widow shall be paid an annuity of  
15 \$5,000."

16 SEC. 2. Section 375 of title 28, United States Code,  
17 as amended by section 1 (a) of this Act, shall not apply to  
18 the benefit of a widow whose spouse became a Justice of the  
19 United States after the date of enactment of this Act or  
20 whose eligibility is determined under the first sentence of  
21 subsection (c) of section 375.

22 SEC. 3. Section 376 of title 28, United States Code,  
23 as amended, is amended by inserting "Justice or" prior to  
24 the word "judge" wherever that word appears therein, ex-  
25 cept in section 376 (q).

1       SEC. 4. A Justice of the United States, in regular active  
2 service on the date of the enactment of this Act, or who  
3 resigned or retired prior to the date of enactment of this Act  
4 and who on that date is receiving salary under section 371  
5 of title 28, United States Code, as amended, shall be entitled  
6 within six months after enactment of this Act to make the  
7 election authorized by and to receive the benefits of section  
8 376.

9       SEC. 5. Section 604(a) (7) of title 28, United States  
10 Code, as amended, is amended to read as follows:

11       “(7) Regulate and pay annuities to widows and surviv-  
12 ing dependent children of Justices and judges, Directors of  
13 the Federal Judicial Center, and Directors of the Adminis-  
14 trative Office, and necessary travel and subsistence expenses  
15 incurred by judges, court officers and employees, and officers  
16 and employees of the Administrative Office, and the Federal  
17 Judicial Center, while absent from their official stations on  
18 official business.”

19       SEC. 6. (a) Item 376 of the analysis of chapter 17 of  
20 title 28, United States Code, is amended to read as follows:

“376. Annuities to widows and surviving dependent children of Justices  
and judges.”

21       (b) The catchline to section 376 of title 28, United  
22 States Code, is amended to read as follows:

23       “§ 376. Annuities to widows and surviving dependent  
24               children of Justices and judges.”

92<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1480

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## IN THE SENATE OF THE UNITED STATES

APRIL 1, 1971

Mr. HRUSKA (for himself and Mr. BURDICK) introduced the following bill;  
which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To amend title 28, United States Code, relating to annuities of widows of Supreme Court Justices.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That, section 375 of title 28, United States Code, as  
4       amended, is amended by adding at the end thereof the  
5       following new subsection:

6       “(c) If a justice of the United States gives notice in  
7       writing to the Director of the Administrative Office of the  
8       United States Courts of his desire to become subject to  
9       section 376, the widow of such justice shall be ineligible to  
10      receive an annuity under this section.”

11      SEC. 2. Section 376 of title 28, United States Code, as

1 amended, is amended by inserting "justice or" prior to the  
2 word "judge" wherever that word appears therein, except  
3 in section 376 (q).

4       SEC. 3. A justice of the United States, in regular active  
5 service on the date of the enactment of this Act, or who  
6 resigned or retired prior to the date of enactment of this Act  
7 and who on that date is receiving salary under section 371,  
8 of title 28, United States Code, as amended, shall be entitled  
9 within six months after enactment of this Act to make the  
10 election authorized by and to receive the benefits of section  
11 376.

12       SEC. 4 Section 604 (a) (7) of title 28, United States  
13 Code, as amended, is amended to read as follows:

14           “(7) Regulate and pay annuities to widows and  
15 surviving dependent children of justices and judges,  
16 Directors of the Federal Judicial Center, and Directors  
17 of the Administrative Office, and necessary travel and  
18 subsistence expenses incurred by judges, court officers  
19 and employees, and officers and employees of the Admin-  
20 istrative Office, and the Federal Judicial Center, while  
21 absent from their official stations on official business.”

22       SEC. 5. (a) Item 376 of the analysis of chapter 17 of  
23 title 28, United States Code, is amended to read as follows:

“376. Annuities to widows and surviving dependent children of justices  
and judges.”

- 1 (b) The catchline to section 376 of title 28, United
- 2 States Code, is amended to read as follows:
- 3 **"§ 376. Annuities to widows and surviving dependent**
- 4 **children of justices and judges."**

The witnesses present today are Mr. Joseph F. Spaniol, Jr., Assistant Director for Legal Affairs, Administrative Office of the United States Courts, and Miss M. Patricia Carroll, Chief of the Retirement, Insurance, and Payroll Section, Administrative Office of the United States Courts.

I have a statement from my colleague, Senator Hruska. At this time, the statement of the Senator will be incorporated in the record, without objection.

(The statement referred to follows:)

ROMAN L. HRUSKA

Mr. Chairman, I regret that I am not able to be present at the hearings of the Improvements in Judicial Machinery Subcommittee this morning because of other hearings scheduled at the same hour. However, I want to commend you and the staff of the subcommittee for taking such quick action on S. 2854, which we joined to introduce last November. These hearings will be, I hope, the first step toward approval of this bill by the 92d Congress. If so, a glaring oversight in existing law will be corrected.

At present all Federal judges except Supreme Court Justices have a contributory annuity plan which provides benefits to their survivors. This bill would rectify this omission by permitting the judges of our highest tribunal, at their election, to come within the provisions of title 28, United States Code, section 376, which provides for a contributory annuity plan. Other technical provisions are also contained in the bill. It is my understanding that this proposal has the backing of the members of the Supreme Court.

Your opening statement and the testimony from the staff of the Administrative Office will discuss in detail the provisions of the bill, the reasons for their inclusion, and the need for the bill's prompt enactment. But I did not want this occasion to pass without an indication from me that I strongly support the bill and urge its favorable consideration by this subcommittee and its parent committee.

Thank you for your courtesy, Mr. Chairman.

Senator BURDICK. Also to be incorporated in the record at this time, without objection, is a letter from Justices Potter Stewart and Byron White.

(The document referred to follows:)

SUPREME COURT OF THE UNITED STATES,  
Washington, D.C., January 18, 1972.

HON. QUENTIN N. BURDICK,  
Chairman, Subcommittee on Improvements in Judicial Machinery, Committee of the Judiciary, United States Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We have the Subcommittee's letter of January 10, 1972, requesting our views on S. 2854 which would amend the present law relating to the annuity available to widows of now deceased Justices and which would permit present and future Justices to provide for their widows by participating with other federal judges in the existing Judicial Survivors Annuity plan.

We have carefully examined S. 2854 and have discussed it with our colleagues. If the Congress should see fit to enact this legislation, the provisions of the law would be acceptable to the members of the Court.

Sincerely yours,

POTTER STEWART.  
BYRON R. WHITE.

Senator BURDICK. At this time we will call upon Mr. Spaniol and Miss Carroll.

STATEMENT OF JOSEPH F. SPANIOL, JR., ASSISTANT DIRECTOR  
FOR LEGAL AFFAIRS, ADMINISTRATIVE OFFICE OF THE UNITED  
STATES COURTS (ACCOMPANIED BY: MISS M. PATRICIA CARROLL,  
CHIEF OF THE RETIREMENT, INSURANCE, AND PAYROLL SEC-  
TION, ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS)

Mr. SPANIOL. Thank you, Mr. Chairman. May I introduce Miss Patricia Carroll, from our office.

I have a statement which is rather brief. If it is satisfactory to the chairman, I would like to present it at this time.

Senator BURDICK. Proceed.

Mr. SPANIOL. Mr. Chairman, my name is Joseph F. Spaniol, Jr. I am the Assistant Director for Legal Affairs in the Administrative Office of the United States Courts.

I appear today in support of S. 2854, which is a bill to amend title 28, United States Code, relating to annuities of widows of Justices of the Supreme Court of the United States.

The Judicial Conference of the United States has not had an opportunity to consider the form of this particular bill, but the principal features of the bill have been considered and approved by the conference on various occasions.

I am also authorized to say that the members of the Supreme Court of the United States support this legislation.

Purpose of the bill:

By various steps, the bill would phase out the provisions of law which now authorize the payment of a \$5,000 annuity to a widow of a Supreme Court Justice under 28 U.S.C. 375 and would permit Justices of the Supreme Court to participate in the contributory Judicial Survivors Annuity System available to all Federal judges under section 376 of title 28, United States Code.

