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IMPACT OF THE OMNIBUS JUDGESHIP ACT AS IT
RELATES TO THE IMMEDIATE NEED FOR
ADDITIONAL COURT SPACE

(96-35)

HEARING
BEFORE THE
SUBCOMMITTEE ON
PUBLIC BUILDINGS AND GROUNDS
OF THE
COMMITTEE ON
PUBLIC WORKS AND TRANSPORTATION
HOUSE OF REPRESENTATIVES
NINETY-SIXTH CONGRESS
FIRST SESSION

MARCH 6, 1979

Use of the Committee on Public Works and Transportation



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ACQUISITIONS
IMPACT OF THE OMNIBUS JUDGESHIP ACT AS
IT RELATES TO THE IMMEDIATE NEED FOR
ADDITIONAL COURT SPACE

TUESDAY, MARCH 6, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C.

The subcommittee met, at 10:10 a.m., in room 2167, Rayburn House Office Building, Hon. Elliott Levitas (chairman of the subcommittee) presiding.

Mr. LEVITAS. The Subcommittee on Public Buildings and Grounds will please come to order.

The subcommittee is meeting today to consider the impact of Public Law 95-573, the Omnibus Judgeship Act, as it relates to the immediate need for additional court space throughout the country. This act established 117 new district court judgeships and 35 new circuit court of appeals judgeships.

Prior to the passage of this act, there were 398 district court judges and 97 court of appeals judges. Therefore, this act increased by approximately 30 percent the amount of authorized judgeships.

The enormity of this increase placed critical stress on how these new judges were to be selected and appointed. However, in considering the legislation, minor emphasis was placed on how to provide the necessary Federal courtroom space to house the judges. Obviously, simply adding more judgeships cannot be viewed as a total, comprehensive solution to the problems plaguing our court system. Certainly, an important part of our judicial system is the right to a fair and speedy trial, and to reach this end, courtroom space for judges to sit must be made available.

Creating a Federal district court judgeship is no trifling matter, financially speaking. Each one costs \$286,000 the first year, and nearly \$250,000 every year after that. Court of appeals judgeships are hardly less expensive, costing \$250,000 the first year and \$201,000 every year after that.

But beyond mere costs, though they are critically important, I feel the subcommittee must thoroughly review the total, comprehensive picture as it relates to providing courtroom space and at what cost. As chairman of this subcommittee, I do not plan to rubberstamp the requests for space made by the Judicial Conference of the U.S. Office of Administrative Courts or the General Services Administration. But instead, I think it is our responsibility to thoroughly review the prospectuses submitted to this committee.

It is imperative that we understand the real space problems and it is imperative that we address the real space needs.

I would at this point like to ask if my colleague, the ranking minority member, Mr. Abdnor, has a statement to make.

Mr. ABDNOR. Thank you, Mr. Chairman.

I also welcome the distinguished gentlemen with us today, and I look forward to asking each of you questions regarding the impact of the Omnibus Judgeship Act on the need for additional court space throughout the country. And that is really about all I have to say, Mr. Chairman.

Mr. LEVITAS. Thank you, Mr. Abdnor.

Would any other member of the committee like to make a statement at this time?

[No response.]

Mr. LEVITAS. If not, it is a great pleasure and honor to welcome to this subcommittee one of our most distinguished and respected members—usually, when those words are spoken, it is a mere formality; in this case, they are spoken truthfully, sincerely, and warmly—our colleague from Florida, Hon. Dante B. Fascell.

TESTIMONY OF HON. DANTE B. FASCELL, REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. FASCELL. Thank you, Mr. Chairman and members of the subcommittee.

I appreciate your giving me a moment here to make a statement. I have a prepared statement on the prospectus which is before you, and I would like to submit that for the record and then proceed extemporaneously for a moment or two.

Mr. LEVITAS. Without objection, so ordered.

[The following was received for the record:]

STATEMENT OF CONGRESSMAN DANTE B. FASCELL

Mr. Chairman, I appreciate your giving me this opportunity to testify this morning.

As you know, your subcommittee in the last Congress approved the original prospectus for this renovation project last year. However, the Senate subcommittee was unable to act before we adjourned and subsequent developments have required GSA to withdraw the original prospectus and submit a revised one for your approval.

One of these subsequent events was the adoption by the Congress of the Omnibus Judgeship Bill late last year, which provided five additional federal judges for the Southern District of Florida, which sits in Miami. These additional judges are essential to the orderly conduct of the court's business in our area and to the constitutional guarantee of the pursuit of justice. The volume of cases before the Southern District has increased phenomenally over the last ten years and the judicial process was in very real danger of breaking down completely under the strain unless more judges were made available.

Now that the additional five judges have been authorized, they are due to be named very soon. It is essential that they be provided with the necessary courtroom and office space that they will need in order to assume their duties immediately.

The prospectus before you today includes a request for \$475,000 to provide this space on a temporary and very austere basis in the former Post Office/Courthouse building until construction of a new courthouse annex can be completed. These courtrooms could not have been included in the original prospectus because the judgeship bill had not been passed at the time the prospectus was drawn up and GSA did not know how many new judges would be authorized. In addition, construction on the new facility has run into an unfortunate delay, necessitating even more the need for the provision of space in the old building.

The other work anticipated in the prospectus is designed to make the building habitable for all those who work there and to provide for the upgrading of the temporary, austere courtrooms when the new facility is finished. Over the years, this beautiful, but quite old, building has deteriorated and it is in desperate need of renovation, particularly of the elevators and heating and air conditioning systems. In addition, the space that had formerly been used by the post office is now being converted for appropriate courtroom and support staff use.

This project has been delayed far too long already. The original renovation work should have been well under way by now. It is imperative that this revised prospectus be approved as soon as possible so that construction can begin. The federal court system in South Florida has almost reached the point where it cannot function, simply because of the physical limitations which have been imposed upon it. We cannot afford to let this happen.

I urge your prompt approval of this prospectus and thank you again for your time and attention.

Mr. FASCELL. Mr. Chairman, first, I would like to comment on your opening statement. I would say it is typical of the way you approach problems in the Congress, with a great deal of dedication and sincerity, and I must commend you for it, because it sounds like an awesome task to me. Yet, I agree that it should be done. I think the Congress needs to get more involved in this kind of decisionmaking, and it is very important. There are a lot of facets which do not even appear on the surface in the decisions that involve renovations and new buildings and other needs of the Government. And certainly, the impact of the judgeship bill is going to be tremendous all over the country; that is obvious.

And if the situation in Miami, Fla., is any criteria of what will happen all over the country, we have got ourselves a real problem, which the subcommittee certainly needs to address, to get its overall implication, not only in terms of space and whatnot, and cost, but also for an implementation plan of priorities of some kind.

I do not know how that can be done. I do not really have any suggestion, because you would have to look at the total picture, and that is obviously what you are getting ready to do. And the quicker that can be done, the better off we are all going to be.

I know the situation in Miami is intolerable, because it has been that way for years. Actually, you might say that justice has almost come to a stop in Miami, because of space and logistics and the people who handle it. It got so bad down there that people would not even go into Federal court if they could figure any way around it.

So we are in the process down there, and have been for sometime now, of putting up a new court building. And that got all wrapped up in costs and delays, and the judgeship bill.

In the meantime, we had the old court building, which is the renovation project which is now before you, and it has been there for years, and it is a great old building. But it has been there so long that we are squeezing the last bit of use out of it. And frankly, without the renovation, it would just be impossible, even to keep the building up to the present uses.

They had a post office in there. We moved that out, and we are going to use it now on a temporary basis for the courts to help solve the problem until the new Federal court building gets built, if and when it gets built, and I am sure it will. Then, obviously, it will be turned into permanent space.

But this is the kind of problem that is going to exist. I have been told—I do not know if this is true or not—that for each judge, for example, you have got to have roughly about three U.S. attorneys. Then you have got to have backup people for those, logistically, and that amounts to two-plus, I am told, something like that. So we are talking about a lot of people, all over the country. And I commend this subcommittee for getting into this, examining all the factors that are involved, and building a record on it, and having full understanding of the costs, and hopefully, join with the agencies that have the responsibility in establishing the priorities.

I would submit respectfully to this subcommittee, based on the facts that will be before you, that whatever category of criteria you use for establishing priorities, I can assure you that the Miami case is in the top of the priorities.

Mr. LEVITAS. Thank you, Congressman Fascell.

As you know, this is the first prospectus we have considered, and that indicates the priority that we attach to it.

Just for my own information, could you identify where this post office is located, with respect to downtown Miami?

Mr. FASCELL. It is right downtown Miami, almost, just several blocks off the main street.

Mr. LEVITAS. This committee, on June 13 of last year, as you state in your prepared testimony, did approve a prospectus for \$3.56 million, providing for alterations and major repairs for the U.S. post office and courthouse in Miami. Unfortunately, the Senate was unable to approve the prospectus, and subsequently, the requirements of the courts housed in the building changed significantly, due to the passage of the omnibus judgeship bill, which created five new judgeships, I understand.

Accordingly, GSA advised this committee on January 22 of this year that they intended to revise and resubmit the prospectus, providing for an increase in the cost of \$1.5 million necessary to accommodate the additional judge requirements.

I might point out here, because you referred to this in your testimony just now, the providing of adequate space for judgeships and the carrying on of the functions of the courts, and the judicial system, is not something that merely is a matter of convenience and comfort for the public or for the judges and the others connected with the court. It is really an integral part of the judicial system.

There have been situations that I am aware of in which, because of inadequate facilities, where witnesses and jurors and everybody were being intermixed, the potential for mistrials and the interference with the orderly processes of justice actually were jeopardized.

So it is not just a matter of frills and comfort; it is really an integral part of the system.

GSA has also requested the committee to authorize an expenditure not to exceed \$474,000 to provide interim space for the judges immediately.

I ask unanimous consent that the letter from GSA to the committee be inserted in the record at this time. Without objection, it is so ordered.

[The following was received for the record:]

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., January 20, 1979.

Hon. HAROLD T. JOHNSON,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On February 8, 1978, the General Services Administration submitted a prospectus for proposed alterations and major repairs for the U.S. Post Office—Courthouse, Miami, Florida.

Since the submission of that prospectus for \$3.56 million and its subsequent approval by your Committee on June 13, 1978, the requirements of the Courts housed in this building have changed significantly due to the recent passage of the Omnibus Judgeship legislation. Therefore, the prospectus does not now reflect the \$1.5 million additional alterations necessary to satisfy the Courts' needs.

If the prospectus were fully approved, we would have submitted a revised prospectus in the amount of \$1.5 million for the additional requirements. However, since the Senate Committee has not acted on the original prospectus, we do not intend to use the existing authority approved by the Committee. Instead, we will revise and resubmit the prospectus for consideration by the Committee.

Further, the five new judges to be appointed may be on board as early as spring of 1979, and they will require immediate housing. Therefore, we ask that the Committee authorize an expenditure not to exceed \$475,000 to provide interim space for the judges. The revised prospectus to be submitted will be adjusted to reflect this expenditure.

We thank you for your consideration in this matter.

Sincerely,

JAY SOLOMON, Administrator.

Mr. LEVITAS. As you are aware, GSA can legally spend up to \$500,000 on a repair and alteration project prior to approval by the appropriate committee. And I want to thank them at this time, publicly, for respecting the integrity of this committee in their own agency, since we are all cognizant of the fact that the funds in excess of \$500,000 will ultimately be required.

In view of the fact this committee has already approved a prospectus for \$3.56 million, which GSA later recinded, an expenditure of \$475,000 appears to be warranted. I would have liked to have approved their request immediately. However, as I mentioned to Congressman Fascell earlier, I did not want to set a precedent. And in fact, today, it would be my intent to deal not only with the GSA request for the expenditure of \$475,000, but the entire prospectus amount of \$5,451,000. GSA will be testifying on this prospectus later today, this morning, at which time I hope we will be able to vote on the prospectus.

Mr. FASCELL. Mr. Chairman, I thank you for that statement. The chairman did discuss this matter with me earlier. I totally agree with the approach the chairman has taken.

I must confess that all of us up here who are problem-oriented want to solve things immediately, overnight, but the chairman's decision on the subcommittee's procedure is the wisest course of action. I fully supported it, and I am grateful for the fact that you will take the opportunity today, after hearing GSA, to act on the matters before you.

Mr. LEVITAS. Mr. Abdnor?

Mr. ABDNOR. Well, I would just like to say I applaud Congressman Fascell and your action regarding this renovation project, especially for coming back to this committee to point out additional needs due to the enactment of the Omnibus Judgeship Act in this particular building.

As I understand it, if all work can be performed at the same time rather than stopping until another prospectus is authorized, significant tax dollars will be saved by it.

Mr. FASCELL. That is always the case. I agree.

Mr. ABDNOR. We will put it on the table, and I appreciate it very much, your bringing that to our attention.

Mr. LEVITAS. Mr. McCormack?

Mr. MCCORMACK. Mr. Chairman, one question, if I may. I am coming in cold, and I am not sure I am keeping up with the apparent two tracks that are running here. Are we talking about a renovation project and a new building consecutively?

Mr. LEVITAS. No. We are talking about a repair and renovation project.

Mr. MCCORMACK. Didn't I hear Mr. Fascell talking about a new building?

Mr. FASCELL. Yes. That is already in the mill and is being reconsidered now because of cost differentials.

Mr. MCCORMACK. And you believe it makes more sense to go with a renovation than go directly to a new building?

Mr. FASCELL. Mr. McCormack, we have got to go with the renovation. This has been in the mill for some time because of the state of the building and the use to which it has to be put. The judgeship bill added a new dimension to it, and the fact that the building existed and was in need of renovation made it possible for us to get temporary space for the additional judges, which we otherwise might not have been able to get.

Mr. MCCORMACK. Would the new building house all the judges?

Mr. FASCELL. The new building; yes, eventually. But it is a long way away.

Mr. MCCORMACK. But you do not believe it would be just as practical to go directly to the new building, immediately?

Mr. FASCELL. I would love to do it, if you can figure out how to do it. If you can authorize GSA to get that building up right now, we would put a statue of you on top of it.

Mr. MCCORMACK. If it is all the same, I would as soon leave the statue to a resident Congressman. [Laughter.]

But I am confused. Quite seriously, I am confused as to why we are going to a renovation project if there is a new project.

Mr. FASCELL. Because the building that is there now needs the renovation if you are going to use it at all, for any purpose. It is an existing Federal building. It is going to need renovation regardless of what you use it for.

Mr. MCCORMACK. So you are suggesting renovating it now, and then building a new building, and moving into the new building.

Mr. FASCELL. You have to eliminate the word "now." The building has to be renovated; otherwise, we are going to have to tear it down, and we cannot use it for the purposes we are now using it for, which are the existing courts.

Mr. MCCORMACK. Thank you, Mr. Chairman. Thank you, Mr. Fascell.

Mr. FASCELL. I hope I have made myself clear. You just cannot let an existing—well, you could let an existing building deteriorate and go to the ground, if you wanted to, and not make the wisest possible use of all the space that is in the existing building. The

new building is not to replace the old building; it is an addition thereto.

Mr. MCCORMACK. I see.

Mr. FASCELL. It is a whole new Federal structure for the court system that has been in the mill even before the new Judgeship bill. It has gotten that far along. I mean, the contract was let. It has to be renegotiated because of cost increases, additional space requirements, and budget limitations and a whole host of other problems that caught us—and GSA, I might add. It is just one of those things. I would have loved to have seen that thing halfway up before all this started, but we got caught in a bind—budget limitations and restraints and additional space requirements, and all that kind of thing, on the new Federal building, while we were in the process of renovating the old court building so that it would be more useful.

Now, I am sure GSA can explain in detail exactly how they are going to convert the space, but that is a technical matter. The space is there. You want to make the best use of it that you can, as soon as you can, as cheaply as you can, and use up all of the space in the old building while you are waiting to get the additional space that is required for Federal purposes in the new building.

I did not mean to raise the issue to confuse anybody. I just wanted to lay the whole matter before the committee as indicative of the kind of problem we are going to have all over the country, that is all.

Mr. MCCORMACK. Thank you. Thank you, Mr. Chairman.

Mr. LEVITAS. Let me just make sure that the record is clear on this. We are talking about two separate facilities. One is an existing building which needs renovation to be utilized.

Mr. FASCELL. Yes, sir, and houses the existing courts.

Mr. LEVITAS. That was my question. It is the place where the present judges are sitting.

Mr. FASCELL. Right, absolutely.

Mr. LEVITAS. And on a temporary basis, they will continue to occupy those facilities prior to moving into the new courthouse when it is completed.

Mr. FASCELL. Well, I think that is the plan now.

Mr. LEVITAS. We will hear Mr. Galuardi in just a moment.

Now, let me just ask you one other question. The \$475,000 we are talking about is to provide interim housing for the newly appointed judges. Have those judges been appointed yet, so far as you know?

Mr. FASCELL. They have not been appointed yet, no, sir. But they are well on the road, I can guarantee you that. They have winnowed down 500 candidates to 25, and they are now being looked over. It will not be long, the pressures of politics being what they usually are about matters of that kind.

Mr. LEVITAS. Mr. Flippo?

Mr. FLIPPO. No questions, Mr. Chairman, thank you.

Mr. LEVITAS. Mr. Livingston?

Mr. LIVINGSTON. No questions, Mr. Chairman.

Mr. LEVITAS. Mr. Hutto?

Mr. HUTTO. Just one question, Mr. Chairman.

Mr. Fascell, after the new building is completed and the court system is moved there, do you have any plans yet for what the renovated building will be used for?