Specifically, the bill would accomplish the following:

1. Increase the annuity payable to the seven existing widows of Supreme Court Justices from \$5,000 to \$10,000 per annum.

The seven widows are those of Justices Harlan, Black, Frankfurter, Minton, Jackson, Vinson and Rutledge;

2. Permit living Justices, both active and retired, to participate in the Judicial Survivors Annuity System;

3. Preserve the present annuity of \$5,000 to the widow of any living Justice who does not elect to come under the Judicial Survivors Annuity System, or who, having elected to do so, fails to make a deposit or contributions from salary for 5-year period, as required by the Judicial Survivors Annuity Act and;

4. Require that all Justices appointed in the future come within the Judicial Survivors Annuity System in order to provide an annuity for their widows or surviving dependent children, and preclude payment to them of an annuity under 28 U.S.C. 375.

History of annuities for widows of Justices and judges:

Mr. Chairman, until 1954 there was no provision for the payment of an annuity to a widow of a Justice or judge who had served in the U.S. court system.

In that year, the year following the death of Chief Justice Vinson, section 375 was added to title 28, United States Code, authorizing the

Director of the Administrative Office to pay an annuity to a widow of a Supreme Court Justice in the amount authorized by the act of January 14, 1937 (50 Stat. 923).

The 1937 act (popularly known as the Grace Coolidge Act) provided an annuity to a widow of a President of the United States in the amount of \$5,000 per annum.

In 1958, 4 years after the annuity provision for widows of Justices was enacted, the annuity payable to a widow of a President was increased to \$10,000 and in January 1971 it was further increased to \$20,000.

The annuity for the widow of a Supreme Court Justice has continued to remain the same at \$5,000 per annum.

No provision for the payment of annuities to widows of U.S. judges existed until 1956, when the Judicial Survivors Annuity System was established making it possible to pay an annuity to a widow of a U.S. judge similar to the annuity then payable to a widow of a Member of Congress.

Membership in the system is not compulsory. Judges electing to come under the plan are required to pay 3 percent of their salaries into a Judicial Survivors Annuity Fund. Matching contributions of 3 percent are paid into the fund by the Director of the Administrative Office out of current appropriations.

Five years of civilian service with the Government, for which the 3 percent contributions to the fund from salary have been made by the judge, are required before an annuity may be paid. To be eligible to receive an annuity, a widow must have been married to the judge for at least 2 years and must be at least 50 years of age, unless there are minor dependent children. The annuity and rights thereto cease upon death or remarriage.

Under the provisions of subsection (n) of section 376, title 28, United States Code, the amount of an annuity payable to a widow, who is eligible to receive one, is computed on the basis of  $1\frac{1}{4}$  percent of the average annual salary received by the judge during the last 5 years of service, times years of service as a judge, and certain other types of Government service, plus three-quarters of 1 percent of such average salary times years of other prior allowable civilian government service.

The annuity may not exceed  $37\frac{1}{2}$  percent of such average salary. Computed on this formula, the widow of a U.S. district judge, who had served the minimum 5-year period, would receive an annuity of \$2,500 per year; if the service on the bench totalled 10 years, the annuity would be \$5,000; at the end of 30 years service the annuity would reach the maximum of \$15,000 per annum.

An annuity payable to a widow of a U.S. circuit judge would be slightly larger in amount, since the annuity would be computed on the basis of the \$42,500 salary of a circuit judge, rather than the \$40,000 salary of a district judge.

An annuity is computed on the basis of total years of service. However, if contributions from salary (or deposit to the fund in lieu of such contributions) have not been made by the judge, the annuity payable to the widow with certain exceptions is reduced by 10 percent of any such unpaid deposit, plus interest thereon.

In this respect the method of computation is almost identical to the method of computation established under the Civil Service Retirement Act prior to 1956 for the payment of annuities to widows of Members of Congress. There has been some change in the basic Civil Service law since 1956.

Mr. Chairman, the Director of the Administrative Office of the United States Courts is responsible for the administration of the Judicial Survivors Annuity System. We have the duty of collecting the contributions to the fund from the salaries paid to U.S. judges electing to participate in the system. These contributions by the judges together with matching contributions are invested by the Secretary of the Treasury in Government notes and bonds.

As of July 1, 1971, investment holdings of the Judicial Survivors Annuity Fund totalled \$6,393,000. The requirement of a contribution to the fund by the judges seems to operate equitably and certainly is consonant with the concept of annuity plans for widows and dependent children of Government officers and employees generally.

Analysis:

The first section of the bill, S. 2854 would increase the annuities payable to the seven existing widows of Supreme Court Justices from \$5,000 to \$10,000 per annum.

Mr. Chairman, the original enactment of section 375, title 28, United States Code (providing an annuity to a widow of a Justice of the Supreme Court equal to that of a widow of a President) recognized the fairness of dealing equitably with the widows of Justices of the United States who have served their country well.

As I indicated above, the annuity payable to a widow of a President has been twice increased since 1937, first to \$10,000 per annum and more recently to \$20,000 per annum, while the annuity payable to a widow of a Supreme Court Justice has remained at \$5,000 per annum.

In this era of inflation it is unnecessary to stress the difference between the purchasing power of \$5,000 either in 1937 or in 1954 compared with the purchasing power of the same amount in 1972.

The Judicial Conference of the United States recognized this and at its session in October 1971 approved the proposal contained in S. 1479, 92d Congress, to increase the annuity of present widows of Supreme Court Justices from \$5,000 to \$10,000 per annum.

Section 2 of the bill would make section 375 of title 28 (the Grace Coolidge Act) inapplicable to Justices of the Supreme Court appointed after the effective date of the act.

Prospective widows of those Justices who are now living, including Justices both in active service and in retired status, would be guaranteed an annuity of \$5,000 per annum under the exception clause contained in section 1 of the bill, in the event the Justice does not elect to participate in the Judicial Survivors Annuity System, or, having done so, fails to complete 5 years service for which deductions or deposits have been made.

Sections 3 and 4 of the bill would permit any living Justice, or Justice hereafter appointed, to elect to participate in the Judicial Survivors Annuity System.

This means that hereafter Justices would have to contribute to any annuity plan for their widows in the same way as U.S. judges and Members of Congress now do; and their widows would no longer be eligible for an annuity for which no contribution is made.

The Judicial Conference of the United States in October 1971 approved a draft bill containing provisions similar to those contained in S. 2854 which would permit Justices to participate in the Judicial Survivors Annuity System.

Section 5 of the bill amends the Administration Office Act of 1939 to authorize the Director "to pay annuities to widows and surviving dependent children of Justices" as well as the judges of the U.S. courts.

Mr. Chairman, the maximum annuity payable to a widow of a Supreme Court Justice under the Judicial Survivors Annuity System under this bill would be 37½ percent of the salary. This maximum annuity could be obtained only with a minimum of 30 years of Government service.

Furthermore, the annuity payment to a widow would not commence until the widow attained age 50 and would cease at the time of her death or remarriage.

There would, however, be an immediate annuity payable if there were minor dependent children of Justices, but the annuity would cease when the minor children reached their majority and then would be reinstated when the widow reached age 50. The actual amount of an annuity would vary according to the years or service. Of course no annuity would be payable unless the Justice had 5 years of civilian service with the Government for which salary deductions, or deposits in lieu of salary deductions, had been paid into the fund.

The maximum annuity payable (37½ percent of salary), the concept of a contributory system, and the concept of annuities figured on the basis of length of service are provisions consistent with the thinking of legislative bodies in State jurisdictions throughout the Nation.

I have with me today a report prepared by the Council of State Governments for the National Conference of Chief Justices of State Courts which sets forth annuity provisions applicable to Justices of the highest courts of the States.

If you so desire, Mr. Chairman, I would be glad to submit it for the record.

Senator BURDICK. The report will be received.

(The document to be furnished follows:)

UPDATED VERSION THROUGH 1971 LEGISLATIVE SESSIONS

TABLE VII.—RETIREMENT AND PENSION PROVISIONS FOR JUDGES OF STATE APPELLATE COURTS AND TRIAL COURTS OF GENERAL JURISDICTION<sup>1</sup>

[Reprinted from State Court Systems, a statistical summary published by the Council of State Governments]

State	Minimum age	Years minimum service	Amount of annuity	Amount of Judge's contribution	Judges to whom applicable
Alabama	Any age <sup>3</sup>	10	75 percent.	None	Supreme, appeals, circuit.
Do.	Any age	25	\$9,600.	.do.	Circuit.
Alaska <sup>4</sup>	65	5 <sup>5</sup>	Up to three-quarters pay <sup>6</sup>	.do.	Supreme, superior, district.
Do.	60 <sup>7</sup>	20 <sup>8</sup>	.do.	.do.	Supreme, superior.
Arizona <sup>2</sup>	65	12 <sup>5</sup>	Up to two-thirds pay <sup>8</sup>	5 percent.	Supreme, appeals, superior.
Arkansas <sup>4</sup>	65	15 <sup>5</sup>	one-half pay <sup>9</sup>	4 percent.	Supreme, circuit, chancery.
Do.	Any age	20	.do.	.do.	Do.
California <sup>4</sup>	60	20 <sup>5</sup>	three-quarters pay <sup>9</sup>	8 percent.	Supreme, appeals, superior.
Do.	60-70	18-10 <sup>5</sup>	65 percent of pay <sup>10</sup>	.do.	Do.
Do.	Over 70	10 <sup>5</sup>	One-half pay <sup>9</sup>	.do.	Do.
Colorado <sup>4</sup>	72	30	\$7,000.	None	Supreme.
Do.	72	20	\$6,000.	.do.	Do.
Do.	72	10	\$5,000.	.do.	Do.
Do.	65	10	One-half pay <sup>12</sup>	.do.	Do.
Do.	65	16	One-half pay <sup>12</sup>	6 percent.	Supreme, appeals, district.
Do.	65	12	Two-fifths pay <sup>13</sup>	.do.	Do.
Do.	65	10	Two-thirds pay <sup>14</sup>	5 percent <sup>15</sup>	Supreme, superior.
Connecticut <sup>4</sup>	70	10 <sup>5</sup>	.do.	5 percent	Do.
Do.	Any age	25 <sup>5</sup>	3 percent of highest salary	5 percent (maximum	Supreme, superior, chancery, and family court.
Do.	Any age	24 <sup>16</sup>	times number of years served.	\$375 a year for 20 years).	Do.
Delaware <sup>2</sup>	65	10 <sup>5</sup>	3-5 percent of average compensation for each year of service <sup>17</sup> .	8 percent.	Supreme, district courts of appeal, circuit <sup>2</sup> .
Florida <sup>4</sup>	55	10	(7)	.do.	Do.
Do.	65	10	75 percent of salary.	7.5 percent.	Supreme, appeals.
Georgia	65	20	Up to \$12,000.	None.	Supreme.
Do.	Any age	19 <sup>3</sup>	.do.	5 percent.	Superior.
Do.	Any age	11 <sup>3</sup>	.do.	.do.	Do.
Do.	70	5	3.5 percent of average final compensation for each year service.	6 percent.	Supreme, circuit.
Hawaii <sup>4</sup>	55	5	Up to three-fourths pay <sup>18</sup>	.do.	Do.
Do.	Any age	10 <sup>5</sup>	(8)	4 percent of current base salary.	Supreme, district.
Idaho <sup>4</sup>	65	8	(9)	.do.	Do.
Do.	Any age	20 <sup>2</sup>	Up to seventeen-twentieths pay, <sup>19</sup>	7.5 percent <sup>20</sup>	Supreme, appellate, circuit.
Do.	Any age	10 <sup>5</sup>	.do.	.do.	Do.
Illinois <sup>4</sup>	55	10 <sup>5</sup>	Up to seventeen-twentieths pay, <sup>19</sup>	7.5 percent <sup>20</sup>	Supreme, appellate, circuit.

Indiana <sup>2</sup>	65 <sup>5</sup>	8 <sup>11</sup>	Up to \$10,000 <sup>22</sup>	5 percent <sup>23</sup>	Supreme, appellate, circuit, superior, criminal.
Iowa <sup>4</sup>	65 <sup>5</sup>	6 <sup>5</sup>	Up to one-half of last salary <sup>24</sup>	4 percent	Supreme, district.
Do	25 <sup>5</sup>		do	do	Do.
Kansas <sup>4</sup>	70	8	3 1/2 percent of pay for each year of service <sup>11,25</sup>	6 percent	Do.
Do	65 <sup>5</sup>	10	do	do	Do.
Kentucky <sup>2</sup>	65 <sup>5</sup>	8	( <sup>25</sup> )	3 percent	Court of appeals, circuit.
Do	Any age <sup>5</sup>	8	( <sup>26,27</sup> )	do	Do.
Louisiana <sup>4</sup>	75 <sup>5</sup>	No minimum	( <sup>28</sup> )	None	Supreme, appeals, district.
Do	70 <sup>5</sup>	20	Full pay <sup>9</sup>	do	Do.
Do	65 <sup>5</sup>	25 <sup>39</sup>	do	do	Supreme, appeals.
Do	65 <sup>5</sup>	20	Two-thirds pay <sup>9</sup>	do	Supreme, appeals, district.
Do	Any age <sup>5</sup>	23	do	do	Do.
Maine <sup>4</sup>	70 <sup>5</sup>	7	Three-fourths pay <sup>10</sup>	do	Supreme, superior.
Do	65 <sup>5</sup>	12	do	do	Do.
Maryland <sup>4</sup>	60 <sup>5</sup>	No minimum	Up to \$13,600 <sup>30</sup>	do	Court of appeals, special appeals, circuit, Supreme Bench of Baltimore City, district.
Do	60 <sup>5</sup>	do	Up to 60 percent of annual salary <sup>30</sup>	6 percent	Do.
Massachusetts <sup>4</sup>	70	10	Three-fourths pay	None	Supreme, superior.
Michigan <sup>4</sup>	70	12	One-half pay	7 percent	Supreme, appeals, circuit, recorders.
Do	65	15	do	do	Do.
Do	60	20	do	do	Do.
Do	30	30	do	do	Supreme.
Minnesota	70 <sup>2</sup>	12 <sup>3</sup>	One-half pay <sup>32</sup>	None <sup>33</sup>	Do.
Do	65 <sup>2</sup>	15 <sup>5</sup>	do	do	Do.
Do	70 <sup>4</sup>	12 <sup>5</sup>	do	do	District.
Mississippi <sup>2</sup>	65	15	( <sup>11,34</sup> )	4.5 percent	Supreme, chancery, circuit.
Do	Any age	30	One-half pay <sup>11,35</sup>	1.65 percent	Do.
Do	Any age	30	do	5 percent of salary	Supreme, appeals, circuit, probate, magistrate, common pleas, criminal correction.
Missouri <sup>4</sup>	65 <sup>4</sup>	12 <sup>4</sup>	5 1/2 percent of salary	5 percent of salary	Criminal correction.
Montana <sup>4</sup>	65	10	( <sup>35</sup> )	6 percent	Supreme, district.
Nebraska <sup>4</sup>	65 <sup>37</sup>	10 <sup>5</sup>	3 1/2 percent of pay for each year of service	4 percent	Do.
Do	65 <sup>37</sup>	No minimum	2.5 percent of total salary earned since start of contribution	6 percent	Do.
Nevada <sup>2</sup>	60	20	Two-thirds of base salary	None	Supreme, district.
Do	60	12	One-third of base salary	do	Do.
New Hampshire <sup>4</sup>	60	10 <sup>5</sup>	Up to one-half pay <sup>34</sup>	9-12 percent <sup>38</sup>	Do.
Do	65	10 <sup>5</sup>	Up to three-fourths pay <sup>34</sup>	do	Do.
New Jersey <sup>4</sup>	70	15 <sup>5</sup>	Three-fourths pay	10 percent of \$15,000-\$20,000 <sup>39</sup>	Do.
Do	65	10 <sup>5</sup>	do	do	Do.
Do	60	25 <sup>5</sup>	do	do	Do.
Do	70	10	One-half pay <sup>12</sup>	None	County.
New Mexico <sup>4</sup>	64	5	75 percent of annual salary of last year.	8 percent	Supreme, appeals, district.
Do	60	16			

Footnotes at end of table.