Mr. FASCELL. GSA will give you all the details on that.

Mr. LEVITAS. We will hear from GSA in just a minute.

Mr. FASCELL. I can tell you just off the top of my head that present Federal space requirements in Dade County, which is where Miami is located, are so great right now that—and this is a layman's edition—there is about twice the present space that we already have in the Federal building that we have now plus the courthouse. And that would take us another 20 years, the way we have been going with this one. We have been working on this court building—

Mr. HUTTO. That was the reason I asked the question, because I realize that there are a lot of other Federal agencies that are needing court space, at least, in some areas that I know about.

Mr. FASCELL. I had GSA do a survey for me on space rented in Dade County that we do not have Federal space for, and it is unbelievable, unbelievable.

Mr. LEVITAS. Mr. Clinger?

Mr. CLINGER. No questions.

Mr. LEVITAS. Mr. Albosta?

Mr. ALBOSTA. No questions, Mr. Chairman.

Mr. LEVITAS. Thank you, Mr. Fascell. We appreciate your being with us today and being of assistance to this subcommittee.

Mr. FASCELL. Thank you, Mr. Chairman. I am glad that the experts are going to follow me up and give you all of the technical details that are going to be essential.

Mr. LEVITAS. Well, in order that the track not get cold, we are going to depart from our original agenda and consider the rest of the testimony on this prospectus while the matter is fresh in the minds of the members.

Thank you very much.

Mr. FASCELL. Thank you very much.

Mr. LEVITAS. Mr. Keilman, would you and Mr. Galuardi like to come forward and make a presentation on the prospectus itself?

This is the prospectus for the U.S. post office-courthouse, 300 Northeast First Avenue, Miami, Fla.

TESTIMONY OF DENNIS KEILMAN, ACTING COMMISSIONER, PUBLIC BUILDING SERVICE, GSA, ACCOMPANIED BY ROBERT JONES, ACTING DEPUTY COMMISSIONER; JACK GALUARDI, ASSISTANT COMMISSIONER; DAVID DIBNER, ASSISTANT COMMISSIONER; AND JOSEPH YAIKIS, ACTING ASSISTANT COMMISSIONER

Mr. LEVITAS. Mr. Keilman, if you or Mr. Galuardi would like to present this prospectus.

Mr. KEILMAN. Good morning, Mr. Chairman and members of the committee.

Mr. LEVITAS. Good morning. It is a pleasure to have you back.

Mr. KEILMAN. We are prepared to discuss in detail the prospectus for the repair and alteration project for the post office and U.S. courthouse in Miami.

It is a four-story monumental building which was constructed in 1933; has a gross area of 176,000 square feet, an occupiable area of 109,000 square feet.

We submitted a prospectus February 8 of last year, requesting authority to proceed with a project for \$3,560,000. The House approved this prospectus, as you mentioned earlier, June 13, 1978.

The prospectus includes the conversation of the postal workroom area, since this had been a former post office building, to general office space and space for the courts; upgrade other space in the building; upgrade the heating, ventilation, air conditioning system; handicapped and fire safety improvements.

The reason we have come to the committee with a revised prospectus is that the requirements of the courts changed as a result of the Omnibus Judgeship bill. The costs have increased from \$3,560,000 to the current authorization request, which is \$5,451,000.

The project description is essentially the same as it was earlier, with the exception of adding additional courtrooms and chambers.

We also have asked the committee to authorize us to proceed with some temporary quarters for the omnibus judgeship requirements pending the main part of this project. The interim request is for \$475,000 worth of work, which will allow us to construct three temporary chambers to satisfy the needs for the omnibus judges, which we expect to be appointed in the near future.

Jack Galuardi, to my left, is quite conversant with this project, and we will be glad to answer any questions that you may have.

Mr. LEVITAS. Thank you. Mr. Galuardi or Mr. Keilman, is any part of the additional cost that you are asking for attributable to factors other than the expanded space because of the omnibus judgeship bill?

Mr. KEILMAN. No. The additional costs are all directly related to the omnibus judgeship bill.

Mr. LEVITAS. How do you expect to spend the \$475,000? What are you going to do with that?

Mr. KEILMAN. Jack, would you go into the details on that?

Mr. GALUARDI. Yes. The first floor is currently vacant. It was the post office space in the building. They have subsequently moved out. What we intend to do is, on the first floor, construct six courtrooms under the entire prospectus.

With the \$475,000, we will initiate the construction of three chambers and three courtrooms, in a very austere fashion, in order to get these facilities produced in as short a time as possible, so that when the five judges are appointed, what the courts will be able to do in that building is to provide three chambers for three of the five judges, and the three courtrooms to be rotated among the five judges to be appointed. The other two judges will have to find some other interim space for their chambers in the present building, until such time as we can continue on with the project and complete the other three courtrooms and three chambers which are on the first floor.

Mr. LEVITAS. I know Mr. McCormack has some questions on this that are in my mind, too, but I want to go into another area and let him pursue that.

Is the architect who is doing this work the same as the architect who is doing the other work?

Mr. KEILMAN. No. I do not believe we have let a contract for the AE work on this yet, have we?

Mr. GALUARDI. Yes, but the AE is not the same one as we have for the court annex building.

Mr. LEVITAS. You have not yet awarded the contract.

Mr. GALUARDI. Yes; we have.

Mr. LEVITAS. Mr. Abdnor?

Mr. ABDNOR. Thank you, Mr. Chairman.

I am just wondering, why does it take 5 years to complete the work requested here? Is it that big a project?

Mr. KEILMAN. I am sorry, Mr. Abdnor.

Mr. ABDNOR. The time—I think you point out it takes 5 years to complete the work requested in this prospectus. Why does it take that long?

Mr. KEILMAN. It should not take that long. The prospectus approval is for work that is programed over a 5-year period of time. The requirements for a prospectus include what we would plan over a 5-year period.

Mr. ABDNOR. But you hope to get it done before then?

Mr. KEILMAN. We intend to move ahead with a total project at the outset, that would include all these things.

Mr. ABDNOR. If all goes well, I am sure you can do that quicker than—

Mr. KEILMAN. We would expect, considering the needs of the courts, which are imminent and the fact that we do have problems with the other building—the new building also being slowed down—we would expect that this project will be moved along as quickly as possible.

Mr. ABDNOR. The new building being slowed down—is there any particular reason?

Mr. KEILMAN. Well, it is a separate prospectus that is back here for approval for supplemental authorization.

Mr. ABDNOR. Yes. That has shifted back from last year to this year, I suppose.

Mr. KEILMAN. We would expect both of them to move right along, Mr. Abdnor.

Mr. ABDNOR. You note that alterations may be necessary due to future space reassignments which cannot be identified at this time. Now, do you plan to install the open space system, and have movable partitions there?

Mr. KEILMAN. Most of the work in the existing courthouse will be for the courts, and that typically is not open space. Space that is used for general purpose uses, for other agencies—for instance, if it were IRS or HEW or somebody like that, the preferred way to go is open space. But this work in the courthouse is essentially courts alterations, and they do not typically use open space.

Mr. ABDNOR. One last question. Would it not seem that it would be necessary to make future alterations to the six courtrooms, if in fact standard measures are taken into account now; what are GSA's views on this matter? I mean, once you have set this up, we are not going to have to go back in there at a later date, are we?

Mr. KEILMAN. Well, there are alterations that are being performed in these buildings on a continuing basis, but the work that

is included in this project is the major work that we anticipate for the foreseeable future. Is that the question you are asking?

Mr. ABDNOR. Yes.

Mr. KEILMAN. It is the major work we expect.

Mr. ABDNOR. We will not have to go back in and revamp the whole thing at a later date.

Mr. GALUARDI. If I can explain, what we have here is a total project. These are not two independent kinds of projects. The new construction project, which this committee does not yet have before it, will be coming here. But we have taken the existing building and the new construction project, and they are interrelated. When they are finished, they will appear as one total complex, which will house all the court activities which are in the Florida area.

What we are doing right now is to take the space which is on the first floor of the old building and construct the six courtrooms in it. The district courts will use that on an interim basis until such time as the new building is completed. When the new building is completed, we will move the district courts over into the new building. Not all of them will be able to be housed over there; some of them will have to remain in the old building. But most of them will move over into the new building.

Then, we will take activities of the courts which are currently in leased space, such as the referee in bankruptcy and probably the magistrates, and the facilities which are being constructed now for the district courts will then be assigned for the use of the bankruptcy and the magistrates.

So that when we get finished, there will be a total of 20 court facilities in this entire complex, and there is a requirement for 20 facilities.

Mr. ABDNOR. OK, then, let me ask you this. The space needed for the judges and the courtrooms, the judges that will be in the building immediately after renovating it or adding to it, will the size be about the same for the next group coming in—so should you have movable partitions to adjust this space? I do not know the differences in judges—

Mr. GALUARDI. Well, as you are aware, the bankruptcies are being elevated to the same stature as the district courts. So the size and facilities they will require ultimately will be the size that we are going to provide now.

In the existing building, we are going to provide for the six new courtrooms, courtrooms of a size of about 1,500 square feet. We have agreed with the U.S. courts and with the U.S. attorney that we normally would provide 1,800 square foot court size requirements.

So therefore, these 1,500 square foot requirements are certainly within or smaller than we normally would have provided for a district judge, and they certainly would be ample enough for either a magistrate or a referee in bankruptcy. They would not be elaborate.

Mr. ABDNOR. Thank you.

Mr. LEVITAS. Thank you, Mr. Abdnor.

Mr. McCormack?

Mr. MCCORMACK. Mr. Chairman, I will pass. I think I have answers to questions I was asking. Thank you.

Mr. LEVITAS. Mr. Stangeland?

Mr. STANGELAND. Thank you, Mr. Chairman.

In the prospectus here, you list \$475,000 for three austere courtrooms in the \$5,451,000. Does that dollar amount cover the next three that you need, as well?

Mr. KEILMAN. That encompasses the entire project.

Mr. STANGELAND. That is everything?

Mr. KEILMAN. Yes, sir.

Mr. GALUARDI. Including the \$475,000.

Mr. KEILMAN. The \$5 million includes the \$475,000.

Mr. STANGELAND. Is this a two- or a three-story building?

Mr. GALUARDI. It is a four-story building.

Mr. STANGELAND. And the other courts are on the upper floors, the present courts?

Mr. GALUARDI. Yes.

Mr. STANGELAND. And there are now 14 present courtrooms in the building?

Mr. GALUARDI. No. Currently, there are in the building three district courts which are of the standard size. We have five interim courts, which are very small, and we have one hearing room for a magistrate.

Mr. STANGELAND. What portion of the prospectus is for renovation and alteration in the other portion of the building, and what portion of the prospectus is for the renovation and alteration of the first floor?

Mr. GALUARDI. It is about \$2 million to do the conversion of the space on the first floor for the courts. The balance of the \$5 million is for the design of the same space, of course, and also for the HVAC, that is the heating, ventilation, and air conditioning system, and general renovations throughout the rest of the building, including fire safety and life safety items. So it is \$2 million out of the \$5.4 million that is for the courts.

Mr. STANGELAND. That is for all the courts, not just the new ones—the \$2 million?

Mr. GALUARDI. No. We will be renovating some of the other courts that are already in the building, but it is not very elaborate.

Mr. STANGELAND. When do you anticipate coming to us with a prospectus—or has it been passed—for the new court building?

Mr. KEILMAN. The prospectus for the additional authorization for the new courthouse, the courthouse annex, was submitted to the Office of Management and Budget, where it is right now.

They had some questions about the size of the courtrooms and some other incidental questions about the prospectus. Those issues have been resolved at this point. I talked to the Office of Management and Budget yesterday, and I understand that the staff people have completed what they have to do with it, and it has been submitted to the associate director for approval prior to submission to the director. And that is where it is now.

We would expect it out very soon. They do not have any serious problems with it. The staff has no problems at this point.

The authorization that OMB will give us will include the budgeting as well as the authorization for the project itself.

Mr. STANGELAND. How large do you anticipate that to be?

Mr. KEILMAN. The authorization that we have today is \$14,702,000, and we are coming in with \$19,102,000, and we will have \$4.4 million additional.

Mr. STANGELAND. And that building, then, will accommodate the courts that are in this building now?

Mr. KEILMAN. That will accommodate some of the courts. It is called the courthouse annex. The two buildings will accommodate the requirements both for the district courts and for the circuit court of appeals.

There are court requirements that are in the old building that will be moving into the new building, as well as expansion in the new building.

Then, the facilities that they vacate will be used for other court expansion requirements in the old building. There is an integrated plan that includes both buildings, and it will be a total court facility.

Mr. STANGELAND. So this building will continue to be used as a court building—

Mr. KEILMAN. Indefinitely, yes, sir.

Mr. STANGELAND. Thank you. You mention the need to revamp the air-conditioning and the heating system. Are you considering looking at a solar system in the energy analysis of this building?

Mr. GALUARDI. We will perform an energy retrofit study, and whatever comes out of the energy retrofit study will determine what we do there.

Mr. STANGELAND. Are those study moneys included in the prospectus as well?

Mr. GALUARDI. They are, yes.

Mr. STANGELAND. And at this time, you cannot give an estimate as to what those studies will cost?

Mr. GALUARDI. No; well, we are going to perform an energy analysis, which will cost us about \$20,000. Since the analysis solutions are not available to us until they are completed, we are not able to identify it. But we do have sufficient funds in here that would be able to do basically most of the kinds of energy retrofits that are necessary.

Most retrofits, really, are basic. They are the air-conditioning system itself, the insulation, and whatever normal kinds of energy retrofits that we do.

Solar is studied, and it is possible, if it is a very expensive solar-type system which has an adequate payback period, we might have to come back to this committee and ask for additional funds. But we did not include those in this project.

Mr. STANGELAND. Just one last question. Do you have a complete—and I see you passed out a paper here, showing the Omnibus Judgeship Act, the location and the costs—for the record, what are the total costs of the new judgeships created, and how long a time frame do we have for providing facilities for those judgeships?

Mr. GALUARDI. Well, we passed out that booklet there, in which we have analyzed to the best of our knowledge to this moment the requirements of the additional judgeships. It comes to \$66.8 million, of which \$39.9 million are for repairs and alterations; \$21.9 million are for new construction, of which the Miami new construction project would be a part; and \$5 million for rental of space for

displaced agencies, displaced from buildings in which courts are currently housed. That \$5 million is a one-time cost for the first year. So the total comes to \$66.8 million.

We will undertake this program as rapidly as this committee authorizes the necessary projects that must come before the committee. There are projects within this program that are less than \$500,000 and it will not be necessary to come to this committee for authorization. Those, we are undertaking right now. We are starting with the design, as soon as the requirements from the courts are made available to us.

So we cannot give you a specific answer when the whole program will be completed. It will probably, because of the new construction in here, be as much as 3 to 5 years from now for the last facility to be provided. But most of it is going to be provided almost immediately.

Mr. STANGELAND. OK. Thank you, Mr. Chairman.

Mr. LEVITAS. Mr. Hutto?

Mr. HUTTO. No questions, Mr. Chairman.

Mr. LEVITAS. Mr. Donnelly?

Mr. DONNELLY. No questions, Mr. Chairman.

Mr. LEVITAS. Mr. Livingston?

Mr. LIVINGSTON. No questions, Mr. Chairman.

Mr. LEVITAS. Mr. Clinger?

Mr. CLINGER. I think you indicated that you had a need for six additional courtrooms at the present time?

Mr. KEILMAN. Yes, sir.

Mr. CLINGER. And under austere renovation, you intend to construct three more?

Mr. KEILMAN. We intend to construct three courtrooms right now, that will ultimately be used for the magistrates.

Mr. CLINGER. How are the other [inaudible] going to be taken care of?

Mr. GALUARDI. I have a sketch here. I do not know whether the committee would want to take a look at it.