UPDATED VERSION THROUGH 1971 LEGISLATIVE SESSIONS—Continued  
 TABLE VII.—RETIREMENT AND PENSION PROVISIONS FOR JUDGES OF STATE APPELLATE COURTS AND TRIAL COURTS OF GENERAL JURISDICTION 1.—Continued  
 [Reprinted from State Court Systems, a statistical summary published by the Council of State Governments]

State	Minimum age	Years minimum service	Amount of annuity	Amount of judge's contribution	Judges to whom applicable
New York 4	55	10	Up to three-fourths pay 34	Varies 40	Supreme, court of appeals, appellate.
North Carolina 4 1	75	8	Two-thirds pay 9	None	Supreme, appeals.
Do	65	12 1/2	do	do	Do.
Do	65	15 1/2	do	do	Superior.
Do	65	15 1/2	do	do	Supreme, appeals, superior.
North Dakota 4	Any age	24	do	do	Supreme, district.
Do	70 1/2	10 1/2	One-half pay 8 1/2 11 1/2	5 percent	Do.
Do	70 1/2	20 1/2	do	do	Supreme, appeals, common pleas.
Ohio 4	60	5	(34)	7.7 percent	Do.
Do	55	25 1/2	(34)	do	Do.
Do	Any age	35	(34)	do	Do.
Oklahoma 3	70	8	Up to three-fourths pay 49	4 percent of first 75 percent of salary.	Supreme, appeals, criminal appeals, district.
Do	65	10	do	do	Do.
Do	60	20	do	do	Do.
Oregon 4	70 3/4	12 1/2	45 percent of pay 11 1/2	7 percent of salary for maximum of 16 years.	Supreme, appeals, circuit, district. 45
Do	65 3/4 4	16 1/2	do	do	Supreme, appeals, circuit.
Pennsylvania 4	Any age	10	Varies 11 40	Varies 40	Supreme, superior, commonwealth, common pleas, municipal and triane (Philadelphia).
Do	60	No minimum	do	do	Do.
Puerto Rico 4	60	10 1/2 44	Up to 75 percent 11 46	7.5 percent	Do.
Do	Any age	30 1/2 46	75 percent 11 46	do	Supreme, Superior, District.
Rhode Island 3	70	15 1/2	Full pay	None	Supreme, superior.
Do	65	20 1/2	do	do	Do.
Do	65	10 1/2	Three-fourth pay	do	Do.
Do	Any age	20 1/2	do	do	Do.
South Carolina 4	72	No minimum	do	4 percent	Supreme, circuit.
Do	15 1/2	15 1/2	Two-thirds pay 10	do	Do.
Do	70	20	do	do	Do.
Do	65	20 1/2	do	do	Do.
Do	Any age	25 1/2	do	do	Do.
Do	65	15 1/2	One-half pay 11	do	Do.
South Dakota 3	65	15 1/2	do	do	Do.
Do	Any age	20 1/2	Up to three-fourth pay 10 47	3 percent	Supreme, appeals, criminal appeals, circuit, chancery, criminal, law-equity.
Tennessee 4	65	less than 24 4	do	do	Supreme, appeals, district.
Do	54	6	Varies 44	5 percent	Do.
Texas 4	60	10 1/2	do	do	Do.
Do	Any age	24 1/2	One-half pay 11 48	do	Do.

Utah 4.....	70 5	6	{ 10 years, 3 percent final average salary, 10-20 years, 2 percent over 20 years }	Supreme, district.
Do.....	65 5	10		Do.
Vermont 4.....	65 77	12	Two-thirds pay 11 1/4	Supreme, superior 21.
Virginia 4.....	65 5	10	Three-fourth pay 11	Supreme, chancery circuit, corporation, law and equity, law and chancery, hustings.
Do.....	60 5	25	Three-fourth pay	Chancery circuit, corporation.
Washington 4.....	70	10	one-half pay	Supreme, appeals, superior.
Do.....	Any age	18 5/2	one-half pay 52	Do.
Do.....	00	12 5/2	(49)	Do.
West Virginia 2.....	73	8	three-quarter pay	Supreme, circuit.
Do.....	53	16	(4)	Do.
Wisconsin 4.....	55 77	No minimum	(24.35.57)	Supreme, circuit, county.
Wyoming 2.....	65	18 5/2	50 percent of salary 10 5/2	Supreme, district.

1 The judges' retirement system is the same as for all public employees in Hawaii (but with better benefits for judges), Mississippi, New Hampshire, New York, Ohio, and Pennsylvania (but different benefits for judges). It is a separate system in all other States, except that in Vermont it is supplementary to the State employee retirement system, and Nevada most judges join the latter to which they contribute, for better protection. Because the Alabama constitution prohibits payment of pensions, retired judges serve as supernumerary judges and are subject to call to assist judges in their State.

2 No compulsory retirement age, except age 70 for superior court judges in North Carolina.

3 Sixty for circuit judges if permanently and totally disabled.

4 Failure of judges to retire at 70 causes them to lose all pension benefits in Arkansas and Minnesota; 50 percent of benefits in Tennessee; judges lose all benefits in North Dakota by failure to retire at 73. If retiring after age 70, judges and widows' benefits are reduced in California. In New Mexico, a judge who does not retire at age 70 forfeits widows' benefits. In Maine, retirement must occur before the 71st birthday. In Massachusetts, retirement must occur within 30 days after reaching 70 or after 10 years' service, whichever is later. In Ohio, a judge may not be appointed and elected to a term beginning after his 70th birthday. Retirement is compulsory at age 70 in Alaska, Connecticut, Florida (but a judge may complete term if he has served at least half of it when reaching age 70), Hawaii, Idaho, Illinois, Kansas, Maryland, Michigan, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina (superior court judges), Pennsylvania, Puerto Rico, Utah (trial judges), Vermont, Virginia (judges of courts of record), and Wisconsin, except that in Idaho, Kansas, Michigan, Montana, and Nebraska a judge may complete a term started before reaching 70. Also, in New York retired judges may be certified by an administrative board as active retired judges of the supreme court for three successive periods of 2 years, up to age 76. Retirement is compulsory at age 72 in Colorado, Iowa, South Carolina, and Utah (supreme court), and at age 75 in Louisiana, Oregon, Texas, Virginia (supreme court of appeals), and Washington. In Missouri, retirement is compulsory at 70 for those judges under the Missouri nonpartisan court plan. A judge with less than 12 years of experience may retire at a reduced retirement compensation in the proportion that his period of judicial service bears to 12 years. These respective provisions do not apply to judges serving before they became effective in Arkansas, Connecticut, Florida, Idaho, Illinois, Iowa, Massachusetts, Pennsylvania, Tennessee, and Texas. Retirement is optional at age 65 in Nebraska and Vermont, and at 55 in Wisconsin.

5 Disabled judges in these States may retire on pensions at any age if they have completed the following number of years of service: Arizona, 5; Iowa and Oregon, 6; South Carolina, Texas, and Virginia (when certified by supreme court of appeals, at two-thirds pay) 7; Idaho and North Carolina, 8; Florida, Hawaii, Illinois, New Hampshire, South Dakota, Tennessee, and Washington, 10; Minnesota (supreme) and Utah, 12; Minnesota (district), 15. In Alaska, 2 years if forced to retire, 5 years in case of voluntary retirement; in Georgia, disabled superior court judges may retire at 62 after 10 years' service; in Louisiana, at full pay after 20 years; if less, in proportion that years of service bear to 20, but two-thirds minimum. Retirement pension allowed regardless of length of service in Arkansas; California (at 65 percent of pay), Connecticut (full pension), Indiana, Kentucky, Maine (with full retirement benefits), Maryland, Nebraska (3 1/4 percent per year of service), New Jersey (for supreme and superior court judges at full annuities) and Puerto Rico. A permanently disabled judge New Hampshire, regardless of length of service, is entitled to half of his annual salary up to age 70; if he has served 10 years, he then is eligible for pension. In Kansas, any judge found permanently disabled may retire and receive full benefits.

6 A percentage of salary received per year of service; if payments start before age 65 for reasons other than incapacity, computed on actuarial basis.

7 Actuarially equivalent retirement pay can be commenced at 60 or upon 20 years' service; a two-thirds of salary after 20 years' service; if fewer years, proportion that years of service bear to 20.

8 Retired judges, with their consent, may be assigned to any court in Arkansas, California, and Louisiana; to any other than the supreme court in Iowa and Rhode Island; to the court from which they retired, in North Dakota; in Missouri, they receive retirement pay only while residing in State and are subject to assignment as special commissioners; they may be called as emergency judges in North Carolina. In North Dakota, they also are eligible to serve as referees in civil cases or judicial proceedings; if requested, they may serve as legal counsel in the office of the attorney general, in any executive department, commission or bureau of the State, or for any committee of the legislative assembly. A retired judge in Idaho may be requested to serve as a district judge or on the supreme court.

9 Pension is listed portion of salary being paid to sitting justices. Amount of pension changes with changes in salary, except that in Arkansas pension cannot be more than half of salary fixed by law on Jan. 1, 1911.

<sup>24</sup> 43 percent of average basic salary for last 3 years multiplied by years of service in one or more of the courts covered.

<sup>25</sup> Up to 65 percent of salary including social security benefits—in Kansas, of salary being drawn at date of retirement; in Nebraska, of average salary of last 4 years on bench.

<sup>26</sup> 5 percent of average 100 percent of final compensation.

<sup>27</sup> Equal to not exceed 100 percent of final compensation.

<sup>28</sup> Equal to reduced actuarially.

<sup>29</sup> Portion of salary which years of service bear to 20.

<sup>30</sup> Service need not have been on court of record.

<sup>31</sup> Noncontributory plan, after 16 years of service, \$13,600 for judges of court of appeals; \$12,800 for judges of court of special appeals; \$12,000 for all other judges. Varying supplemental payments provided by some counties. Recent legislation has placed restrictions on future supplementations and a ceiling on current supplementations. State pension and any local supplementation may not exceed \$20,000.

<sup>32</sup> Judges appointed after July 1, 1969, required to participate in this contributory plan.

<sup>33</sup> Plus 2½ percent of annual salary for each year in excess of minimum service, but not exceeding 75 percent of salary.

<sup>34</sup> 4 percent to widows' pension fund.

<sup>35</sup> In Mississippi, New Hampshire, New York, Ohio, and Wisconsin—based on length of service. In New York, top retirement pay of 50 percent of salary after 30 years of State or local service.

<sup>36</sup> In New York, half-pay bracket under State retirement system reached after a little more than 25 years of service; judges who are under New York City retirement system (some are under it and the State system) reach half pay after 20 years of service and there is no limit of three-fourth pay, but retirement is not permitted until age 65. In Ohio, 85 percent of final average (of 5 highest years) salary after 45 years of service; if retiring after less than 40 years' service, 1.9 percent of final average salary times number of years of service.

<sup>37</sup> Based on average salary for the 5 years preceding retirement.

<sup>38</sup> 3½ percent of salary up to 15 years of service, plus 1 percent for each additional year of service.

<sup>11</sup> Options available for reduced annuities, with continuing or increased annuities for surviving spouse and benefits to other named beneficiaries. Also, in Hawaii, annuity purchasable by accumulated contributions, up to 75 percent of final compensation.

<sup>12</sup> In Colorado, under public employees' retirement system; in New Jersey, judges may come under public employees retirement system in lieu of above pension.

<sup>13</sup> In Colorado, based on average salary during last 5 years of service; in Oregon, during 5 highest paid out of last 10 years of service.

<sup>14</sup> In case of retirement after less than 10 years' service, between ages 65 and 69, pension is number of years of service over 10 or over number of years of service which would have been completed had the judge worked until age 70—whichever number is less—divided into two-thirds of salary.

<sup>15</sup> For judges first appointed after May 20, 1967, for those appointed earlier, none.

<sup>16</sup> If not reappointed at end of 32-year term, eligible for pension upon reaching age 65.

<sup>17</sup> Judges between ages 55 and 60 with minimum 10 years' service may retire and receive reduced benefits—the actuarial equivalent of retirement at 60 with 10 years' service.

<sup>18</sup> 2½ percent of current annual compensation of officer, which judge retired, multiplied by number of years of service as district and/or supreme court judge, not to exceed 25 years of service.

<sup>19</sup> Seven-twentieths after 10 years and 5 per cent service thereafter, with a maximum of 85 percent based on average salary for the last 5 years of service.

<sup>20</sup> Retirement occurs prior to age 60 (except for disability) is reduced one-half of 1 percent for each month his age is under 60 years. The annuity is increased by 2 percent per year if annuitant elects cost of living supplement.

<sup>21</sup> Plus 2½ percent of salary for each year of service after retirement, not to exceed 75 percent of salary at age 60 (except for disability) is reduced one-half of 1 percent for each month his age is under 60 years.

<sup>22</sup> If judge retires after service of 8 years or more but before he has served 12 years, retirement benefit is two-thirds of sum he would have received after 12 years' service.

<sup>23</sup> If judge retires after service of 8 years or more but before he has served 12 years, retirement benefit is two-thirds of sum he would have received after 12 years' service.

<sup>24</sup> After 12 years' service, pension is 50 percent of current salary received from State, but not more than \$10,000.

<sup>25</sup> After 12 years' service, pension is 50 percent of current salary received from State, but not more than \$10,000.

<sup>26</sup> After 12 years' service, pension is 50 percent of current salary received from State, but not more than \$10,000.

<sup>27</sup> After 12 years' service, pension is 50 percent of current salary received from State, but not more than \$10,000.

- <sup>37</sup> Also under social security.
- <sup>38</sup> Based on age when contributions began.
- <sup>39</sup> Supreme Court, 10 percent of \$19,000; superior court, appellate division, 10 percent of \$20,000; assignment judges, 10 percent of \$18,000; trial judges, 10 percent of \$15,000.
- <sup>40</sup> In New York, no contribution to State retirement system; to New York City retirement system, depending on age. In Pennsylvania, depending on age and other factors, including length of service as judge, previous nonjudicial State employment, average of salary of best 5 years, and retirement plan selected.
- <sup>41</sup> For each year between 65 and 70, required years of service reduced by two. If upon retirement required minimum years not completed, annuity reduced in proportion that years of service bear to required years of service.
- <sup>42</sup> On a computed basis.
- <sup>43</sup> 4½ percent of salary at time of retirement multiplied by number of years of service, up to 75 percent of salary at time of retirement. This rate will be based on statutory salary rate of the position as authorized for the month of June 1971.
- <sup>44</sup> Judges who cease to hold office before attaining age 65 and who have served for an aggregate of 16 years and contributed to the judges' retirement fund for 16 years may receive pension at 65.
- <sup>45</sup> No minimum age required for pension if retirement is for reason of disability, or after 22 years of creditable government service, but pension actuarially reduced; if between 10 and 22 years of service and retiring prior to age 60, eligible for pension upon reaching age 60.
- <sup>46</sup> 25 percent of average salary for last 5 years of service plus twenty-five seventy seconds of 1 percent of said average salary for each month of creditable service in excess of 10 years. Creditable service includes services rendered as judge or to the government of Puerto Rico in any capacity if last 8 years were as judge. Also eligible for 75 percent pension at age 59 with 23 years of service, at 58 with 24 years, at 57 with 25 years, at 56 with 26 years, and at 55 with 27 years of service.
- <sup>47</sup> 75 percent of salary for each year of service, up to 75 percent for salary after 20 years of service.
- <sup>48</sup> Judges who retire after 10 years at age 60 receive benefits equal to 40 percent of salary; at 61, 41.7 percent; age 62, 43.6 percent; age 63, 45.6 percent; age 64, 47.7 percent; age 65, 50 percent.
- <sup>49</sup> In addition to social security. Plus 3½ percent of salary for each year of service above 12, up to full pay after 30 or more years of service.
- <sup>50</sup> Depending on age upon taking office. Virginia, under 40, 2 percent; to 55, 2½ percent; over 55, 3 percent.
- <sup>51</sup> Presiding judges of county courts.
- <sup>52</sup> For additional years of service, one-eighteenth of full salary allowed per year, up to 75 percent of salary at time of retirement.
- <sup>53</sup> Proportion of half pay that years of service bear to 18, beginning 18 years after induction date or upon reaching 70.
- <sup>54</sup> 5 percent of earnings subject to social security base and 7 percent of earnings in excess of this base.
- <sup>55</sup> One of four standards must be met for judge to be eligible for retirement: (1) Minimum of 18 years as judge, or (2) a total not less than 15 years if judge is 65 or more, or (3) a total not less than 12 years if judge has reached age 70 or more, or (4) not less than 6 years and attained age 65, the total number years service being consecutive or otherwise as a judge of either or both Supreme or district court.
- <sup>56</sup> If less than 18 years' service, pension reduced in proportion that number of years of service bears to 18, with adjustment for situation described in preceding footnote.
- <sup>57</sup> Should service terminate as justice or judge and should he accept other employment covered by the Florida retirement system, he may transfer rights and contributions from judicial system to the Florida retirement system—and he may pay for and receive credit for service performed in any position covered by the existing systems, for which he has not already received credit.
- <sup>58</sup> Applies to all district judges first appointed or elected after June 3, 1969. All other district judges may elect whether to remain in public employees retirement system or go to judges' retirement plan.