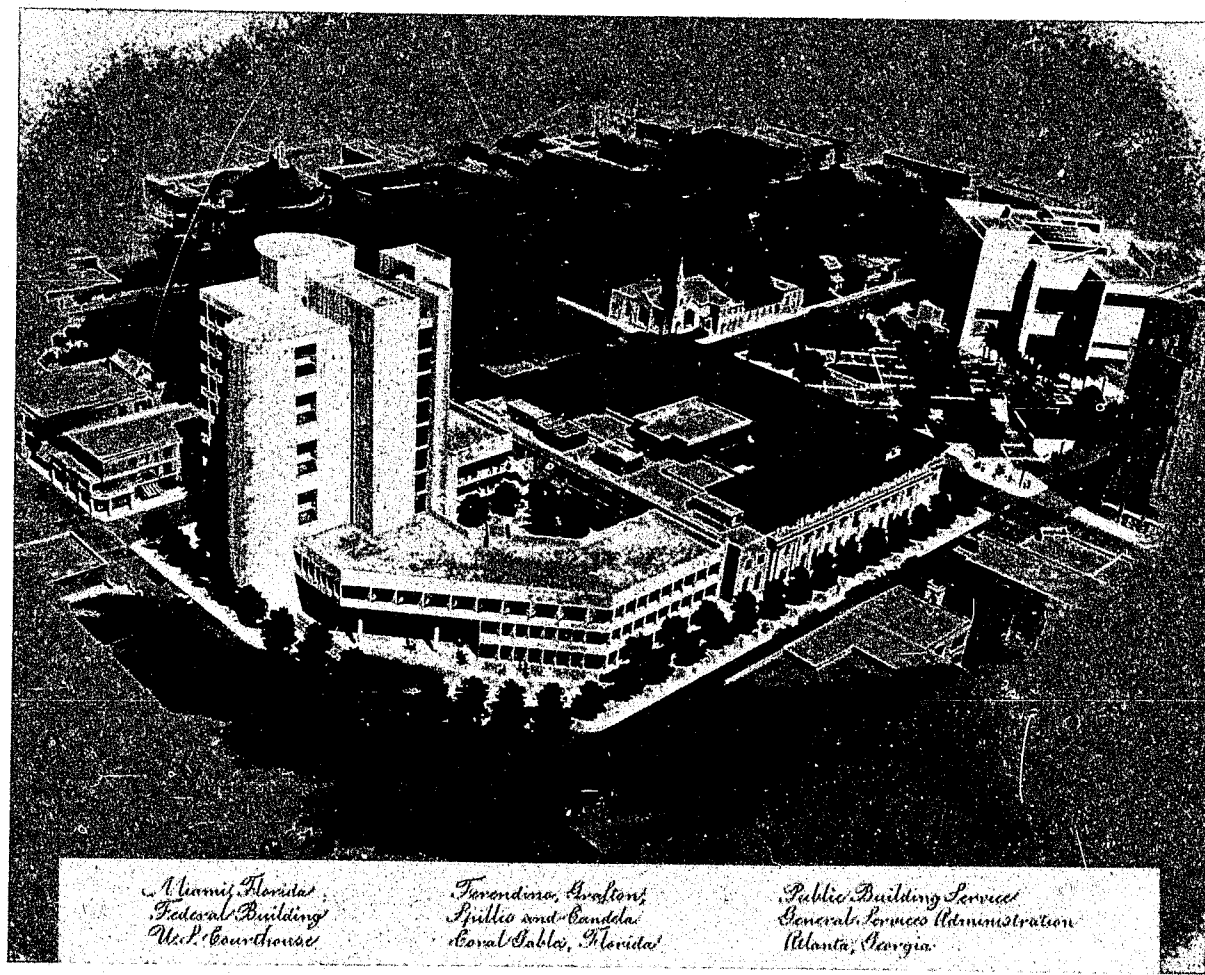
Mr. KEILMAN. Mr. Chairman, if I could, we have pictures of the two facilities, and it might be well to circulate them amongst the committee members, and they can get a better idea of what the projects look like.

Mr. LEVITAS. I think that might be very helpful. These are renderings of the existing post office and courthouse and the proposed annex.

Mr. KEILMAN. There is a rendering of the new building and a photograph of the existing building.

Mr. LEVITAS. That is very helpful, and without objection, they will be made a part of the record.

[The following was received for the record:]





Mr. KEILMAN. Mr. Clinger, the three courtrooms that we are talking about, the interim courtrooms, are what the chief judges agreed would do the job, pending the completion of the new courthouse and then coming back into the old building and proceeding with the project for renovating that building.

Mr. CLINGER. Do you have any idea how much that will take?

Mr. KEILMAN. Jack, do we have that information on what it will take, the additional work on the three courtrooms? I believe it was heating, ventilation, and air-conditioning work that was required that will not be done initially, which is rather extensive.

Mr. LEVITAS. I did not hear that last question. Did that relate to the 1977 work?

Mr. KEILMAN. Mr. Chairman, the question, as I understood it, was on the three courtrooms, what kind of work would be required beyond what we are initially doing, what we call an austere approach to satisfying these three court needs.

The answer is that they will not be finished in the form that they will be ultimately. No. 1, there is some additional heating, ventilation, and air-conditioning work that will be needed that will be tied in with that project for the entire renovation of the building. No. 2, we will not build in the benches for the courts. They will be temporary installations—instead of benches, we use chairs.

Mr. LEVITAS. It is my understanding that when the annex is constructed, that you will house your Federal district judges and the court of appeals judges in that facility, and that these three austere courtrooms will be used for magistrates.

And in connection with responding to that, would you also indicate whether or not additional improvements will have to be made at that time.

Mr. GALUARDI. What we have currently is six active district judges, one senior district judge, one active circuit judge, and one senior circuit judge down there. We are adding 5 new judges, so we end up with 12 district judges.

The courthouse annex is going to provide nine courtrooms and chambers. So therefore, for the 12 district judges, there are only nine facilities being provided in the courthouse annex.

That means that three of them are going to have to remain over in the existing building.

When we complete the courthouse annex and we move the judges over there, there are some things that will have to be done in the facilities other than those that are on the first floor. The first floor facilities will be completed when this prospectus is authorized here.

We do not want to do the construction work in the upper part of the existing building while the court is in there, because it interferes with their operations. As soon as they move over into the new building, then we can go into the construction work and not interfere with the court calendar, and that is our proposed phasing of the project.

Mr. LEVITAS. Well, the present post office-courthouse that these renovations are going to be made in has existing district court facilities.

Mr. GALUARDI. Correct.

Mr. LEVITAS. OK. We are adding three more courtrooms. When the annex is completed, you will have nine courtrooms in the new annex.

Mr. GALUARDI. Right.

Mr. LEVITAS. That leaves you the three that you are putting in now, plus whatever is there already.

Now, my question is, are you going to have to make further repairs and alterations to the existing courtrooms in the post office and courthouse or to the three new ones that are being authorized by the \$475,000, or—I assume you will, and I just want to make it as a matter of record that that will have to be done—

Mr. GALUARDI. Let me explain how we are going to do it. The three that we are going to build as austere courtrooms now, we will start them so that within 6 months, we would have space for the courts to sit down and hold their calendar.

We will have to immediately then award another contract to finish off the other three and then finish the first three austere facilities.

When those six are totally completed—and we expect to do that almost immediately, within a year, a year and a half—after they move out of there, there will be no further alterations that will be required in that space.

When we move the judges who may be up in the other part of the space, there are some minor adjustments that have to be made up there—maybe clean the walls and do some repainting. We do have to do the air-conditioning throughout the entire building, however, and that would affect some of the courtrooms that are on the upper part of the floors. We will not do that until they move over into the other building.

Mr. LEVITAS. I understand. I notice in 1977, GSA spent \$48,000 on air-conditioning repair, and now you are seeking \$1,772,000 for replacing the HVAC system components. Is there anything that is being replaced that was put in in 1977?

Mr. GALUARDI. I do not know, Mr. Levitas. I would have to find out and let you know for the record. But it would be my impression that for \$48,000, it was probably just some operating repairs that had to be done to the basic machinery, and whatever we are putting in now would completely replace whatever is there.

Mr. LEVITAS. Could you, for the record, have that, because one of the things the committee will be doing, as Administrator Solomon has been doing, is finding out when—you are asking for repair funding now—when was the last repair done to that same system, because we want to find out if we are just duplicating these expenditures.

Mr. GALUARDI. Yes.

[The following was received for the record:]

[From Office of Buildings Management]

FACT SHEET—PO-CT, MIAMI, FLA.

At the February 27, 1979, hearing before the House Committee on Public Works and Transportation, the question was raised as to what type of air-conditioning repairs were performed in 1977 for \$48,800. It has since been determined that the money was spent to replace the cooling tower which will continue to be used under the work proposed in the current prospectus.

Mr. LEVITAS. And I take it, then, that at some point in the reasonably near future, we will receive a prospectus for the \$19 million construction cost of the annex, which is depicted on those photographs you showed us; is that correct?

Mr. KEILMAN. Mr. Chairman, I understand that OMB will release that in the very near future. The staff has released it and sent it up to the director's office for signature.

Mr. LEVITAS. I have no further questions.

Mr. Abdnor?

Mr. ABDNOR. Thank you, Mr. Chairman.

Looking over the prospectus here, I look at that HVAC system, for a total of \$1,772,000. Is that what you would normally expect as the cost to put air conditioning in this building?

Mr. GALUARDI. Yes, sir. It is a large plant, and it is a distribution system, and we have to replace the old one, which has been in there for a considerable period of time.

Mr. ABDNOR. Well, it just seems like—that is almost one-third of the total cost here, or at least one-fourth of the cost of the—of the overall cost of renovating it.

Mr. KEILMAN. The existing system, I understand, is beyond repair, and this is a completely new system that will be constructed in this space.

Mr. ABDNOR. Is it extremely difficult to install this new system, or is it just a matter of—I mean, will parts of the old system work in here, or will it take a lot of—

Mr. GALUARDI. Because of the energy retrofit, we probably will end up with a different kind of system which would be more energy efficient in the future, and it normally ends up with a total replacement of all the ductwork, the air-handling units, and normally, the compressor system.

Mr. ABDNOR. Is the ductwork that you have now in good shape—

Mr. GALUARDI. It is probably sized incorrectly, and is not set so that it will work with a new air-handling type system.

Mr. ABDNOR. I would guess the new ductwork, then, is going to take up a large part of it. I was just wondering if it is necessary.

That is all, Mr. Chairman.

Mr. LEVITAS. Thank you, Mr. Abdnor.

Mr. Stangeland?

Mr. STANGELAND. Thank you, Mr. Chairman. Just one last question. I think, if memory serves me right, we have some kind of an agreement that you are going to come before us at some future date and outline a plan whereby you are going to delineate the difference between repair and alteration and general maintenance.

[Mr. Keilman nodding head.]

Mr. STANGELAND. I think there has been some concern in the past on that. Then, I am wondering why you reference metal frame windows having handles and locks missing and broken; why are they not charged against maintenance as opposed to in the prospectus for repair and alteration?

Mr. GALUARDI. At the present time we come to you, and in the main description of the project, we state that we do not include day-to-day preventive maintenance and recurring maintenance repairs.

The thing you are probably referring to in here is something that we cannot do on a day-to-day basis. It is so large that we are going to have to let a very substantial contract. So we included it as part of the requirements under this prospectus to be funded.

Mr. STANGELAND. OK. Thank you.

Mr. LEVITAS. Thank you, Mr. Stangeland.

Are there any other questions from members of the committee?

[No response.]

Mr. LEVITAS. If not, the Chair will entertain a motion with respect to this prospectus.

Mr. ABDNOR?

Mr. ABDNOR. Mr. Chairman, I will move that the prospectus for the repair and alterations on the U.S. post office-courthouse, at 300 Northeast First Avenue, Miami, Fla., be reported favorably to the full committee.

Mr. LEVITAS. Do I hear a second?

Mr. HUTTO. Second.

Mr. LEVITAS. Mr. Hutto has seconded the motion by the gentleman from South Dakota.

As many as favor the motion, say "Aye."

[A unanimous chorus of "Ayes."]

Mr. LEVITAS. Opposed, "No."

[No response.]

Mr. LEVITAS. The "ayes" have it, and the prospectus is approved, Mr. Fascell. We will take it to the full committee as soon as possible. I have already spoken to Chairman Johnson, and he is anxiously awaiting this prospectus so he can take action upon it. Thank you.

I take it that there is no objection on the part of the committee for GSA in the meantime to proceed with the expenditure of the \$475,000, which technically might not have to be authorized in any event, but I think it would be well that you get started, unless there is some objection.

[No response.]

Mr. LEVITAS. If not, then thank you.

Mr. FASCELL. Thank you, Mr. Chairman.

Mr. KEILMAN. Thank you, Mr. Chairman.

Mr. LEVITAS. At this point, I would like to ask Joseph F. Spaniol, Jr., who is the Deputy Director, Administrative Office of the U.S. court, to come forward. Perhaps, it would be appropriate for Judge Robert Earl Maxwell, who is chief judge of the northern district of West Virginia and Chairman of the U.S. Judicial Conference, Committee on the Budget, to come forward at the same time. I think it might facilitate the work of the subcommittee to have it more as a panel rather than to follow one upon the other, so that we can ask whatever questions we might have to address at the same time.

And if you would, introduce any persons, Mr. Spaniol or Judge Maxwell, who are accompanying you, so that the record might reflect their presence.

I would like to say that the committee is delighted to have you both here with us today. We consider that the decisions that this committee is going to be called on to make involve a great deal of Federal taxpayer money. We want to know just where that money is going, what we are going to be expected to consider, and do it in

a way which is both prudent and yet, clearly fulfilling the judicial needs for the United States.

And for that reason, we are extremely pleased to have you both here, Mr. Spaniol and Judge Maxwell.

Now, I do not know if you have a preference who would proceed first—

Judge MAXWELL. I would like to have Mr. Spaniol proceed first, if it would please the committee.

Mr. LEVITAS. All right, Judge, that will be fine. The full text of your prepared statements will appear in the record at this point. [Statements referred to follow:]

THE ADMINISTRATIVE ORGANIZATION
OF THE
FEDERAL JUDICIARY

STATEMENT OF
JOSEPH F. SPANIOL, JR.
DEPUTY DIRECTOR
OF THE
UNITED STATES COURTS
BEFORE THE
SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS
OF THE
HOUSE COMMITTEE
ON
PUBLIC WORKS AND TRANSPORTATION

March 6, 1979

Mr. Chairman, my name is Joseph F. Spaniol, Jr. I am the Deputy Director of the Administrative Office of the United States Courts. I am appearing today with Chief Judge Robert E. Maxwell of the Northern District of West Virginia, who is the Chairman of the Judicial Conference Committee on the Budget of the Federal Judiciary. Also with me are Mr. Edward V. Garabedian, Chief of the Division of Financial Management of the Administrative Office, Mr. Robert H. Hartzell, Chief of the Administrative Services Division, and Mr. Louis J. Komondy, Jr., who is in charge of the space and facilities program for the Federal Judiciary.

Judge Maxwell will be addressing matters pertaining to the budgetary requests of the Federal Judiciary for space and facilities and will be assisted by Mr. Garabedian. Messrs. Hartzell and Komondy, who are intimately familiar with space matters, are prepared to discuss those questions regarding the current needs of the Federal Judiciary for space and facilities which have been discussed preliminarily with members of the Committee staff. I understand that during these preliminary discussions there was some uncertainty among staff members about the administrative organization of the Judiciary and the manner in which policy is determined and decisions made. My statement is limited to these matters.

There are three organizational units in the administrative structure of the Judiciary: the Judicial Conference of the United States, which currently consists of 25 members - the Chief Justice of the United States, who is the Chairman, the Chief Judges of the eleven judicial circuits, a District Judge representative from each circuit, the Chief Judge of the Court of Claims and the Chief Judge of the Court of Customs and Patent Appeals. The new bankruptcy act has authorized the addition of two new bankruptcy judges to the Conference, and they will soon be added. The judicial council of the circuit consists of the active judges of the Court of Appeals in each circuit and the Administrative Office of the United States Courts, located in Washington, is headed by a Director and Deputy Director who are appointed by the Supreme Court.

The roles of these three organizations can best be understood in historical perspective. The oldest of the three is the Judicial Conference of the United States, created in 1922 at the urging of Chief Justice William Howard Taft. (See 28 U.S.C. 331). The Conference meets at least annually and for many years has met semi-annually, usually in Washington. The statute authorizes the Conference to survey the condition of the business of the courts of the United States, prepare plans for the assignment of judges, and submit suggestions to the various courts in the interest of uniformity and expedition of business. The Conference

also carries on a continuous study of the operation and effect of the General Rules of Practice and Procedure as prescribed by the Supreme Court for the other courts of the United States pursuant to law. Because the Conference meets only twice each year, its work is carried on through committees assisted by the staff of the Administrative Office of the United States Courts.

The Judicial Conference thus is the policy-making body of the Federal Judiciary. It acts somewhat in the capacity of a board of directors with oversight of the Judiciary's administrative affairs.

Originally the Attorney General of the United States was responsible for the administrative affairs of the Federal courts, including its budget. For almost 17 years after the creation of the Judicial Conference of the United States, the Attorney General continued to perform this responsibility. Problems did arise and gradually the concept grew that the Federal Judiciary should not depend on the Executive Branch of the Government for administrative support and that the Attorney General - the chief litigator in the Federal courts - should not at the same time have responsibility for the affairs of the courts.

In 1939 Congress created the Administrative Office of the United States Courts and transferred to that new office

all administrative functions relating to the courts of the United States previously performed by the Attorney General. The responsibilities of this office are currently set out in Chapter 41 of Title 28, United States Code. This chapter, for example, Sec. 604(a), addresses the matter of court accommodations as follows:

Section 604(a). Duties of the Director generally

The Director shall be the administrative officer of the courts, and under the supervision and direction of the Judicial Conference of the United States, shall:

* * *

(12) provide accommodations for the courts, the Federal Judicial Center, the Pretrial Services Agencies and their clerical and administrative personnel."

The Administrative Office of the United States Courts may thus be viewed as the executive arm of the Judicial Conference of the United States, administering Conference-determined policy and tending to the day-to-day administrative affairs of the courts.

The same 1939 Act creating the Administrative Office of the United States Courts also created the judicial councils of the circuits. As indicated above, a judicial council in each circuit is currently composed of all the active circuit judges within the circuit, and is responsible for the direct supervision of the courts within the circuit. Sec. 332 of Title

28, U. S. Code, provides in part:

"Each judicial council shall make all necessary orders for the effective and expeditious administration of the business of the courts within its circuit. The district judges shall promptly carry into effect all orders of the judicial council."

In carrying out its responsibilities under Sec. 332, the judicial council of each circuit is authorized to appoint a circuit executive.

In summary, the Judicial Conference of the United States sets policy; the judicial council in each circuit supervises the operation of the courts within the circuit; and the Administrative Office of the United States Courts serves as the executive arm of the Judicial Conference and handles the administrative affairs of the courts on a nationwide basis.