Mr. SPANIO. Generally, the report shows that in almost every State, death benefits are available under a contributory plan for justices and judges of State courts. The annuities payable under these plans vary considerably both in amount and method of computation. Most plans pay up to 50 percent of salary, or of earned retirement benefits, to the widow of a State court justice or judge.

The relevant information appears in table VIII of the report.

I also have analyses of prospective annuities payable to widows of Supreme Court Justices setting forth the deposits required to provide for the annuities of widows, and the annuities that would be payable assuming no deposits are made, and assuming this legislation is enacted.

I would be glad to offer these for the record, Mr. Chairman.

(The document referred to follows:)

For all Justices, except Powell and Rehnquist, deposits and annuity estimates are based on existing Judicial Survivors Annuity System. Five-year deposit is mandatory for immediate coverage. Difference between 5-year deposit and full deposit may be paid in installments in multiples of \$10. Unpaid balance accrues interest. Widow's annuity would be reduced by 10 percent of the amount due the fund for service used in computing annuity benefits at Justice's death.

#### MR. CHIEF JUSTICE BURGER

	All service deposit	5-year deposit only
Estimated deposit as of Jan. 1, 1972 with payroll deductions beginning Jan. 1, 1972 .....	\$22, 200	\$7, 700
Estimated annuity as of:		
Jan. 1, 1972 .....	10, 700	9, 200
Jan. 1, 1973 .....	12, 700	11, 200
Jan. 1, 1974 .....	14, 800	13, 300
Jan. 1, 1975 .....	16, 100	14, 500
Jan. 1, 1976 .....	16, 900	15, 300

#### MR. JUSTICE BLACKMUN

Estimated deposit as of Jan. 1, 1972 with payroll deductions beginning Jan. 1, 1972 .....	\$14, 900	\$7, 000
Estimated annuity as of:		
Jan. 1, 1972 .....	7, 100	6, 300
Jan. 1, 1973 .....	8, 600	7, 800
Jan. 1, 1974 .....	10, 300	9, 400
Jan. 1, 1975 .....	11, 700	10, 800
Jan. 1, 1976 .....	12, 800	11, 900

<sup>1</sup> Adjusted to the nearest hundred dollars.

#### MR. JUSTICE BRENNAN

Estimated deposit as of Jan. 1, 1972 with payroll deductions beginning Jan. 1, 1972 .....	\$23, 100	\$8, 200
Estimated annuity as of:		
Jan. 1, 1972 .....	11, 600	10, 200
Jan. 1, 1973 .....	13, 300	11, 700
Jan. 1, 1974 .....	15, 000	13, 400
Jan. 1, 1975 .....	15, 900	14, 300
Jan. 1, 1976 .....	16, 700	15, 000

#### MR. JUSTICE DOUGLAS

Estimated deposit as of Jan. 1, 1972 with payroll deductions beginning Jan. 1, 1972 .....	\$48, 600	\$8, 200
Estimated annuity as of:		
Jan. 1, 1972 .....	19, 200	15, 100
Jan. 1, 1973 .....	20, 700	16, 500
Jan. 1, 1974 .....	22, 200	18, 000
Jan. 1, 1975 .....	22, 500	18, 100
Jan. 1, 1976 .....	22, 500	17, 900

## MR. JUSTICE MARSHALL

	All service deposit	5-year deposit only
Estimated deposit as of Jan. 1, 1972, with payroll deductions beginning Jan. 1, 1972.....	\$13,400	\$7,900
Estimated annuity as of:		
Jan. 1, 1972.....	5,800	5,300
Jan. 1, 1973.....	7,200	6,600
Jan. 1, 1974.....	8,400	7,900
Jan. 1, 1975.....	9,300	8,700
Jan. 1, 1976.....	10,000	9,400

## MR. JUSTICE POWELL

(Payroll deductions and annuity figures by year of participation as an Associate Justice of the Supreme Court of the United States with an annual salary of \$50,000 and with payroll deductions beginning Jan. 3, 1972)

Effective date of annuity	Total contributions— accumulated JSAS yearly payroll deductions	Estimated earned widow's annuity
Jan. 3, 1972.....	\$5	
Jan. 1, 1973.....	1,790	
Jan. 1, 1974.....	3,590	
Jan. 1, 1975.....	5,390	
Jan. 1, 1976.....	7,190	
Jan. 1, 1977.....	8,990	
Jan. 2, 1977 <sup>1</sup> .....	8,995	\$6,600
Jan. 1, 1978.....	10,790	7,400
Jan. 1, 1979.....	12,590	8,100
Jan. 1, 1980.....	14,390	8,900
Jan. 1, 1981.....	16,190	9,600

<sup>1</sup> Date on which 5 years' creditable civilian government service will be completed. Credit was allowed in annuity computation for 3 years and 10 months of unverified military service.

Note.—Annuity estimates are based on existing Judicial Survivors Annuity System. Contributions must cover last 5 years of creditable civilian service to afford protection for survivors.

## MR. JUSTICE REHNQUIST

(Payroll deductions and annuity figures by year of participation as an Associate Justice of the Supreme Court of the United States with an annual salary of \$50,000 and with payroll deductions beginning Jan. 1, 1972; also, with deposit for all Federal civilian service prior to Jan. 1, 1972)

Effective date of annuity	Estimated amount of deposit	Yearly payroll deductions	Total accumulated JSAS contributions	Estimated earned widow's annuity
Jan. 1, 1972.....	\$3,800	\$5	\$3,805	
July 27, 1972 <sup>1</sup> .....		1,030	4,835	\$2,500
Jan. 1, 1973.....		770	5,605	3,000
Jan. 1, 1974.....		1,800	7,405	4,500
Jan. 1, 1975.....		1,800	9,205	5,600
Jan. 1, 1976.....		1,800	11,005	6,800
Dec. 16, 1976 <sup>2</sup> .....		1,725	12,730	8,100

<sup>1</sup> Date on which 5 years' creditable civilian Government service will be completed.

<sup>2</sup> Date on which 5 years of judicial service will be completed.

Note.—Deposit and annuity estimates are based on existing Judicial Survivors Annuity System. Contributions must cover last 5 years of creditable civilian service to afford protection for survivors. Credit was allowed in annuity computations for 3 years, 1 month and 7 days of unverified military service.