I have been asked, Mr. Chairman, to explain how this system operates in determining what are essential space and facilities requirements for the courts throughout the Nation. First of all the Judicial Conference has made two important policy decisions. The first is that there should be nationwide standards governing courtroom size. Secondly, the Conference has determined that the certification as to needs for facilities at particular court locations within each circuit should be left primarily to the judicial council of each circuit with assistance from the Administrative Office and under the watchful eye of the Judicial Conference Committee on Court Administration.

Standards for the size of courtrooms were last reviewed by the Judicial Conference in 1971 and 1972 following a careful study by the Judicial Conference Committee on Court Facilities. New standards were approved by the Conference in October, 1972 and a copy of these standards is attached as Appendix A. In general, these standards authorize three types of courtrooms: large, intermediate, and small. Each courthouse is permitted to have one large courtroom of 2400 square feet and such additional intermediate sized courtrooms (approximately 1600 square feet) and small courtrooms (approximately 1200 square feet) as may be determined by the judicial council in each circuit.

In September 1978 the Conference, by resolution, established a procedure for determining when additional facilities are needed. That resolution is set out in Appendix B.

The Courts, as do most agencies, obtain their facilities through GSA. Typically a request for new courtroom space arises locally, frequently in connection with a new judgeship bill. A request for additional facilities by a district court is forwarded to the Administrative Office for review as to conformity to Judicial Conference standards and is then referred to the judicial council of the particular circuit for its approval and recommendation as to need. The judicial council approves both the new facility and the courtroom size. Upon receipt of council approval, negotiations are opened with GSA.

Mr. Chairman, the members of the staff of the Administrative Office who consider space problems on a day-to-day basis are prepared to testify concerning current requests for additional court space. If there are any questions regarding the administrative organization of the federal judiciary, I shall be pleased to answer. Thank you, Mr. Chairman.

APPENDIX A

COMMITTEE ON COURT FACILITIES AND DESIGN

The report of the Committee on Court Facilities and Design was presented by the committee chairman, Chief Judge Edward J. Devitt.

At the October 1971 session of the Conference it was agreed that the committee should continue in existence to work further with General Services Administration on the design of auxiliary courtroom facilities (Conf. Rept., p. 65). Judge Devitt advised that the committee had proceeded on the basis of this mandate and now recommended to the Conference (1) that each judge be allocated up to 1,600 square feet of space for himself, secretary and law clerks, to be allocated to chambers, library, office or conference room as his individual needs may require, and (2) that each courtroom be allocated up to 1,300 square feet of space for adjunct facilities, including approximately 330 square feet for a jury deliberation room, approximately 125 square feet for a holding cell for defendants in custody and approximately 200 square feet as a witness room; and that the remaining approximately 645 square feet be allocated in the discretion of the judge as the needs of the district may require for conference or robing room, attorneys' conference room, minute clerk's office, court reporters' room, exhibit and storage area or for other court use.

Judge Devitt advised that the General Services Administration had prepared charts available to all judges in the planning of facilities for new court construction and urged that the judges give careful consideration to the suggested functional arrangements of these facilities which, in the opinion of General Services Administration, represent the best possible interarrangement of activity areas for traffic flow, communication, convenience, privacy and security. The latest security proposals being developed by the Office of the United States Marshals will be embodied in this construction.

The Conference noted that both of these recommendations are substantially larger than the minimum dimensions adopted in 1949 and, after discussion, voted its approval of both the recommendations.

Judge Devitt reiterated the support of his committee for the recommendation made in October 1971 that a standard courtroom in the size of 28 x 40 feet was most practical, based on lack of need for large audience space, development of air conditioning, adaptability when new judges are appointed and in conformance with the national trend in the state courts. The committee also presented for Conference consideration an intermediate size courtroom of 34 x 44 feet with a 12 foot ceiling. After discussing these proposals relating to new courthouse construction, the Conference

APPENDIX A - Con't.

Resolved, that it is the sense of the Conference that courtrooms in courthouses hereafter constructed for United States district courts should range from 1,120 square feet, 28' x 40', to 1,496 square feet, 34' x 44', and that in the planning of future construction the judicial councils of the circuits shall fix the number of each such courtroom after consultation with the district judges. Where need is demonstrated on the basis of projected caseloads, one or more large courtrooms of 2,400 square feet, 40' x 60', for unusual purposes, such as multiparty cases, including, where needed, one ceremonial courtroom.

It was further resolved to be the sense of the Judicial Conference that, in adapting present space to courtroom use, General Services Administration should apply practical standards on a case by case basis.

On the adoption of these resolutions, Judge Devitt moved that his ad hoc committee be relieved and dismissed. The Conference, however, was of the view that the committee should be retained in existence to handle such special problems relating to courtroom space as may arise from time to time.

APPENDIX B

PLACES OF HOLDING COURT

Judge Hunter reported that the Subcommittee on Judicial Improvements had reviewed the existing Judicial Conference policy governing the evaluation of legislative proposals either to authorize locations at statutorily designated places of holding court, or to implement changes in the organizational or geographical configuration of individual judicial districts. The existing procedure does not require consideration of the views of the Department of Justice and United States Attorneys and implies that, at the district level, only the opinion of the chief judge rather than the aggregate opinion of the court is controlling. Recognizing the need for clarification of policy, the Committee recommended and the Conference approved the following resolution:

The Judicial Conference reaffirms its previously stated belief that changes in the geographical configuration and organization of existing federal judicial districts should be enacted only after a showing of strong and compelling need. Therefore, whenever Congress requests the Conference's views on bills to:

1. create new judicial districts;
2. consolidate existing judicial districts within a state;
3. create new divisions within an existing judicial district;
4. abolish divisions within an existing judicial district;
5. transfer counties from an existing division or district to another division or district;
6. authorize a location or community, including facilities, as a statutorily designated place at which "court shall be held" under Chapter 5 of title 28, United States Code; or
7. waive the provisions of Section 142 of title 28, United States Code, respecting the furnishing of accommodations at places of holding court—the Director of the Administrative Office shall transmit each such bill to both the chief judge of each affected district and the chief judge of the circuit in which each such district is located, requesting that the district court and the judicial council for the circuit evaluate the merits of the proposal and formulate an opinion of approval or disapproval to be reviewed by the Conference's Court Administration Committee in recommending action by the Conference. In each district court and circuit council evaluation, the views of affected U.S. Attorneys' offices, as representative of the views of the Department of Justice, shall be considered in addition to caseload, judicial administration, geographical, and community-convenience factors. Only when a proposal has been approved both by the district courts affected and by the appropriate circuit judicial council, and only after both have filed a brief report with the Court Administration Committee summarizing the reasons for their approval shall that Committee review the proposal and recommend action to the Judicial Conference.

STATEMENT OF
CHIEF JUDGE ROBERT E. MAXWELL
ON BEHALF OF THE
BUDGET COMMITTEE OF THE JUDICIAL CONFERENCE
OF THE UNITED STATES

ROBERT E. MAXWELL, CHAIRMAN
CHIEF JUDGE, NORTHERN DISTRICT OF WEST VIRGINIA

LEWIS R. MORGAN
SENIOR JUDGE, FIFTH CIRCUIT COURT OF APPEALS

OREN HARRIS
SENIOR JUDGE, EASTERN & WESTERN DISTRICTS OF ARKANSAS

RAYMOND J. PETTINE
CHIEF JUDGE, DISTRICT OF RHODE ISLAND

ELDON B. MAHON
UNITED STATES DISTRICT JUDGE, NORTHERN DISTRICT OF TEXAS

SOLOMON BLATT, JR.
UNITED STATES DISTRICT JUDGE, DISTRICT OF SOUTH CAROLINA

MARCH 6, 1979

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

WE APPRECIATE THIS OPPORTUNITY TO APPEAR BEFORE YOU IN SUPPORT OF THE BUDGETARY REQUIREMENTS OF THE JUDICIARY FOR SPACE AND FACILITIES FOR FISCAL YEAR 1980. OUR BUDGET ESTIMATE FOR THE COURTS OF APPEALS AND DISTRICT COURTS IS \$125,928,000 AS FOLLOWS:

STANDARD LEVEL USER CHARGES.....	\$ 98,108,000
REIMBURSABLE PROTECTIVE SERVICES.	6,146,000
PROCUREMENT AND MAINTENANCE OF SECURITY EQUIPMENT.....	2,000,000
TENANT ALTERATIONS.....	8,152,000
OTHER REIMBURSABLE SERVICES.....	240,000
FURNITURE AND FURNISHINGS.....	<u>11,282,000</u>
TOTAL.....	<u>\$125,928,000</u>

IN ADDITION TO THE REQUIREMENTS OF THE COURTS OF APPEALS AND DISTRICT COURTS, THE SUM OF \$6.5 MILLION IS INCLUDED IN THE BUDGET FOR THE RENTAL OF SPACE, ALTERATIONS, AND RELATED SERVICES AND FACILITIES FOR THE THREE NATIONAL COURTS, I.E., COURT OF CUSTOMS AND PATENT APPEALS, CUSTOMS COURT, AND THE COURT OF CLAIMS; THE ADMINISTRATIVE OFFICE OF THE U.S. COURTS; AND THE FEDERAL JUDICIAL CENTER.

THE TOTAL INCLUDED IN OUR BUDGET FOR SPACE AND RELATED EXPENSES, EXCLUDING FURNITURE AND FURNISHINGS, IS \$121,146,000. THE STANDARD LEVEL USER CHARGES (SLUC) FOR FISCAL YEAR 1980 IS ESTIMATED AT \$104,146,000. WE ARE ANTICIPATING AN INCREASE IN RENTAL CHARGES OF 8.3 PERCENT OR \$6,716,000. OUR ESTIMATE ALSO TAKES INTO ACCOUNT THE REQUIREMENTS OF THE 152 NEW JUDGESHIPS RECENTLY CREATED BY THE CONGRESS AND THE NEW BANKRUPTCY COURTS WHICH WILL BE ESTABLISHED PURSUANT TO THE BANKRUPTCY REFORM ACT OF 1978. I HAVE ATTACHED A STATEMENT WHICH SHOWS IN SOME DETAIL HOW WE ARRIVED AT OUR ESTIMATE OF THE SPACE REQUIRED BY THE COURTS AND THE PROJECTED TOTAL COST FOR FISCAL YEAR 1980.

MR. CHAIRMAN, EXCLUDING THE SO-CALLED ADJUSTMENTS TO BASE AND BUILT-IN CHANGES, THE INCREASE IN OUR BUDGETARY REQUIREMENTS FOR FISCAL YEAR 1980 COMPARED WITH 1979 IS \$22,760,000 OF WHICH \$5,942,000 IS FOR THE NEW JUDGES, \$4,536,000 FOR BANKRUPTCY JUDGES AND STAFF PURSUANT TO THE BANKRUPTCY REFORM ACT, AND \$3,139,000 RELATES TO NEW PERSONNEL. THE SUM OF \$9,143,000 IS INCLUDED FOR SPACE AND FURNISHINGS INCIDENT TO THE OCCUPANCY OF NEW BUILDINGS AND NEWLY CONSTRUCTED OR REMODELED FACILITIES, MOST OF WHICH REPRESENTS NON-RECURRING EXPENSES. THESE NEW FACILITIES ARE OUTLINED IN DETAIL IN OUR BUDGET JUSTIFICATIONS WHICH I SHALL BE MORE THAN GLAD TO PROVIDE YOUR COMMITTEE.

MORATORIUM ON SPACE ACQUISITION

MR. CHAIRMAN, REGARDING THE MATTER OF SPACE AND FACILITIES, I WOULD LIKE TO BRING YOUR ATTENTION TO WHAT WE CONSIDER TO BE A RATHER SERIOUS PROBLEM. WE HAVE BEEN INFORMED BY GSA THAT THERE ARE AMPLE FUNDS AVAILABLE FOR CONSTRUCTION AND FOR THE ALTERATION OF SPACE TO ACCOMMODATE NEW JUDGES, BUT THAT THEY MAY NOT BE ABLE TO LEASE ANY FACILITIES FOR THE USE OF THE COURTS IN VIEW OF A MONETARY RESTRICTION (CEILING) IN THEIR APPROPRIATION ACT. AS A CONSEQUENCE, IRRESPECTIVE OF THE AMOUNT THAT MAY BE APPROPRIATED TO US FOR THE RENTAL OF SPACE, OUR LANDLORD, GSA, MAY OR MAY NOT MAKE THAT SPACE AVAILABLE TO US. SEVERAL YEARS AGO, THE COMPTROLLER GENERAL OF THE UNITED STATES TOOK THE POSITION THAT UNDER THE PUBLIC BUILDINGS ACT, AS AMENDED, THE JUDICIARY WOULD BE SUBJECT TO ANY MORATORIUM ON SPACE THAT MAY BE IMPOSED BY THE OFFICE OF MANAGEMENT AND BUDGET OR BY GSA. THIS PLACES US UNDER THE DIRECT CONTROL OF THE EXECUTIVE BRANCH OF THE GOVERNMENT, WHICH WE DO NOT BELIEVE WAS THE INTENT OF CONGRESS. AS WE SEE IT, SUCH CONTROL VIOLATES THE SEPARATION OF POWERS DOCTRINE.

WE ARE COGNIZANT OF OUR RESPONSIBILITY TO THE CONGRESS TO JUSTIFY APPROPRIATIONS FOR SPACE AND FACILITIES REQUIRED BY THE COURTS. WE DO NOT, HOWEVER, BELIEVE THAT THE EXECUTIVE BRANCH SHOULD EXERCISE ANY CONTROL OVER THE EXPENDITURE OF THESE FUNDS. ONE POSSIBLE SOLUTION TO THIS PROBLEM MAY BE THE INCLUSION OF A PROVISIO IN THE TEXT OF OUR APPROPRIATION FOR "SPACE AND FACILITIES" OR IN THE APPROPRIATIONS OF GSA WHICH WOULD, FOR ALL INTENTS AND PURPOSES, EXEMPT THE JUDICIARY FROM ANY MORATORIUM OR ANY LIMITATION THAT MAY BE IMPOSED BY THE CONGRESS ON THE TOTAL SPACE INVENTORY OF THE EXECUTIVE BRANCH OF THE GOVERNMENT. MR. CHAIRMAN, WE WOULD WELCOME YOUR SUPPORT IN THIS REGARD AND ANYTHING YOU MAY BE ABLE TO DO FOR US IN RESOLVING THIS PROBLEM.

COURT SECURITY

MR. CHAIRMAN, WITH REGARD TO THE MATTER OF COURT SECURITY, THE APPROPRIATIONS COMMITTEES IN BOTH THE HOUSE AND SENATE HAVE ASKED THAT WE DISCONTINUE SUBSIDIZING THE UNITED STATES MARSHALS SERVICE AND THE GENERAL SERVICES ADMINISTRATION FOR PROTECTIVE SERVICES AND FOR THE PROCUREMENT AND MAINTENANCE OF SECURITY EQUIPMENT.

THE BUDGET ESTIMATES WHICH WE SUBMITTED TO THE OFFICE OF MANAGEMENT AND BUDGET IN OCTOBER 1978 SHOWED A REDUCTION OF \$6.5 MILLION FOR PROTECTIVE SERVICES BASED ON THE ASSUMPTION THAT THERE WOULD BE A COMPARABLE INCREASE IN THE BUDGET FOR THE UNITED STATES MARSHALS SERVICE. WE WERE SUBSEQUENTLY INFORMED THAT A REQUEST SUBMITTED BY THE ATTORNEY GENERAL FOR ADDITIONAL DEPUTY MARSHALS AND FUNDS FOR THE PROCUREMENT AND MAINTENANCE OF SECURITY EQUIPMENT HAD BEEN DENIED BY OMB, APPARENTLY DUE TO SOME DISCREPANCY AS TO THE NUMBER OF POSITIONS THAT SHOULD BE TRANSFERRED FROM GSA TO JUSTICE. THEREFORE, AT THE SUGGESTION OF OMB WE RESTORED THE FUNDS FOR PROTECTIVE SERVICES AND EQUIPMENT, AND NECESSARILY MUST LOOK TO THE APPROPRIATIONS COMMITTEES TO RESOLVE THIS ISSUE.

WE ARE READY AND WILLING TO TRANSFER THE SUM OF \$6.5 MILLION TO THE DEPARTMENT OF JUSTICE; \$4.5 MILLION FOR PROTECTIVE SERVICES AND \$2 MILLION FOR THE PROCUREMENT AND MAINTENANCE OF SECURITY EQUIPMENT. AS WE UNDERSTAND IT, JUSTICE WILL REQUIRE APPROXIMATELY 400 ADDITIONAL DEPUTY MARSHALS FOR THIS PURPOSE. WE DO NOT KNOW TO WHAT EXTENT THESE POSITIONS CAN BE TRANSFERRED FROM GSA.

I SHOULD ALSO CALL YOUR ATTENTION TO THE FACT THAT GSA IS PLANNING ON A REORGANIZATION WHICH WILL FRAGMENT THE FEDERAL PROTECTIVE SERVICE AND TRANSFER THE FUNCTIONS TO SEVERAL GSA/PBS COMPONENTS. GSA PLANS TO REPLACE MANY OF THEIR FEDERAL PROTECTIVE OFFICERS WITH CONTRACT GUARDS. IN OUR OPINION, CONTRACT GUARDS SIMPLY CANNOT PROVIDE ADEQUATE PROTECTION FOR COURT FACILITIES AND PERSONNEL SINCE THEY ARE NOT AS FULLY TRAINED AND HAVE ONLY LIMITED ARREST POWERS. IF THE APPROPRIATIONS COMMITTEES SEE THEIR WAY CLEAR IN PROVIDING ADDITIONAL DEPUTY MARSHALS FOR COURT SECURITY, WE WILL NOT BE DEPENDENT UPON GSA FOR THIS SERVICE.

UTILIZATION OF COURTROOMS

MR. CHAIRMAN, REGARDING THE MATTER OF UTILIZATION OF EXISTING COURT FACILITIES, THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS, AT THE REQUEST OF THE APPROPRIATIONS COMMITTEES OF THE CONGRESS, RECENTLY CONDUCTED A SURVEY OF COURTROOMS WHICH WERE BEING UTILIZED LESS THAN 25 DAYS PER YEAR. THE RESULTS OF THAT SURVEY HAVE BEEN SUBMITTED TO THE APPROPRIATIONS COMMITTEES AND I SHALL BE MORE THAN GLAD TO MAKE A COPY AVAILABLE TO YOUR COMMITTEE. WE SHOULD WAIT UNTIL AFTER THE NEW JUDGES ARE APPOINTED BEFORE WE CONSIDER CLOSING ANY FACILITIES SINCE IT WOULD BE VERY DIFFICULT AT THIS POINT IN TIME TO ASCERTAIN WITH ANY DEGREE OF ACCURACY WHAT THE IMPACT OF THESE NEW JUDGES WILL BE.

WE ARE CONSTANTLY REVIEWING AND SURVEYING COURTROOM USAGE IN AN EFFORT TO REDUCE OUR BUDGETARY REQUIREMENTS TO THE EXTENT POSSIBLE WITHOUT SACRIFICING ESSENTIAL SERVICES TO THE PUBLIC AND TO THE BAR. JUST RECENTLY, AS A RESULT OF AN INQUIRY BY THE HOUSE APPROPRIATIONS SUBCOMMITTEE, THE UNITED STATES CUSTOMS COURT AGREED TO RELINQUISH COURTROOMS AT SEVERAL LOCATIONS THROUGHOUT THE UNITED STATES AT A SAVINGS OF \$140,000. IT IS MY UNDERSTANDING THAT THE UNITED STATES COURT OF CLAIMS IS ALSO CONSIDERING THE CLOSING OF SEVERAL FACILITIES.

MR. CHAIRMAN, WE SHALL BE GLAD TO RESPOND TO ANY INQUIRIES OR PROVIDE YOUR COMMITTEE WITH ANY INFORMATION YOU MAY DESIRE.

FISCAL YEAR 1980 SLUC RATE DEVELOPMENT

<u>Description</u>	<u>Square Footage</u>		<u>Average Rate/Sq. Ft./Yr.</u>		<u>Total Dollars</u>
F. Y. 1979 Base.....	9,563,891	x	\$8.12	=	\$77,659,000
(1) New Personnel...	31,367	x	8.12	=	254,700
(2) Senior Judges...	36,000	x	8.12	=	292,300
(3) New buildings...	<u>393,351</u>	x	<u>8.12</u>	=	<u>3,194,000</u>
Total charges as of 9/30/79..	10,024,609		8.12		81,400,000
Fair Annual Rental Appraisal (FAR) average increase of 8.3%.....	<u>...</u>	x	<u>...</u>	=	<u>6,716,000</u>
F. Y. 1980 Base.....	10,024,609	x	8.79	=	88,116,000
(1) New personnel...	217,700	x	8.79	=	1,913,000
(2) Senior Judges...	45,000	x	8.79	=	396,000
(3) New buildings...	368,994	x	8.79	=	3,243,000
(4) Omnibus Judge- ship Act.....	483,000	x	...	=	5,942,000
(5) Bankruptcy Reform Act of 1978.....	<u>516,000</u>	x	<u>...</u>	=	<u>4,536,000</u>
Total charges as of 9/30/80..	<u>11,655,303</u>	x	<u>...</u>	=	<u>\$104,146,000</u>

TESTIMONY OF A PANEL CONSISTING OF JOSEPH F. SPANIOL, JR., DEPUTY DIRECTOR, ADMINISTRATIVE OFFICE OF THE U.S. COURTS, ACCOMPANIED BY ROBERT H. HARTZELL, CHIEF, ADMINISTRATIVE SERVICES DIVISION, AND LOUIS J. KOMONDY, CHIEF, SPACE AND FACILITIES BRANCH; AND JUDGE ROBERT EARL MAXWELL, CHIEF JUDGE, NORTHERN DISTRICT OF WEST VIRGINIA AND CHAIRMAN OF THE BUDGET COMMITTEE OF THE U.S. JUDICIAL CONFERENCE, ACCOMPANIED BY EDWARD V. GARABEDIAN, COMPTROLLER AND CHIEF OF FINANCIAL MANAGEMENT DIVISION

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

I will introduce the people who are here at the table with me. You have already introduced Judge Maxwell. I might add that Judge Maxwell is the chief judge of the U.S. District Court for the Northern District of West Virginia, with headquarters at Elkins, W. Va.

To his right is Mr. Edward V. Garabedian, who is Chief of the Financial Management Division of the Administrative Office of the U.S. Courts.

To my immediate left is Mr. Louis Komondy, who is in charge of our space and facilities program for the entire Federal Judiciary.

And to Mr. Komondy's left is Mr. Robert Hartzell, who is his superior, and is Chief of the Division of Administrative Services.

Mr. Chairman, Judge Maxwell will be talking to you today about the budget request of \$125 million we have presented to the Appropriations Committee for space and facilities for the fiscal year 1980. He will be assisted by Mr. Garabedian, our financial officer.

During the preliminary discussions with members of your staff, Mr. Chairman, there seemed to be some confusion as to how the judiciary operates administratively, what the roles were of the Judicial Conference of the United States, the judicial councils of the circuits, and the Administrative Office of the U.S. Court.

I have been asked to try to explain to you how these three units operate within the Federal judiciary, how the decisions are made, and who makes them.

The first organizational unit in the Federal judiciary, and the principal one, is the Judicial Conference of the United States. Currently, the conference is made up of the Chief Justice of the United States, serving as chairman, the chief judge of each of the 11 judicial circuits, that is, the chief judge of the court of appeals in each of the 11 circuits, a district judge representative from each circuit, elected by all the judges of the circuit for a term of 3 years.

The Judicial Conference also includes the chief judge of the Court of Customs and Patent Appeals and the chief judge of the Court of Claims. It is a body of 25 persons.

The Conference is required by statute to meet annually. As a practical matter, for many years, it has met semiannually, almost invariably here in Washington.

It presently consists of 25 persons, but the newlypassed Bankruptcy Act authorizes two bankruptcy judges to sit on the Conference, and I am sure that in a very short while, they will be added to the Conference, making it a body of 27.

The Judicial Conference, by statute, has various responsibilities and duties to perform. When it meets, the conference reviews the business of the courts and makes plans for the assignment of judges. Under the statute, the Conference considers proposed amendments to the rules of procedure for the operation of the lower courts—that is, the rules of evidence, the rules of civil procedure, the rules of criminal procedure, the rules of bankruptcy procedure, and so forth. These rules are cleared through the Conference before they go to the Supreme Court and ultimately, here to the Congress.

The Judicial Conference also, by various statutory provisions, performs such functions as setting the salaries of court reporters and setting the salaries of U.S. magistrates, and, until recently, the salaries of bankruptcy judges.

Generally speaking, the Judicial Conference is the policymaking body of the Federal judiciary, serving rather in the nature of a board of directors for the overall operation of the judiciary.

The Judicial Conference was created in 1922, at the urging of Chief Justice William Howard Taft. For 17 years after the Conference was created, all the administrative affairs of the Federal court system were handled by the attorney general. Through this period the concept grew that the attorney general, who was the chief litigant before the Federal courts of the Nation, should not also have the responsibility for determining what the needs of the courts were and handling the administrative affairs of the courts.

The result of that thinking and discussion over a long period of time was the passage in 1939 of the Administrative Office Act, creating the office where most of us here at the table now work.

In early 1940 all the functions of the attorney general pertaining to the administrative affairs of the Federal court system were transferred into this new office.

The Director and Deputy Director of the office, under the statute, are appointed by the Supreme Court, not by the Judicial Conference.

Thus in 1939 and 1940, the Judicial Conference obtained its own executive arm. This office could execute Judicial Conference policy and serve as the overall administrative office for the courts of the Nation.

These are the two principal organs within the judiciary established for its administrative operation.

The act of 1939 also created a third unit or organization within the Federal judiciary, called the Judicial Council of the circuit. The Judicial Council of the circuit presently consists of all the circuit judges in active service in each circuit wearing another hat. The circuit council supervises the operation of all of the courts within the circuit.

That is the basic administrative organization of the Federal judiciary.

In respect to space and facilities, I would like to tell you how matters are decided. The Judicial Conference has made two basic determinations with respect to space and facilities.

The first is that there should be nationwide standards on courtroom size. In 1972, the Judicial Conference adopted a resolution establishing certain standard courtroom sizes. That resolution has

been distributed to the members of the committee, and it is appended to the statement that I have already submitted.

Basically, that standard calls for three sizes of courtrooms: One large courtroom, ceremonial-type courtroom, 40 by 60, about 2,400 square feet; and then, an intermediate courtroom, of about 1,500 square feet; and a small courtroom of about 1,200 square feet.

The resolution contemplates that there will be one large ceremonial courtroom at each principal court location to take care of naturalization proceedings, celebrated trials, big trials, in each court facility, but that unless there is some special reason for more than one large size courtroom in each facility, the other courtrooms will be of the intermediate or the smaller size, depending upon the need.

That is the basic determination of the Judicial Conference with respect to courtroom size. The question of when courtrooms and court facilities should be constructed has been left by the Judicial Conference primarily to the judicial council in each circuit. The council is concerned with the day-to-day operation of the courts within the circuit and is in a better position than the Conference, at least initially, to determine whether court facilities are needed at a particular location. Therefore, the Conference has directed that all inquiries or suggestions for addition to facilities be funneled through the circuit councils.

Mr. Chairman, unless there are some questions about this description of how the Federal courts operate administratively, I am sure Judge Maxwell is prepared to talk about the budgetary item.

Mr. LEVITAS. Thank you very much, Mr. Spaniol. That is most informative. It certainly clarified some questions that were in my mind, and I am sure, the other members of the committee.

Judge Maxwell why don't you proceed with your presentation. I notice that a member of your committee is a very close and dear friend of mine, Pete Morgan.

Judge MAXWELL. Yes, sir.

Mr. LEVITAS. I think very highly of him, and knew him when he was practicing law, when he went to the district court, and now I understand he is stepping down—

Judge MAXWELL. He is on senior status now. Judge Morgan was able to arrange his schedule and be with me to appear before the House Appropriations Subcommittee, just recently a very knowledgeable, very intelligent, very enjoyable gentleman to work with.

Mr. LEVITAS. Thank you very much.

Judge Maxwell, we are honored to have you here today. Proceed as you will.

Judge MAXWELL. Thank you, Mr. Chairman and members of the committee.

It is certainly a point that I feel should be noted in the record, that this committee should be commended for this far sighted study that you are getting into. We are going into a new era of management of the judiciary, not only with the omnibus judgeship bill, but with the new Bankruptcy Act, that really creates a whole new court system, new clerks' offices, just new everything. It is completely divorced and separated.

Space is a real big problem before you. This committee is certainly demonstrating the type of leadership that our Nation has had in

the past, and thank goodness, is having in the present and for the future.

Another point, I think, that should be made at this time, just for the record—I am sure we understand it—the goals, the objectives as have been expressed here today by this committee, as to what you hope to do, what you want to do, what your obligations are, these are the goals, these are the objectives of the judiciary.

Mr. Spaniol has given us a very good, very concise, clear run-down on the organization of the third branch of our Government, and I would just preface our meeting here today to say to you that I have no fear of contradiction in assuring this committee that you will have the complete, the total, the absolute cooperation of the Chief Justice of the United States who heads the Judicial Conference; you will have that same cooperative atmosphere and attitude of each of the members of the Judicial Conference of the United States and all of the allied groups of that Conference, which includes the Budget Committee that I speak for.

Mr. Chairman, I appreciate your letting us submit our statement without having to go through it in particular. We have touched upon the various aspects of the budget that we have submitted.

Our total budget this time is something like \$619 million for everything—\$125 million going to space and facilities.

There are just a couple of matters that tangentially relate to the matters under inquiry here today. For example, we have been advised that there are ample funds available for the construction and for the alteration of space to accommodate the new judges—this from the Public Buildings Act and allied legislative enactments of earlier days—but that they may not be able, GSA, to lease any additional facilities for the courts, in view of a monetary restriction or ceiling in their appropriation act.

As a consequence, and irrespective of the amount of money that is appropriated to us for the rental of space, our landlord, so to speak, the General Services Administration, may or may not make available space to us.

Several years ago, it is our understanding that the Comptroller General of the United States took the position that under the Public Buildings Act as it has been amended, there may be imposed by the Office of Management and Budget such moratoriums.

This places the judiciary, we believe, under the direct control of the executive branch of the Government, and in the system of our constitutional form of Government, we do not believe such was the intent of Congress. We believe under the Constitution that there may also be a serious question with regard to the separation of powers. That is one area.

We are cognizant in the judiciary of our responsibility to Congress to justify our appropriations for the various needs that we have, including space and facilities that are required by the court. We do not, however, believe that the executive branch should exercise any control over the expenditure of these funds.

One possible solution to this problem may be the inclusion of a proviso in our appropriations for space and facilities—and we have addressed this matter before Congress, with Chairman Slack and his group, recently—that would, for all intents and purposes exempt the judiciary from any moratoriums or limitations that

may be imposed on space inventories by the executive branch of the Government.

So we, of course, welcome the opportunity to bring you this particular problem.

Another problem that I might just address quickly is the problem of security. Congress, through both Appropriations Committees, has suggested strongly to us that the courts should be out of the security business.

The budget estimates which we submitted to the Office of Management and Budget in October 1978 showed a reduction of \$6.5 million for protective services. This would be on the assumption that a comparable increase in the budget for the U.S. Marshals Service would occur, this based on an agreement that was entered into between the judiciary, the Justice Department, and GSA. We were thereafter informed that the request submitted by the Attorney General for the additional Deputy Marshals and for the procurement and maintenance of security equipment had been denied by the Office of Management and Budget, apparently due to some difficulty or misunderstanding relative to the number of positions that would be transferred from GSA to the Justice Department.

At the suggestion of OMB, our Administrative Office has restored these funds to the appropriations request of the judiciary. We are willing, however, to transfer that \$6.5 million back and have this matter taken over by the Justice Department, which has been the expression of Congress.

Also, with regard to space and facilities, which you are addressing today, we are advised that the General Services Administration is thinking of a reorganization that would transfer the functions of certain aspects of the Federal Protective Service in these Federal facilities, and that it is the plan to replace some of the Federal Protective officers with contracted guards.

It is the considered opinion of the Budget Committee and those that we have counseled with in this regard that contract guards cannot provide the type of protection that court facilities and these valuable public buildings need. This is because they are not as trained, they are not as well equipped, they are not as mature and stable in the long term as we have with Protective Service men or marshals, such as we have now.

Another feature that we would like to demonstrate to you is, just recently, we concluded a study of Federal facilities that were used less than 25 days a year—and we can submit a list of those. In other words, the Judicial Conference of the United States is cognizant of the problems that you have, cognizant of the interest that the Nation has in conserving, and are doing their level best to prevent any loss of space, waste of time, waste of facilities.

Mr. Chairman, thank you very, very much for the opportunity of being with you today.

Mr. LEVITAS. Thank you, Judge Maxwell. I am sure we will have a number of questions raised by your excellent and very helpful testimony.

Before getting into those questions, though, Mr. Spaniol, in your statement you state that new standards were approved by the Judicial Conference in October 1972 which authorized the three types of courtrooms, large, intermediate, and small.

Would you please state for the record the breakdown on the courtroom construction and alterations affected by the design guidelines passed in 1972, as it affects the 11 circuits—or could you provide that for the record?

Mr. SPANIOL. That is something I think, Mr. Chairman, we will have to provide for the record.

[The following was received for the record:]

The 1972 guidelines on courtroom design in the U.S. District Courts were intended to apply to all future construction, and to all projects then in the planning or initial construction phases where practicable and where additional expense would not be incurred by altering plans. The guidelines were intended to be applied in the construction of new courtrooms in existing buildings but only to the extent that the structural configuration of these buildings would permit. It was not intended that expensive structural alterations be made in older buildings to conform courtroom sizes to the new standards.

Courtroom space for district courts constructed since 1972 in which the guidelines were applied is shown below, by circuit.

PLACE OF HOLDING COURT	NO. OF COURTROOMS	SIZE	NOTES
<u>Fiscal Year 1975</u>			
<u>Fourth Circuit</u> Florence, South Carolina	1	2,400 sq. ft.	
<u>Sixth Circuit</u> Akron, Ohio	1	2,400 sq. ft.	
	1	1,496 sq. ft.	
<u>Fiscal Year 1976</u>			
<u>First Circuit</u> San Juan, Puerto Rico	1	2,340 sq. ft.	
	1	2,242 sq. ft.	
	1	1,131 sq. ft.	
	1	1,683 sq. ft.	
<u>Third Circuit</u> Philadelphia, Pennsylvania	20	2,400 sq. ft.	New building design too far advanced to change courtroom sizes except for four courtrooms which were reduced to 1,120 sq. ft. without significantly incurring costs or changing original plan.
	4	1,120 sq. ft.	
	1	3,500 sq. ft.	