## MR. JUSTICE STEWART

	All service deposit	5-year deposit only
Estimated deposit as of Jan. 1, 1972 with payroll deductions beginning Jan. 1, 1972.....	\$24,900	\$8,200
Estimated annuity as of:		
Jan. 1, 1972.....	13,600	11,900
Jan. 1, 1973.....	15,300	13,600
Jan. 1, 1974.....	17,200	15,500
Jan. 1, 1975.....	18,200	16,300
Jan. 1, 1976.....	18,900	17,000

## MR. JUSTICE WHITE

	All service deposit	5-year de- posit only
Estimated deposit as of Jan. 1, 1972 with payroll deductions beginning Jan. 1, 1972.....	\$16, 000	\$8, 200
Estimated annuity as of:		
Jan. 1, 1972.....	9, 400	8, 600
Jan. 1, 1973.....	10, 900	10, 100
Jan. 1, 1974.....	12, 400	11, 600
Jan. 1, 1975.....	13, 300	12, 500
Jan. 1, 1976.....	14, 100	13, 200

## MR. CHIEF JUSTICE WARREN

Estimated deposit as of Jan. 1, 1972, with payroll deductions beginning Jan. 1, 1972.....	\$28, 100	\$8, 500
Estimated annuity as of:		
Jan. 1, 1972.....	12, 700	10, 700
Jan. 1, 1973.....	14, 500	12, 500
Jan. 1, 1974.....	16, 400	14, 300
Jan. 1, 1975.....	17, 400	15, 200
Jan. 1, 1976.....	18, 200	15, 900

## MR. JUSTICE CLARK

Estimated deposit as of Jan. 1, 1972, with payroll deductions beginning Jan. 1, 1972.....	\$41, 500	\$8, 200
Estimated annuity as of:		
Jan. 1, 1972.....	19, 200	15, 800
Jan. 1, 1973.....	20, 700	17, 300
Jan. 1, 1974.....	22, 500	19, 200
Jan. 1, 1975.....	22, 500	19, 300
Jan. 1, 1976.....	22, 500	19, 300

## MR. JUSTICE REED

Estimated deposit as of Jan. 1, 1972, with payroll deductions beginning Jan. 1, 1972.....	\$50, 800	\$8, 200
Estimated annuity as of:		
Jan. 1, 1972.....	19, 200	14, 900
Jan. 1, 1973.....	20, 700	16, 300
Jan. 1, 1974.....	22, 200	17, 700
Jan. 1, 1975.....	22, 500	17, 800
Jan. 1, 1976.....	22, 500	17, 700

Senator BURDICK. One of the problems at this time is bringing the Supreme Court Justices' survivors under the plan. Because of the fact that they have not had this plan, there is a certain transition necessary to take care of them. It would be highly unfair to cut off anybody who hadn't made a contribution. That is why the bill provides for a phasing out and provides for payment to existing widows, and also provides that in 5 years there will be some payment to widows that happen to be widows within that 5-year period.

In other words, this is the phasing out of the old system into the new. Do you think it is equitable and fair?

Mr. SPANIOL. Indeed we do, Mr. Chairman. Certainly the widows who are now receiving annuities receive an inadequate amount, and the increase in annuities we think is something that is fair and just.

Senator BURDICK. I note you say way back there we provided the \$5,000 payment. In 1954, we provided \$5,000 to widows of Supreme Court Justices and widows of Presidents. I presume that was the reason they were never included in the contributory system.

Now we find that the widows of Presidents have risen from \$5,000 to \$20,000, but the widows of Supreme Court Justices remain the same.

Mr. SPANIOL. That is quite right. The comparison is a valid one, Mr. Chairman.

Senator BURDICK. If there was any error, the error was that back in those days the Supreme Court Justices would be treated as all other Justices.

Mr. SPANIOL. That is quite right.

Senator BURDICK. Does the Administrative Office administer both the Judicial Survivors Plan as well as the Pension Annuity under section 375?

Mr. SPANIOL. Yes, sir. The annuities to widows of Supreme Court Justices are paid out of current appropriations. The annuities paid to widows of judges of other courts of the United States are paid out of the fund.

Senator BURDICK. Do you see any problems in the administrative work in making the transition?

Mr. SPANIOL. We see no problem whatsoever, Mr. Chairman.

Senator BURDICK. Did I understand you to say that the Judicial Conference has considered this legislation or similar legislation?

Mr. SPANIOL. Similar legislation. The principal features of this bill have been approved by the Judicial Conference, Mr. Chairman.

Senator BURDICK. As I understand, the recent Judicial Conference hasn't considered it because they have not met since the bill was introduced.

Mr. SPANIOL. That is right. The next meeting of the Judicial Conference is early in April. They meet only twice a year. They last met last October.

The bill in its form undoubtedly will come before the Judicial Conference at that time, but it will come before the conference only as a matter of form since the major provisions of the bill and the principles have already been approved.

Senator BURDICK. That was S. 1480, an earlier bill.

Mr. SPANIOL. Yes, sir. The earlier bill, S. 1480, does not contain the provision that would increase the annuities of widows of Supreme Court Justices. It does contain the provision for including the Justices within the Judicial Survivors Annuity system. To that extent S. 2854 is more comprehensive.

Senator BURDICK. And it does something about the existing widows.

Mr. SPANIOL. Yes, indeed.

Senator BURDICK. As you know, under the 1970 Reorganization Act we are required to make a report as to the cost of this legislation.

Will you give us an estimate of the initial cost of implementing this bill and the expected annual cost for this proposal?

Mr. SPANIOL. Yes, Mr. Chairman. We will be glad to furnish a formal statement on the cost. The cost for the seven existing widows will be an additional \$5,000 per year, a yearly cost of \$35,000. If all Justices join the system under this bill, there will be a matching contribution from the Government into the fund of \$21,750 per year. So the yearly cost will be approximately \$56,000 to \$60,000 per year.

Senator BURDICK. This is assuming that there are no additional widows and assuming that all Justices have contributed?

Mr. SPANIOL. Yes, sir.

Senator BURDICK. At that point it will cost how much annually? Assuming the widows are no longer living who are presently widows,

and assuming the 5-year period had gone by, where all had been brought into the Survivors Act, at that point what will the annual cost be?

Mr. SPANIOL. The annual cost will be 3 percent of the salaries of the nine Justices on the Supreme Court and three retired Justices, totaling approximately \$22,000. These are the "matching" funds to be paid directly into the Judicial Survivors' Annuity Fund. They "match" the contributions, which are deducted from the salaries of those participating in the system.

Senator BURDICK. And the transition period will cost more than the period when it is fully integrated.

Mr. SPANIOL. Yes, sir. To the extent of \$35,000 per year to pay the annuities to the existing widows.

(A letter from the Administrative Office concerning the cost of the bill follows:)

ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS,  
SUPREME COURT BUILDING,  
Washington, D.C., February 2, 1972.

Re S. 2854, to amend Title 28, United States Code, relating to annuities of widows of Supreme Court Justices.

Hon. QUENTIN N. BURDICK,  
U.S. Senate  
Washington, D.C.

DEAR SENATOR BURDICK: In reply to your inquiry the first year cost to the Government of the enactment of S. 2854 is estimated to be \$56,750. This estimate includes two items of cost:

1. Increased cost of an increased annuity to seven existing widows of Supreme Court Justices.....	\$35,000
2. Matching contributions of three percent of salary for nine Justices of the Supreme Court and three retired Justices.....	21,750
Total first year cost.....	\$56,750

In future years the cost will be reduced as the number of living widows of the seven former Justices of the Supreme Court decreases.

Sincerely yours,

JOSEPH F. SPANIOL, Jr.

Senator BURDICK. Miss Carroll, have you a statement?

Miss CARROLL. No, sir; I have no statement. I am just here to answer any questions you may have about the provisions of the current J.S.A. system.

Senator BURDICK. Well, you have heard the nature of the questions I put to Mr. Spaniol. Do you see any problems in administering this new program for widows of Supreme Court Justices?

Miss CARROLL. No, sir; I see no problem.

Senator BURDICK. I notice from the tables that you have prepared, that in some instances the payment of the 5-year deposit will provide for an immediate annuity larger than the payment made, and in other instances the immediate annuity would be less than that 5-year deposit payment.

Could you explain why this occurs?

Miss CARROLL. Sir; I think it is because of the type of service that the Justice may have had. Service under the executive branch is computed at a lower rate than as a Justice or Member of Congress or military

service. So they are actually paying a deposit of 3 percent of their salary plus interest, but the computation of annuities is only based on three-fourths of 1 percent of their last 5 years salary.

Until they have been on the bench for 5 years and have an average salary of \$60,000, the annuity is lower.

Senator BURDICK. In other words, the difference comes about by the nature of their previous employment.

Miss CARROLL. Yes, sir.

Senator BURDICK. When the J.S.A. plan was first enacted in 1956, were there a number of judges with longer periods of service who made only the minimum 5-year deposit?

Miss CARROLL. Were there a number who made the minimum deposit of 5 years? Yes, sir; there were.