PLACE OF HOLDING COURT	NO. OF COURTROOMS	SIZE	NOTES
<u>Fourth Circuit</u> Baltimore, Maryland	1	2,400 sq. ft.	Same as Philadelphia except one courtroom reduced to 1,120 sq. ft.
	8	1,815 sq. ft.	
	1	1,120 sq. ft.	
Winston-Salem, North Carolina	1	2,400 sq. ft.	Alterations to existing building
	1	1,496 sq. ft.	
Richmond, Virginia	1	1,190 sq. ft.	
	1	1,496 sq. ft.	
	1	1,152 sq. ft.	
	1	2,606 sq. ft.	
Roanoke, Virginia	1	2,400 sq. ft.	Building extension
	1	1,170 sq. ft.	
Elkins, West Virginia	1	2,400 sq. ft.	
<u>Fifth Circuit</u> Orlando, Florida	1	2,400 sq. ft.	
	2	1,496 sq. ft.	
Waycross, Georgia	1	2,400 sq. ft.	Building extension
Tyler, Texas	1	2,340 sq. ft.	
<u>Sixth Circuit</u> Dayton, Ohio	1	2,400 sq. ft.	
	1	1,316 sq. ft.	
<u>Eighth Circuit</u> Lincoln, Nebraska	1	2,400 sq. ft.	
	1	1,120 sq. ft.	
<u>Fiscal Year 1977</u>			
<u>Third Circuit</u> Williamsport, Pennsylvania	1	2,400 sq. ft.	
Charlotte Amalie, Virgin Islands	1	2,400 sq. ft.	
	1	1,120 sq. ft.	
<u>Fifth Circuit</u> Panama City, Florida	1	1,120 sq. ft.	
<u>Eighth Circuit</u> Jonesboro, Arkansas	1	2,400 sq. ft.	
Harrison, Arkansas	1	2,400 sq. ft.	

PLACE OF HOLDING COURT	NO. OF COURTROOMS	SIZE	NOTES
<u>Ninth Circuit</u> Pocatello, Idaho	1	1,600 sq. ft.	
Helena, Montana	1	2,400 sq. ft.	
<u>Tenth Circuit</u> Topeka, Kansas	1	2,400 sq. ft.	
	2	1,496 sq. ft.	
<u>Fiscal Year 1978</u>			
<u>Seventh Circuit</u> Rockford, Illinois	1	2,400 sq. ft.	
<u>Ninth Circuit</u> Honolulu, Hawaii	3	2,400 sq. ft.	
Agana, Guam	1	2,000 sq. ft.	Leased building structural configuration
<u>Under Construction</u>			
<u>Fourth Circuit</u> Columbia, South Carolina	1	2,400 sq. ft.	
	2	1,496 sq. ft.	
<u>Fifth Circuit</u> Fort Lauderdale, Florida	1	2,400 sq. ft.	
	1	1,500 sq. ft.	
Miami, Florida (Annex)	9	2,200 sq. ft.	Courtrooms partially circular
<u>Ninth Circuit</u> Tucson, Arizona (Annex)	2	2,250 sq. ft.	
Anchorage, Alaska	2	2,250 sq. ft.	
	1	1,496 sq. ft.	
<u>New Buildings Approved by Congress</u>			
Madison, Wisconsin	1	2,400 sq. ft.	
	2	1,120 sq. ft.	
San Jose, California	(Recommended)		
	1	2,400 sq. ft.	Number and sizes of courtrooms presently under consideration by the Ninth Circuit Council
	2	1,800 sq. ft.	
<u>Proposed Leased Construction</u>			
<u>Ninth Circuit</u> Saipan, Northern Mariana Islands	1	2,400 sq. ft.	

Mr. LEVITAS. How many ceremonial courtrooms were provided?
 Mr. SPANIOL. Since 1972?
 Mr. LEVITAS. Yes, sir.
 Mr. SPANIOL. We will have to provide that for the record, also.
 [The following was received for the record:]

Courtrooms of 2,400 square feet are the largest of the trial courtrooms and are often referred to as ceremonial courtrooms because of their frequent use for ceremonies such as naturalization. The number of courtrooms with 2,400 square feet, or approximately that size, constructed or approved for construction since the 1972 guidelines were adopted and which were subject to those guidelines, excluding those already designed or under construction which could not be feasibly altered, is 30. Except for San Juan, Puerto Rico, and Honolulu, Hawaii, there has not been more than one large courtroom constructed at any one location. A list of these courtrooms and their locations are as follows:

<u>PLACE OF HOLDING COURT</u>	<u>NO. OF COURTROOMS</u>	<u>SIZE</u>	<u>NOTES</u>
<u>Fiscal Year 1975</u>			
<u>Fourth Circuit</u> Florence, South Carolina	1	2,400 sq. ft.	
<u>Sixth Circuit</u> Akron, Ohio	1	2,400 sq. ft.	
<u>Fiscal Year 1976</u>			
<u>First Circuit</u> San Juan, Puerto Rico	1	2,340 sq. ft.	
	1	2,242 sq. ft.	
<u>Fourth Circuit</u> Baltimore, Maryland	1	2,400 sq. ft.	
Winston-Salem, North Carolina	1	2,400 sq. ft.	
Richmond, Virginia	1	2,606 sq. ft.	Alterations to existing building
Roanoke, Virginia	1	2,400 sq. ft.	
Elkins, West Virginia	1	2,400 sq. ft.	
<u>Fifth Circuit</u> Orlando, Florida	1	2,400 sq. ft.	
Waycross, Georgia	1	2,400 sq. ft.	
Tyler, Texas	1	2,340 sq. ft.	Building extension
<u>Sixth Circuit</u> Dayton, Ohio	1	2,400 sq. ft.	

<u>PLACE OF HOLDING COURT</u>	<u>NO OF COURTROOMS</u>	<u>SIZE</u>	<u>NOTES</u>
<u>Eighth Circuit</u> Lincoln, Nebraska	1	2,400 sq. ft.	
<u>Fiscal Year 1977</u>			
<u>Third Circuit</u> Williamsport, Pennsylvania	1	2,400 sq. ft.	
Charlotte Amalie, Virgin Islands	1	2,400 sq. ft.	
<u>Eighth Circuit</u> Jonesboro, Arkansas	1	2,400 sq. ft.	
Harrison, Arkansas	1	2,400 sq. ft.	
<u>Ninth Circuit</u> Helena, Montana	1	2,400 sq. ft.	
<u>Tenth Circuit</u> Topeka, Kansas	1	2,400 sq. ft.	
<u>Fiscal Year 1978</u>			
<u>Seventh Circuit</u> Rockford, Illinois	1	2,400 sq. ft.	
<u>Ninth Circuit</u> Honolulu, Hawaii	3	2,400 sq. ft.	
Agana, Guam	1	2,000 sq. ft.	Leased building structural configurator
<u>Under Construction</u>			
<u>Fourth Circuit</u> Columbia, South Carolina	1	2,400 sq. ft.	
<u>Fifth Circuit</u> Fort Lauderdale, Florida	1	2,400 sq. ft.	
<u>New Buildings Approved by Congress</u>			
Madison, Wisconsin	1	2,400 sq. ft.	
San Jose, California	(Recommended) 1	2,400 sq. ft.	Number and sizes of courtrooms presently under consideration by the Ninth Circuit Council.
<u>Proposed Leased Construction</u>			
<u>Ninth Circuit</u> Saipan, North Mariana Islands	1	2,400 sq. ft.	

Mr. LEVITAS. Do the judicial councils of the 11 circuits normally submit similar requests for courtroom sizes, or do they tend to differ from circuit to circuit?

Mr. SPANIOL. I think that, generally speaking, the circuit councils try to adhere to the guidelines, taking into consideration the local circumstances. In all situations like this, when you are dealing with different groups, there are differences in their approach to it. My impression is that perhaps some of them are a little bit more liberal than others in deciding whether there should be more than one large ceremonial courtroom, and others are a little bit stricter.

Mr. LEVITAS. According to my information, the small courtroom size is approximately 1,200 square feet, the intermediate 1,600 square feet approximately, and the large, 2,400 square feet.

Does this coincide with the standard used by GSA?

Mr. SPANIOL. We have worked with GSA, and we have asked GSA in their design of buildings to take into consideration these standards, and they do. But it is all in relation to what the judicial council of the circuit decides is necessary at a particular location.

Mr. LEVITAS. That leads me to another question with respect to particular locations—and incidentally, I have seen a copy of the report that Judge Maxwell referred to, the underutilized court facilities, and I must say I am surprised that there are so few. It had been my impression that particularly in some rural areas, where the district court judge may use different facilities but very infrequently, that it would show up on this report. I am somewhat surprised that it is as small as it is.

Mr. SPANIOL. I think the reason for that is, Mr. Chairman, we have had a program in operation now for several years, to try to release unused court space back to GSA, and we have reduced the number of courtrooms not used more than 25 days to a minimum.

At the present time, we are unsure in some areas where the new judges are going to be appointed, where they are going to be sitting. And for that reason, we have suspended asking for the elimination of some of these facilities, or curtailment of them, until we find out where the new judges are going to be located because some of these facilities may be needed.

But as soon as the new judges have been appointed, this list will be reviewed again.

Mr. LEVITAS. Judge Maxwell, under the omnibus judgeship bill—we already had put in the record the number of new district and court of appeals judges—but I am interested in knowing, other than saying that there will be so many in the western district of West Virginia or the northern district of Georgia, who decides where these new judges will actually sit?

Judge MAXWELL. It has been a program—and I speak from West Virginia's experience—that we will be putting these new judges in existing locations where there are active dockets. For example, in the southern district of West Virginia, there are two new judges to be appointed. We will have one appointed in Huntington, which has a very active docket. We currently have a roving judge servicing that area. It is a sufficient and substantial enough docket, that it will keep a man busy full time. The same thing for Beckley, which is in the same southern district.

Mr. LEVITAS. Was consideration given to the location of the new judgeships in developing data with respect to the courtroom sizes and the need requirements?

Judge MAXWELL. I think that was a very important factor that was taken into account. First of all, I think the committee looked to the need for a judge in a given area and then considered the facilities that would be needed in making that determination.

Mr. LEVITAS. So far as you know, Judge Maxwell, when the Omnibus Judgeship bill was under consideration—and I have already indicated my belief that it was certainly needed—do you know whether any consideration was given as to the impact the 152 new judges would have as to space requirements?

Judge MAXWELL. It is my understanding that that was a very major part of the consideration by the Judiciary Committee.

Mr. LEVITAS. In your testimony, Judge Maxwell, you say that GSA had indicated that monetary restrictions in their appropriation for fiscal 1980 may make it difficult for them to lease any facilities to accommodate new judges.

Now, are you saying that this problem was not discussed at the time the consideration was given to the new judgeships?

Judge MAXWELL. I believe this is a matter of budget policy that has occurred since the Omnibus Judgeship bill and all of its ramifications came into effect.

We have a very good, I believe, working relationship, a very good atmosphere with the General Services Administration in all of these areas, and this is a matter, we understand, that has been imposed upon them, and they have just passed the problem, the knowledge of it, onto us, and we are trying to find solutions.

Mr. LEVITAS. I think we will be getting some testimony from GSA on that in just a few minutes.

When you testified before the appropriations committees of the House and Senate, that you indicated earlier, did you address the issue of GSA with regard to the monetary restrictions?

Judge MAXWELL. Yes, sir, we did.

Mr. LEVITAS. Thank you, Judge Maxwell.

Mr. ABDNOR?

Mr. ABDNOR. I have a few questions here I would like to ask Judge Maxwell.

I was particularly interested in your space utilization, or utilization time here. You checked on the courtrooms using rooms less than 25 days or less per year. What percentage was that of all the courtrooms, do you have any idea?

Judge MAXWELL. I am going to say it is less than 8 percent of the courtrooms of the Nation, and that is a ballpark guess.

Mr. ABDNOR. Well, getting those using them 25 days or less must have given you some idea what the average usage of a courtroom is over a year's time. What would it average?

Judge MAXWELL. It is hard to say, and the reason it is hard to say is because some courtrooms are used every day.

Mr. ABDNOR. Well, are they shared by judges?

Judge MAXWELL. Yes, sir. And a great deal of the work that a judge does is in his chambers, in writing opinions, attending to many things of that nature.

Mr. ABDNOR. Well, I may have missed this earlier, but I would go back to that Miami building. Will each judge have his own courtroom there?

Judge MAXWELL. Sometimes it works out that way, but it is more coincidence, I think, than actual planning.

Mr. ABDNOR. Well, that could almost be a waste, couldn't it? I mean, if you have that many judges there, do they always have to use the same—I am not a lawyer; I have not spent much time in the courtroom—

Judge MAXWELL. Well, it is certainly a very valid inquiry. I do not believe that judges look upon a courtroom as their own piece of private property. They are glad to share it with others in the trial of cases; when one judge is writing an opinion and a courtroom is needed by a fellow jurist, it is used. I think that is the general philosophy of courts, in general.

Mr. ABDNOR. I am trying to remember. Is it 14 judges we are going to have in Miami when we are through, or 16—how many is it?

Mr. SPANIOL. With the new judgeships, there will be 12 in Miami.

Mr. ABDNOR. Now, will there be 12—

Mr. SPANIOL. There will be 12 courtrooms planned for the 12 judges.

Mr. ABDNOR. I am just wondering how necessary that really is. That would be an ideal place—

Mr. SPANIOL. Mr. Abdnor, if I may supplement what Judge Maxwell has indicated, many years ago we did some time studies, in connection with other work we were doing in the judiciary, on how judges spend their time. I have forgotten the precise figures, but I think at that time—and this was 20 years ago—judges were spending approximately 55 percent of their time in the courtroom and 45 percent of their time in chambers. The chambers work is necessary because district judges, who are trial judges, conduct pretrial conferences in chambers and have opinions to write, and so forth.

In recent years, I think the proportion of the time that a district judge or a trial judge spends in the courtroom has been increasing. We have been short of judges throughout the judiciary for many years and we have established other officers, U.S. magistrates, and other judicial officers who are handling some of the work that judges were doing in chambers—the consideration of habeas corpus petitions, prisoner petitions, and so forth.

I think the result is that a district judge now is probably spending more time in the courtroom than he ever did before.

So there is a need for a judge to have a courtroom where he can schedule trials and schedule his daily business.

Nationwide surveys have been made from time to time as to what courtroom usage is, and they have been greatly influenced by the fact that there are outlying courtrooms, outlying areas from the major seats of court where courtrooms have not been used very much. So the overall average has been very low in some areas.

But in the major cities of the country, New York, Miami, Chicago, and Los Angeles, the courtrooms are pretty much in constant use by the judges.

Mr. ABDNOR. They are shared, right?

Mr. SPANIOL. They are shared.

Mr. ABDNOR. They are used pretty much.

Mr. SPANIOL. Well, generally, there is one courtroom available for every judge, and they are in constant use, yes.

Mr. ABDNOR. Is that pretty general throughout the country as a whole?

Mr. SPANIOL. Yes, sir.

Judge MAXWELL. I might just footnote Mr. Spaniol's remarks by noting that the recent line of decisions coming down from our Supreme Court on the seventh amendment has expanded the role of the jury in the resolution of issues. Some matters are generally considered jury cases; some are generally considered judge cases.

The Supreme Court has been expanding the role of the jury, which means an increased frequency of use of the courtrooms. Also, as Mr. Spaniol pointed out, in Miami as an example, you will have 12 judges and 12 courtrooms. We also have the new bankruptcy judges who will be utilizing the courtrooms not just for first and second creditor hearings and matters of that nature, but also for plenary trials and use of juries under this new act that became law in the 95th Congress.

In addition, our courtrooms are made available as frequently as possible to such groups as the tax court when they go out for matters; administrative law judges hearing cases involving—for example, in West Virginia we have a lot of black lung claims. Also incidental to that are social security claims. So we use the courtrooms for a great number of administrative matters, and I do not believe those really fit into the percentage figures that we have.

Mr. ABDNOR. Well, I have a little better understanding. Let me ask you one more question. Maybe I have already exceeded my time, but maybe it has been asked and answered already; I was out of the room a little bit here.

Do you have any ballpark figure of what the cost is going to be for the enactment of the Omnibus Judgeship Act as a whole, for all the judgeships?

Judge MAXWELL. For everything?

Mr. ABDNOR. Yes.

Mr. GARABEDIAN. We have included in our 1980 fiscal year budget the sum of \$32 million, and that is excluding the construction or other expenses GSA has been referring to earlier; \$32 million for salaries and related expenses.

Mr. ABDNOR. Well, let us take the whole thing—the building projects. Have you looked at the whole thing and what it is going to cost by the time we take care of 117 judgeships? I mean, have you looked at it enough to even come up with an idea, or are we doing it piecemeal?

Judge MAXWELL. We have an overall projected total cost of \$107 million, plus.

Mr. ABDNOR. If you could do it all at one time and you could do it all in a year's time, 107, you think, would come close to it?

Judge MAXWELL. Yes, sir.

Mr. ABDNOR. That is space needs and whatever else?

Judge MAXWELL. Yes, sir; furniture, equipment, libraries, and all those things.

Mr. ABDNOR. How much does a judge have input in his own courtroom when he sees it going up? Do you consult him?

Judge MAXWELL. Oh, yes. As a matter of fact, I had this experience personally here in the last few years. On July 4, 1976, we dedicated a building in Elkins, my headquarters, and we worked with the General Services Administration. Mr. Geluardi, who is here today was in charge of that area, and so forth.

But the General Services Administration is very cooperative and very helpful in working with us. They do not let us run amok and spend money wildly and recklessly, but we are able to work together in putting together a courtroom that is functional, useful and economical.

Mr. ABDNOR. Well, I guess judges are like other people; some like more luxurious surroundings than others. Do you make adjustments for that?

Judge MAXWELL. Oh, yes. I think that both the Judicial Conference and the circuit councils have enough diplomats in them that they do not allow those things to go too far astray.

Mr. ABDNOR. Thank you. I know I have taken too much time.

Mr. HURTO. Thank you, Mr. Abdnor.

Judge Maxwell and Mr. Spaniol, we have dealt with courtroom space here this morning. Does the administrative office of the U.S. courts also assign space to the other functions of the courts—to the judges, to the U.S. attorneys, to other matters relating to the courts?

Mr. SPANIOL. Our estimates of cost and space include the space needed for the supporting personnel for the courts only; including the extra courtroom deputy, judge's secretary, law clerk, court reporter, and staff. Of course, it includes the witness rooms, the jury rooms, and the other facilities that go along with a courtroom.

It does not, Mr. Chairman, include any cost estimate for assistant U.S. attorneys or U.S. marshals. That is the responsibility of the Attorney General, and he estimates his needs and presents his needs separately.

Mr. HURTO. Judge?

Judge MAXWELL. I might just supplement what has been said in this particular regard with a personal example from the northern district of West Virginia, if I may. We have, being rather rural in nature, several courtrooms and we travel and rotate to them. Just recently, the Post Office Department remodeled a building in which we have court facilities.

We were able to cut that space down. It had been built in the days when you had huge spectator sections; we cut that down. Under the historic preservation provisions of the law, we were able to maintain the decor, and we accomplished a good purpose by expanding library facilities—the actual tools of the court profession.

We are now in the process in Wheeling, W. Va., of remodeling that building. They have some problems they have to attend to and they want to just include the court with them. We are going to be able to cut that courtroom down; we are going to be able to make it more functional and more serviceable and it will be something that the public can accept as a very hard, lean, strong working branch of the judiciary.

Mr. HURTO. How about the judge's chambers used in connection with that courtroom? Do you refer to the offices as chambers?

Judge MAXWELL. Yes, sir. That includes space that would be for the judge, the judge's secretary, the law clerks, the library; that generally fits into the category or definition of chambers.

Mr. HURTO. Assuming then that you have a courtroom in what you might call a rural area, or where you do not hold court too often, would it be the general practice to have one judge's chamber with each courtroom, or more than that?

Judge MAXWELL. No, sir; we would have one. That is our experience, and maybe Mr. Spaniol can supplement that.

Mr. HURTO. Well, that leads me to a specific point. In my hometown, which I guess might be considered rural, we have a new Federal building which was desperately needed. We have a courtroom there, and I am glad that we do have, but there is a gross misuse of space by the judiciary.

I am glad to know who makes the allocation of space for the U.S. marshals and the U.S. attorneys, and so on, and that it is not the office of the court administrator here, as I gather it.

But in this particular courtroom, I believe there are about three rather large chambers for judges. Now, unless it is a circuit court or something like that, you do not have more than one judge presiding, do you?

Judge MAXWELL. We have one at a time.

Mr. HURTO. That is right. Just to emphasize the fact that there is a lot of space wasted, we do not have a resident judge, someone that lives there all the time and needs a permanent office. And the only time a judge would need an office would be when he is presiding over a court there, so it is a lot of wasted space.

I was wondering, is there any formula for assigning space to a Federal court building?

Mr. SPANIOL. Well, Mr. Chairman, the resolution that is appended to my statement sets forth the space requirements for a judge's chambers, in addition to the size of the courtroom. What you are speaking of is a set of chambers in an outlying area where there is no resident judge, which is used only infrequently, as is the courtroom.

Mr. HURTO. Right. My thought is that there could be a sharing of facilities, or at least a better utilization of space in situations like this. For example, we have several Federal agencies that have no space and could very well be situated in that building.

But it is assigned to the U.S. attorney, who admits that he needs it infrequently, just a few times a year. Is there a Federal public defender system? In our State, we have State public defenders.

Judge MAXWELL. It is a program that is getting started. Now, in my State we still use lawyers, or I call up a lawyer and ask him if he will represent an indigent.

Mr. HURTO. In this building we have an office for a public defender that I understand has never been used. So, I certainly would appreciate you gentlemen looking into these problems and making sure that this space is properly utilized.

While this building is needed and the courtroom is needed, this building could be better utilized by serving the needs of several Federal agencies.

Judge MAXWELL. Certainly, that is one of our goals and objectives we want to strip these down to just what is actually needed

and what is necessary. The rest of it, we will relinquish back to the General Services Administration so that they can rent it to other agencies.

Mr. HUTTO. Thank you very much. Mr. Livingston?

Mr. LIVINGSTON. Thank you, Mr. Chairman.

Mr. Spaniol, you have got 154 new judges that you have created, is that correct?

Mr. SPANIOL. Yes, sir; 152.

Mr. LIVINGSTON. Of those, several are going to be created in areas that have not previously had judges in the area. Is that true?

Mr. SPANIOL. I think it is likely that some of the judges will be sitting in areas where there have not been Federal judges before. That is correct.

Mr. LIVINGSTON. So in those areas, you are going to have to have relatively new facilities, not only chambers for judges and courtrooms, but also space for the U.S. attorney to do his work, and possibly a containment center for prisoners, if there are any.

So we are talking about sums that are not included in your \$107 million figure.

Mr. SPANIOL. We have a pretty good idea of where the district judges are going to be located, because they have to be located where the business is. As far as circuit judges are concerned, we have no idea, really, where they are going to sit, because they can be selected from any part of any State and they would have their quarters, generally speaking, where they live. So we cannot estimate what will be needed by way of additional quarters for them.

But for the district courts, we have a pretty good idea of where the judges are going to have to sit, because that is where the business is.

Mr. LIVINGSTON. But it would be anticipated that those circuit judges would go into areas where they have not previously sat, and they will have all the accompanying needs, such as U.S. attorneys and marshals.

Mr. SPANIOL. Yes, sir, that is right.

Mr. LIVINGSTON. I take it that those facilities are not included in the \$107 million figure.

Mr. SPANIOL. Of course, they can only sit where the Congress has authorized a city as a place for holding court, and there are very few places in the country authorized by Congress which do not have facilities; or if they had facilities originally, they were turned over to other agencies and can be recouped.

Mr. LIVINGSTON. Do we have an estimate of the number of such places?

Mr. SPANIOL. Eddie, do you have something?

Mr. GARABEDIAN. At the present time, we estimate that 47 facilities will be available to accommodate the 152 judgeships, so we are, in effect, asking for 105 additional facilities.

Mr. LIVINGSTON. Of that 105, how many would also need space for U.S. attorneys' offices and marshals offices, and the like?

Mr. GARABEDIAN. Presumably, in each of those 105 locations, they would require additional space for the U.S. attorney or the U.S. marshal.

Mr. LIVINGSTON. We are talking about significantly over \$1 million per judgeship, are we not?

Judge MAXWELL. I do not believe it would be that much, but I am not expert enough in the area to give you a straight answer. The U.S. attorneys offices in satellite locations, even where a judge is sitting permanently—the U.S. marshals, also—it is a matter of degree.

They do not have to have full facilities; they can get along sometimes with just a little.

Mr. LIVINGSTON. In New Orleans where I am from, we have a nice Federal complex that was outlined, presumably, to fit the judges in that area for a long time. Now they have got four new judges and I do not think all four can be housed in that project. Have you personally seen that?

Judge MAXWELL. I have been to the facility to study the Lexus system, which is another innovation in the judiciary for research and retrieval material on law research. It is a magnificent building.

I do not know whether the omnibus judgeship bill will overextend your facilities or not. Mr. Komondy may have some more up-to-date information on that.

Mr. KOMONDY. In New Orleans, we do not anticipate any problem. There is one spare facility right now which can be used to accommodate one of the new judges, and there is a second facility which is partially completed, and the third and fourth will require some realignment of space.

Mr. LIVINGSTON. Will they be capable of being housed in the building or in that complex?

Mr. KOMONDY. Yes, sir.

Mr. LIVINGSTON. What about the Fifth Circuit Court of Appeals; are they going to have any problems?

Mr. KOMONDY. The fifth circuit has advised us that they are deferring any space requirement action until the new judges are confirmed, and at that time they will develop their needs.

Mr. LIVINGSTON. So we do not know yet whether or not they will be outfitted in the facilities that they presently occupy?

Mr. KOMONDY. Yes, sir.

Mr. LIVINGSTON. There are no current plans to split the fifth circuit, are there?

Mr. KOMONDY. No, sir. As I understand it, there will be administrative units whose locations are undetermined at the moment; I understand there will be at least three in the fifth.

Mr. LIVINGSTON. That is all I have. Thank you very much, gentlemen.

[Whereupon, Mr. Levitas resumed the Chair.]

Mr. LEVITAS. Mr. Mineta?

Mr. MINETA. Thank you very much, Mr. Chairman. I appreciate the opportunity to sit in on this subcommittee meeting and discuss with the administrative officer and the Judicial Conference the whole idea of the courts.

As we get into this whole court size issue, there seem to be several figures floating around. Mr. Spaniol's testimony refers to the 1,600, the 1,200, and the 2,400. As I understand it, the present standards as fixed by the Committee on Court Facilities and Design, chaired by Judge Devitt at the time, were 1,120, 1,496, and 2,400 square feet.

I understand there was a letter from Chief Justice Burger and Attorney General Bell to GSA, talking about 1,120, 1,820, and 2,400 square feet as courtroom sizes. I am wondering what standard is now being considered as the courtroom size of the future.

Mr. HARTZELL. It is my understanding that the Attorney General, as a result of recommendations made by U.S. attorneys, and members of his staff, settled upon 1,800 as an adequate standard-sized courtroom. He made that recommendation to the Administrator of GSA, Mr. Solomon, and they were in agreement.

The Chief Justice acquiesced in that agreement, so that that size courtroom can be built where it is determined that that size was necessary.

Mr. MINETA. And in the determination of what size courtroom is to be constructed in buildings, who makes that determination?

Mr. HARTZELL. The circuit councils will make the determination as to the number and size.

Mr. MINETA. And the other standard relative to the 1,600 square feet for the judges, the secretaries and the law clerks—will that still be retained as the standard?

Mr. HARTZELL. Yes, it will.

Mr. MINETA. And then the other standard as it relates to the 1,300 square feet for adjunct facilities will still remain?

Mr. HARTZELL. Yes, it will.

Mr. MINETA. What about this new standard that you are referring to; will that apply to a court building that is already authorized by Congress but not yet designed and constructed; specifically, as an example, San Jose?

Mr. KOMONDY. Yes, sir, we will include the 1,800-foot size in the San Jose building.

Mr. MINETA. I believe the prospectus called for two courtrooms, so hopefully we would have the one 2,400 square feet, and the other the 1,820 square feet?

Mr. KOMONDY. That is right.

Mr. MINETA. Recently, I had an opportunity to tour the D.C. Superior Courthouse, and I am just wondering where we are at in this debate revolving around whether or not we have the straight bench courtroom or courtroom in the round. Is that still something that is left up to each architectural engineering contract or is that, again, a standard that is being proposed by the AO's office?

Mr. KOMONDY. The circular courtroom is authorized, but that is being left to the discretion of the judge.

Mr. MINETA. So that each district is then going to be able to determine on its own?

Mr. KOMONDY. The traditional or the round concept.

Mr. MINETA. Earlier, there was some mention about the total cost of this being approximately \$107 million. What was the basis for that?

Judge MAXWELL. We have it broken down in our justifications to a general degree, and I will ask the pleasure of the committee to have Mr. Garabedian attempt to recall those figures that we earlier submitted to the House Appropriations Committee.

Mr. MINETA. Judge Maxwell, was that based on the repair and alteration, new construction, and the leasing that would be involved?

Judge MAXWELL. It would include the leasing, but mostly it included the basic costs of renovation, remodeling, equipping with furniture and equipment—typewriters, libraries, and things of this nature.

Mr. MINETA. Does it include new construction?

Judge MAXWELL. No, it does not.

Mr. MINETA. But your figures do include the equipment that would be necessary for the implementation of the Omnibus Judgeship Act?

Judge MAXWELL. Yes, sir.

Mr. MINETA. Fine. Thank you very much, Mr. Chairman.

Mr. LEVITAS. Mr. Clinger?

Mr. CLINGER. Thank you, Mr. Chairman.

So, to the 107 million that we are talking about in terms of renovation and so forth, we would add then the additional costs we have here for new construction?

Judge MAXWELL. That is our understanding of it, and that is why we feel this committee is being very farsighted and wise in getting started in looking at this picture now.

Mr. CLINGER. Am I right in saying that the new construction contemplated here is limited to the Miami area, and also Little Rock, Ark.? Those are the only two where new construction is contemplated?

Judge MAXWELL. At the moment.

Mr. CLINGER. We do not have, then, a complete picture here as to what the need is going to be, is that correct?

Judge MAXWELL. Not exactly. We have, I believe, 47 new judgeships that are going to be well taken care of; there will be no problem. So we will have 105 judgeships that we are going to have to find space for; either makeshift space, alterations, or perhaps some new construction.

Mr. Garabedian's office has done some study on that and maybe he can answer more particularly.

Mr. GARABEDIAN. My understanding is that there will be some 17 prospectuses submitted to this committee for approval that involve projects over \$500,000. Of course, any projects involving less than \$500,000, the General Services Administration will proceed to do any construction or renovation that is necessary on.

We are aware of only 17 projects that are in excess of one-half a million dollars, Little Rock, Ark., being one of them, and Miami, Fla., another.

Mr. CLINGER. Seventeen new construction projects?

Mr. GARABEDIAN. Seventeen construction projects that will require approval of this committee.

Mr. CLINGER. Which are not included in the \$107 million?

Mr. GARABEDIAN. That is right, sir.

Mr. CLINGER. Recommendations come from the judicial councils, is that correct, as to what is needed, et cetera?

Mr. SPANIOL. Yes, sir.

Mr. CLINGER. And you do not have at this point recommendations from all of the judicial councils as to their needs arising out of the Omnibus Judgeship bill?

Mr. SPANIOL. I believe we do, do we not?

Mr. KOMONDY. For the district judges, we have approximately 95 percent of the needs; for the circuit, zero.

Mr. CLINGER. You have none of them for the circuit judges?

Mr. KOMONDY. That is right.

Mr. CLINGER. So, in what we are looking at now, we are talking about the needs for about 95 percent of the district courts, plus all of the circuit courts; that would be in addition to all of this here?

Mr. KOMONDY. The circuits will be in addition, yes, sir.

Mr. CLINGER. I have no further questions.

Mr. LEVITAS. Thank you, Mr. Clinger.

Mr. Atkinson?

Mr. ATKINSON. Thank you, Mr. Chairman; just a brief observation and a short question.

I refer to Judge Maxwell's comment about the U.S. Customs Court. I spent a number of years as Director of Customs under the Kennedy and Johnson administrations. At that time, the U.S. Customs Court was located in New York; I would assume it is still there. Of course, the court is pretty much a traveling court.

In Pittsburgh, we would have them just a couple of days a year, and they would wait until the workload built up and that is when they would come in, which, I thought, showed good judgment.

These several courtrooms that the customs court is relinquishing—would you know their locations; are they seaboard ports or inland ports?

Judge MAXWELL. I can refer to the testimony we had before the House Appropriations Committee 2 weeks ago. Apparently, the U.S. Customs Court is going to maintain one facility, their basic headquarters. Then the administrative office will work with the other courts in other areas; for example, Chicago or Detroit. If they need to go there to have court, space will be made available in existing facilities.

In the meantime, the district courts perhaps will be taking over those existing facilities of the Customs Court and be using them in everyday trial work. It will just benefit the use of the space.

It is also to the great credit of the director of the administrative office that he is also, having concluded the relinquishment of those courtrooms by the Customs Court, as I have noted in my statement, making arrangements with the Court of Claims for them to give up space that would just be sitting idly by.

Of course, if they need space in Atlanta or in San Francisco, or wherever, it can be made available to them in a cooperative way.

Mr. ATKINSON. People will not have to travel a further distance because these courtrooms are given up?

Judge MAXWELL. No, sir. That is certainly one of the things, I think, that the Chief Justice and the Judicial Conference and, hopefully, the judges generally throughout the Nation want to constantly keep in mind; that we have a responsibility to serve where the work is and make it as convenient for the litigants and the lawyers as should be.

Mr. ATKINSON. Just a final thought. There are huge amounts of imports that come into this country—some that are illegal and, of course, those where there are questions as to value in formal entries that come up from time to time.

I am just curious as to whether U.S. Customs is requesting more time in the courts because of this huge amount of imports? Do you have any thoughts on that?

Mr. SPANIOL. Mr. Atkinson, I really cannot answer that question, but my impression is that they are not.

Mr. ATKINSON. They are not?

Mr. SPANIOL. No.

Mr. ATKINSON. Thank you.

Mr. LEVITAS. Thank you very much, Mr. Atkinson.

I have a few more questions that I would like to pursue. First, in making these calculations of the \$107 million figure, which, as Mr. Clinger and others have pointed out, is not the full amount we are really looking at, there is the other 5 to 10 percent of the district court facilities and the court of appeals judgeships.

Now, in addition, do your figures include the requirements for related space needs, such as jury rooms, prisoner retention facilities, marshals, clerks, and restrooms?

Mr. SPANIOL. Mr. Chairman, I think the latter goes with the building, and I do not think we budget separately for that. But the space that we require is the space for the court personnel only, and the estimates do include the cost of space for the judge's secretary, law clerk, extra courtroom deputy, the court reporter, and whatever is needed for the staff of the judge. Plus it includes the jury room, a witness room, and in some cases it will include an attorneys' conference room.