Senator BURDICK. In other words, the present bill, S. 2854, would treat Supreme Court Justices and their widows the same way as other Judges were treated back in 1956 when the J.S.A. plan was started.

Miss CARROLL. That is correct, sir.

Senator BURDICK. As I stated a while ago, it is regrettable it wasn't done at that time.

Miss CARROLL. Yes, sir; it is. The only advantage under the present bill is that if the Justice elects to participate but does not complete either 5 years of covered civilian service or the 5-year deposit, the Justice's widow would still come under the \$5,000 annuity in sec. 375.

There was no such protection for the judges in 1956 when they came under the system because there was no similar existing legislation.

Senator BURDICK. In other words, the Supreme Court Justice today, as soon as this law is enacted, could make a 5-year deposit and even if he didn't live another 5 years would that qualify him?

Miss CARROLL. Yes, that would qualify him. He has to have 5 years of civilian service, though.

Senator BURDICK. The payment can be either on an annual basis or a lump-sum?

Miss CARROLL. That is correct.

Senator BURDICK. If a judge makes only the 5-year deposit and does not make the all service deposit, the law requires that the survivors' annuity be reduced by 10 percent of the unpaid deposit, is that true? Why is this 10 percent deduction?

Miss CARROLL. Well, he is getting credit for the service in computing the annuity. The judge who came under the system at the beginning would have had that amount withheld from his salary. It is based on the civil service retirement, as it applies to a Member of Congress.

Senator BURDICK. It is consistent with other legislation?

Miss CARROLL. With other legislation, that is right. If they have sufficient service to obtain the maximum annuity, we can eliminate periods of nondeduction service, if it is to the widow's advantage.

Senator BURDICK. As I understand it, if a judge had 20 or 25 years of service when he enters the plan, his all-service deposits could be, for example, \$40,000. If he made only the 5-year deposit of some \$8,000, that would leave \$32,000 as the unpaid balance.

Under the law, 10 percent, or \$3,200, would be deducted as the penalty from the widow's annuity, is that correct?

Miss CARROLL. Yes, sir.

Senator BURDICK. There will be situations where a judge will only make the 5-year deposit.

Miss CARROLL. Yes, sir; I am sure there will be.

Senator BURDICK. But when a new judge enters judicial service, he can't make a 5-year deposit?

Miss CARROLL. Not unless he has had prior civilian service.

Senator BURDICK. Suppose he spent 4 or 5 years in Congress?

Miss CARROLL. He could make a deposit of 3 percent of his compensation as a Member of Congress, plus interest.

Senator BURDICK. If a judge died after completing just 5 years of service, his widow would get 6¼ percent of his average salary as annuity, is that correct?

Miss CARROLL. After 5 years, yes, sir.

Senator BURDICK. And, of course, it would be higher for the Supreme Court Justices than the district judges.

Miss CARROLL. That is right, because of the average salary being higher.

Senator BURDICK. Are you generally familiar with the survivors' benefits provided by law in the several States to the survivors of State judges?

Miss CARROLL. No, sir; I am not.

Mr. SPANIOL. Mr. Chairman, may I point out that that information is contained in the report submitted for the record, and it is set out there in some detail.

Senator BURDICK. In general, do most States have retirement programs?

Mr. SPANIOL. In general they do indeed, and in general the retirement systems for State judges and justices are contributory.

Senator BURDICK. As I understand, Senator Gurney, of this committee, is on his way over and he would like to ask some questions relating to a district court situation. While that isn't before the committee, he may also have some questions concerning this bill and answer some questions as they apply to the U.S. District Courts.

We will be in recess until Senator Gurney arrives.

Mr. SPANIOL. Thank you, sir, for the opportunity to appear and testify.

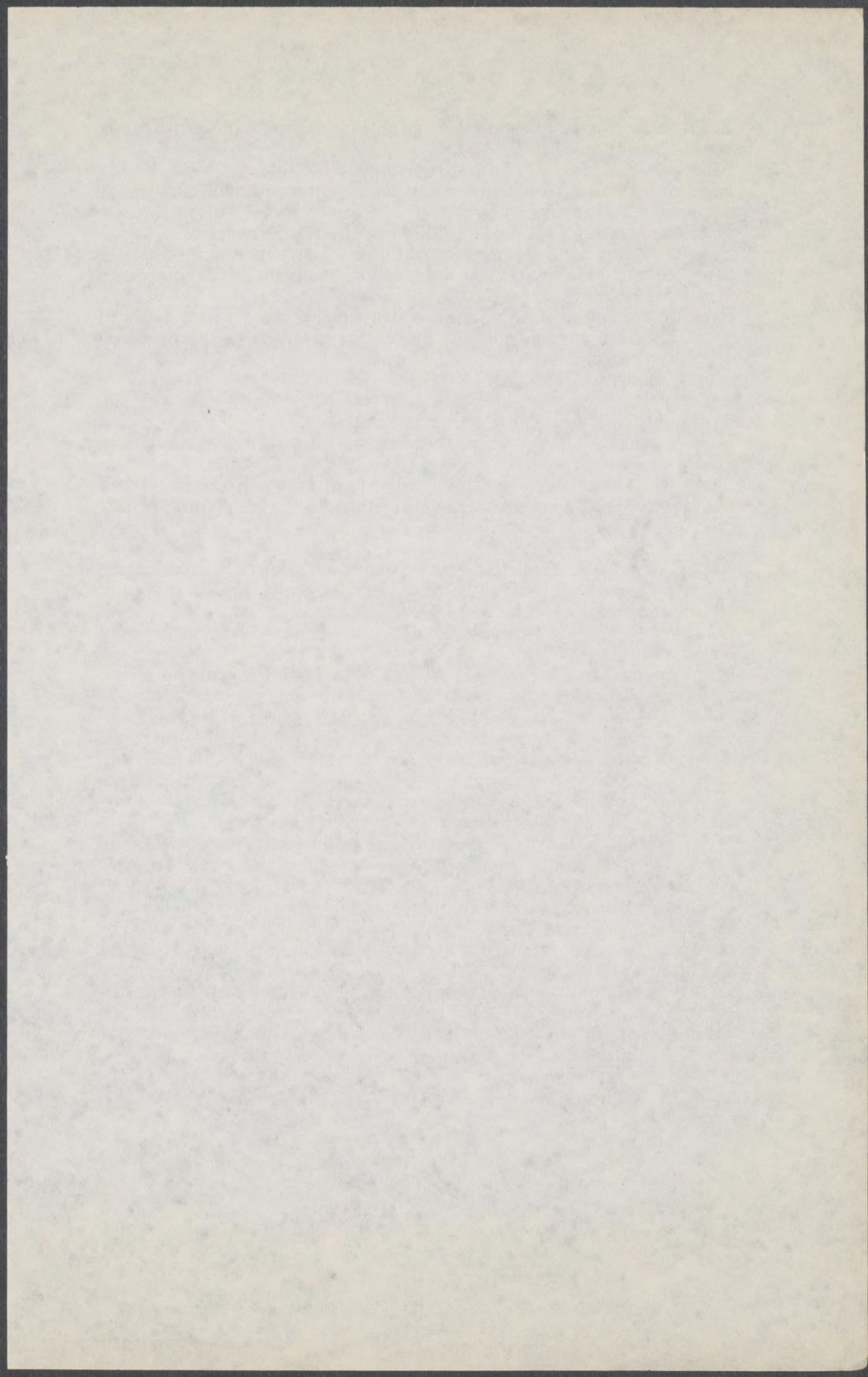
(A brief recess was taken.)

Senator BURDICK. The subcommittee will be in order.

We have just heard from Senator Gurney and he is tied up. The problem he wanted to discuss about district judges he will discuss with you privately.

If there are no other witnesses at this time, this will conclude the hearing.

(Whereupon, at 10:50 a.m., the subcommittee adjourned, subject to call of the Chair.)



ANNALS OF THE SUPREME COURT  
OF THE UNITED STATES

HEARING

OF THE  
COMMISSIONERS OF THE GENERAL LAND OFFICE  
IN THE MATTER OF THE

COMMISSIONERS OF THE GENERAL LAND OFFICE

VS

THE UNITED STATES

1850

IN THE SUPREME COURT OF THE UNITED STATES