But the U.S. marshal and the U.S. attorneys' facility are the responsibility of the Attorney General, and they come through the Attorney General and not to our office.

Mr. LEVITAS. But the necessity for providing for those additional facilities would be a result of the creation of new judgeships.

Mr. SPANIOL. Absolutely.

Mr. LEVITAS. So if this committee wants to look at the total impact, we probably ought to find out from the Justice Department or through GSA what the additional facilities related to the direct judgeship facilities are, is that correct?

Mr. SPANIOL. Yes, sir, that is perfectly right.

Mr. LEVITAS. In the statement, I believe that one of you gentlemen said that there would be 17 prospectuses coming before this committee. Do you also know how many projects there will be which are under \$500,000, and therefore not coming before this committee?

Mr. GARABEDIAN. Well, as I indicated earlier, we believe we can accommodate 47 out of the 152 new judgeships, so that we are basically referring to about 105 places where additional courtrooms or chambers will have to be provided. If you reduce that 105 by the 17, we are talking about approximately 90 places that will involve some expenditure of funds.

Mr. LEVITAS. Now, under new construction, I see listed the Miami facility and the Little Rock facility. But according to this chart that you have supplied, I notice that in Birmingham there was reference made to an approved 11(b) need study. Will that be new construction?

Mr. KOMONDY. As far as I know, that ultimately will be a building extension.

Mr. LEVITAS. It will be a building expansion?

Mr. KOMONDY. Yes.

Mr. LEVITAS. The information that I have before me says "planned new construction for new courthouse, 11(b) completed."

Mr. KOMONDY. May I clarify my previous remarks, sir?

Mr. LEVITAS. Yes, please.

Mr. KOMONDY. The judges will be accommodated in Birmingham in existing facilities. The long-range plan is for a building extension.

Mr. LEVITAS. Is that what this 11(b) is? In other words, you have got existing facilities to take care of the new judges in Birmingham now. Unrelated to that, there is a proposal for a new courthouse—unrelated to the omnibus judgeship bill.

Mr. KOMONDY. I will have to defer to GSA; I am not sure.

Mr. LEVITAS. I think I understand that. Let me turn to a specific situation, if I can, and one that I am more or less pleasantly or unpleasantly familiar with. There have been problems with change orders for courtroom space in the Richard B. Russell Building in Atlanta.

One of the problems during the construction of the building was that the 22d floor had to be ripped up, relaid, and reinforced, because the courts decided upon a filing system that could not be supported by the floor that was originally laid. Obviously, there was an additional cost to the taxpayers as a result.

Now, I would like to know if there is anyone on this panel who can tell me why this happened and how it came about.

Mr. KOMONDY. Well, the floor load capacity was increased because of, as you mentioned, the need of additional sophisticated mechanized filing equipment, requiring a sturdier floor. Now, the courts brought this to the attention of GSA during a series of meetings during the early stages of construction.

We formally advised GSA of this in February 1977. In February 1977, among other items, we did advise GSA of the floor load problem.

Mr. LEVITAS. Why was GSA not advised of these requirements prior to the development of the specifications or the plans for the building?

Mr. KOMONDY. Well, at that time, the mechanized equipment was not contemplated; this came about after the building got underway.

Mr. LEVITAS. In other words, at the time GSA put its plans and specifications together and put the project out for bid, you were unaware that this additional need would be required, is that correct?

Mr. KOMONDY. Yes, sir.

Mr. LEVITAS. There was no communications problem, once you decided that those were what your needs were, is that correct?

Mr. KOMONDY. Yes, sir.

Mr. LEVITAS. Of course, there are, as a result, additional costs to this building. Is there any way to anticipate matters of this sort so that we will not have to make change orders in order to accommodate these needs, or is it just a situation that after this particular building was planned and put out for bid, this new need arose?

Mr. KOMONDY. This is a general problem in all new construction because, as you know, a new building takes years and, of course, requirements change, whether it be technical, personnel, or what have you. The length of time from conception to completion of construction is generally what generates these kinds of difficulties.

Mr. LEVITAS. Although everything comes out of the Treasury at some point or other, or out of the taxpayer's pocket ultimately, there are, for good reason, different budgetary compartments. GSA has its budget; HEW has its budget; the judiciary has its budget.

In a situation of this sort where the change and additional cost came as a result of an unanticipated requirement by GSA, do you think it would be appropriate for the Administrative Office of the U.S. Courts to pick up the additional cost, since it was made to accommodate a new requirement?

Mr. KOMONDY. Well, of course, we have not budgeted for it, and as far as I know, we do not have the funds available.

Mr. LEVITAS. I think it is something that ought to be considered, because when GSA came to the Congress to get its funding for the Russell Building, it was assumed that all of the needs which had been transmitted to GSA were incorporated.

Now, we are ultimately going to find out about that, but here was a situation where it was a need that was communicated after the construction began. I think the question I asked about who picks up the tab is one that needs to be given some consideration.

I would also request, if it is possible, Mr. Spaniol or Judge Maxwell, that we ascertain the additional costs relative to the court of appeals judges and the additional 5 to 10 percent of the district court judges. Please furnish that information for the record to us—what you anticipate or estimate that will be—so we will have a complete record.

In addition, I am going to ask the staff of our committee to be in touch with the Justice Department so we can put a price tag on those necessary related costs for the clerks, the marshals, and so forth.

[The following was received for the record:]

In the booklet entitled "Omnibus Judgeship Act, Public Law 95-486, October 24, 1978," dated February 27, 1978, prepared and introduced into the record by the General Services Administration, a total estimated cost of \$66.8 million is indicated for all repairs and alterations, new construction and rental required to accommodate the new 117 district judges and 35 circuit judges.

It is estimated that of the \$66.8 million, approximately \$2.9 million will be required for the 5-10 percent of the district judges whose specific requirements are unknown at this time, and approximately \$8.7 million for work and rental related to the housing of the 35 circuit judges whose headquarters locations are not presently identified. Thus, a total of \$11.6 million is estimated for these purposes with the balance of the \$66.8 million, or \$55.2 million, applied to the satisfaction of the known needs of the district courts.

Therefore, the \$66.8 million reported by the General Services Administration represents its entire estimated costs for the provision of the facilities needed as a result of the Omnibus Judgeship Act. Further, the costs associated with the Act which are to be borne by the Judiciary are contained in a letter to Chairman Levitas from the Administrative Office of the United States Courts dated March 15, 1978. These two figures are the combined total estimated costs for the successful implementation of Public Law 95-486 by the General Services Administration and the Administrative Office.

Mr. LEVITAS. Let me ask this question, just in order to clarify the relationship between your requests and how GSA operates. You

refer to \$8.1 million allocated for tenant alterations. Why do the courts need to request funds for alterations such as that, since this is normally covered under the standard level user charge?

Mr. KOMONDY. Not quite. All alterations in existing space already assigned to the courts—or to any other agency, for that matter—is that agency's responsibility. Any new space is GSA's responsibility.

Mr. LEVITAS. So this will be new space that will require tenant alterations in order to make it usable for judicial purposes?

Mr. KOMONDY. The \$8 million?

Mr. LEVITAS. The \$8.1 million.

Mr. KOMONDY. No, sir, that would be existing space.

Mr. LEVITAS. If it is existing space, my question is why is that not covered by the standard level user charge.

Mr. GARABEDIAN. Mr. Chairman, as I understand it, if there is a tenant requirement—that is, if we want to move a partition or make a room bigger or smaller, or partition to make two rooms out of one room—the General Services Administration takes the position that that is a tenant requirement and the tenant is required to pay for it.

Whereas if you occupy new space—that is, space that is not within your existing inventory—they will make that space available and usable for you and they will pay all of the expenses related to it.

Now, with reference to the judgeship bill, this has been the subject of some discussion with GSA. We have taken the position that notwithstanding the fact that a new judge may occupy existing space, space that may have to be converted from general office space, say, to a courtroom, which is very expensive—we take the position that GSA should budget for and provide all of the accommodations required by the new judges, whether it is within or outside of our existing inventory.

I believe they have agreed to do that. We did not include in our budget any funds for construction as it relates to the omnibus judgeship bill.

Judge MAXWELL. The chairman raises a very interesting area of inquiry in this whole application of the Public Buildings Act, particularly as it applies to the judiciary and the legislative branch of Government, as managed by the executive branch of Government.

It is a very interesting question, and it has a lot of deep inroads that are very interesting and very exciting to pursue.

Mr. LEVITAS. I was interested in your comments earlier, Judge Maxwell, about the constitutional implications of this. It just so happens that I finished reading yesterday a speech made by Representative Fisher Ames, who was a Congressman from Massachusetts who served about 1794, 1795, and 1796, at the time we were discussing implementation of the Jay Treaty.

The question is, can the Congress, through its appropriations process, in effect, frustrate the foreign policy of the United States by, for example, not paying for the electric bill at the Embassy in Peking, or something of that sort. Or if we get frustrated with the judicial decisions, we do not provide money to pay the rent, and things of that sort.

So it is a fascinating question and one which, because of the way this committee is operating and your committee is operating, we will not have to encounter; we do not have to deal with that one. I have no further questions. Mr. Clinger?

Mr. CLINGER. No.

Mr. LEVITAS. Thank you very much, gentlemen. We will keep the record open for purposes of receiving the additional information that has been requested. Also, without objection, if any member of the committee has any additional questions they would like to submit in writing for the next 10 days, they will be submitted and the record will be kept open for that purpose of receiving your answers.

Mr. SPANIOL. Thank you very much, Mr. Chairman, for your courtesy in hearing us.

Judge MAXWELL. Mr. Chairman, it has been a great privilege and a high honor to have appeared before your committee this morning. Thank you very much.

Mr. LEVITAS. Thank you, Judge Maxwell.

We are now prepared to take the testimony of GSA on this matter. In the interest of time, I am going to ask unanimous consent that the GSA booklet which was prepared, dated February 27, 1979, entitled "Omnibus Judgeship Act," be inserted in the record at this point. Hearing no objection, it is so ordered.

[The booklet follows:]

OMNIBUS JUDGESHIP ACT

P.L. 95-486

OCTOBER 24, 1978

GENERAL SERVICES ADMINISTRATION

PUBLIC BUILDINGS SERVICE

WASHINGTON, DC 20405

FEBRUARY 27, 1979

(71)

FORWARD

SIGNED INTO LAW BY PRESIDENT CARTER ON OCTOBER 24, 1978, THE OMNIBUS JUDGESHIP ACT (P. L. 95-486) CREATED 117 ADDITIONAL DISTRICT AND 35 CIRCUIT JUDGEShips (SEE APPENDIX A) IN THE COURTS OF THE UNITED STATES. THIS BILL WILL ENABLE THOSE COURTS TO EFFICIENTLY AND EXPEDITIOUSLY HANDLE THE BUSINESS BROUGHT BEFORE THEM.

SINCE 1950 THE VOLUME OF CASES FILED IN THESE COURTS HAS INCREASED AT A RATE GREATER THAN THE AUTHORIZED NUMBER OF JUDGEShips CREATED BY THE CONGRESS. NO NEW DISTRICT JUDGEShips HAVE BEEN CREATED SINCE 1970, AND NO NEW CIRCUIT JUDGEShips SINCE 1968.

TO SUCCESSFULLY IMPLEMENT THIS LEGISLATION, THE PUBLIC BUILDINGS SERVICE OF THE GENERAL SERVICES ADMINISTRATION MUST PROVIDE ADEQUATE HOUSING FACILITIES IN A TIMELY MANNER. THE CRUCIAL STEP OF DELIVERY OF FACILITIES WILL REQUIRE AN INTEGRATED EFFORT OF THE ORGANIZATIONAL ELEMENTS OF THE PUBLIC BUILDINGS SERVICE. THIS EFFORT WILL

Note:

REQUIRE THE RENOVATION AND ALTERATION OF APPROXIMATELY 54 GOVERNMENT BUILDINGS, CONSTRUCTION OF EXTENSIONS TO 2 EXISTING COURTHOUSES, AND LEASING OF SPACE TO HOUSE NEW CIRCUIT JUDGEShips AND DISPLACED TENANTS.

Note:

OVERVIEW

THE FOLLOWING SPACE REQUIREMENTS OF THE U. S. COURTS ARE A RESULT OF THE OMNIBUS JUDGESHIP ACT. THESE REQUIREMENTS WERE PROVIDED TO GSA BY THE ADMINISTRATIVE OFFICE OF THE U. S. COURTS. MOST OF THESE REQUIREMENTS MUST STILL BE CONFIRMED BY THE JUDICIAL COUNCILS OF THE U. S. COURTS.

REPAIR AND ALTERATION

TO SUPPORT THIS PROGRAM A TOTAL OF 27 REPAIR AND ALTERATION (R & A) PROSPECTUSES ARE REQUIRED. FIFTEEN PROSPECTUSES WILL BE SUBMITTED TO THE PUBLIC WORKS COMMITTEES BY MARCH 15, 1979. (SEE APPENDIX B.) PRESENTLY 7 REPAIR AND ALTERATION PROSPECTUSES ARE PENDING COMMITTEE APPROVAL WHILE 5 HAVE ALREADY BEEN APPROVED.

Note:

IT IS ANTICIPATED THAT \$4.1 MILLION WILL BE REQUIRED IN FY 1979, \$20.4 MILLION IN FY 1980 AND \$15.4 MILLION IN FY 1981/1982. THE TOTAL ESTIMATED COST IS \$39.9 MILLION.

NEW CONSTRUCTION

TO SUPPORT THIS PROGRAM, TWO PROSPECTUSES PROPOSING NEW CONSTRUCTION ARE REQUIRED. AN AMENDED PROSPECTUS FOR MIAMI, FLORIDA, (PREVIOUSLY AUTHORIZED AT \$14.7 MILLION TO \$19.1 MILLION) IS CURRENTLY UNDER REVIEW BY THE OFFICE OF MANAGEMENT AND BUDGET (OMB). THE OTHER, LITTLE ROCK, ARKANSAS, (\$2.8 MILLION) WILL BE TRANSMITTED TO OMB BY APRIL 1, 1979. THE TOTAL ESTIMATED NEW CONSTRUCTION COST IS \$21.9 MILLION.

LEASING

TO SUPPORT THIS PROGRAM, APPROXIMATELY \$5.0

Note:

MILLION FROM THE RENTAL ACCOUNTS WILL BE REQUIRED IN FY 1980. THIS WILL IMPACT ON AT LEAST 30 LOCATIONS WHERE COURT EXPANSION IS REQUIRED AND NO VACANT SPACE EXISTS. (SEE APPENDIX C.) FURTHER, IT IS ANTICIPATED THAT 2 PROSPECTUSES PROPOSING LEASING COSTS OF OVER \$500,000 PER YEAR WILL BE REQUIRED.

Note:

SUMMARY
(MILLIONS)

<u>ACTIVITY</u>	<u>FY 1979</u>	<u>FY 1980</u>	<u>FY 1981/1982</u>	<u>TOTAL</u>
R & A	\$4.1	\$20.4	\$15.4	\$39.9
New Construction	-	13.4	8.5	21.9
Rental of Space	-	5.0	-	5.0 ^{1/}
Total	\$4.1	\$38.8	\$23.9	\$66.8

^{1/} Amount shown for first year rental only.

MILESTONES

GSA HAS DEVELOPED MILESTONES BASED UPON THE FOLLOWING ASSUMPTIONS:

Note:

ASSUMPTION

- ASSUME CONGRESSIONAL APPROVAL OF ALL REPAIR AND ALTERATION PROSPECTUSES BY MAY 1, 1979.
- ASSUME CONGRESSIONAL AND/OR OMB APPROVAL FOR NEW CONSTRUCTION PROSPECTUSES AS FOLLOWS:

MIAMI, FLORIDA - CONGRESSIONAL APPROVAL BY JUNE 1, 1979. PROSPECTUS PRESENTLY BEFORE OMB.

LITTLE ROCK, ARKANSAS - OMB AND CONGRESSIONAL APPROVAL BY JUNE 1, 1979.

- ASSUME FAVORABLE ACTION BY OMB AND THE CONGRESS ON GSA'S FY 1979 LEASING SUPPLEMENT (PRESENTLY BEFORE OMB) BY APRIL 1, 1979.

- ASSUME CONGRESSIONAL APPROVAL OF THE TWO LEASED SPACE PROSPECTUS BY JULY 15, 1979.

MILESTONES

- MAR 15, 1979 - ALL REPAIR AND ALTERATIONS PROSPECTUSES TO BE SUBMITTED TO THE PUBLIC WORKS COMMITTEE.
- APRIL 1, 1979 - DEFINITIVE HOUSING REQUIREMENTS FOR DISTRICT JUDGEShips CONVEYED TO GSA BY THE ADMINISTRATIVE OFFICE OF THE U. S. COURTS (AOC).
- NEW CONSTRUCTION PROSPECTUSES TO BE SUBMITTED TO OMB AND THE CONGRESS AS FOLLOWS:

APRIL 15, 1979 - MIAMI, FLORIDA

APRIL 15, 1979 - LITTLE ROCK, ARKANSAS

Note:

- JUNE 1, 1979 - DEFINITIVE HOUSING REQUIREMENTS FOR ALL CIRCUIT JUDGEShips CONVEYED TO GSA BY THE ADMINISTRATIVE OFFICE OF THE U. S. COURTS (AOC).
- SEPTEMBER 1, 1979 - AWARD ALL REQUIRED AE CONTRACTS TO DESIGN REPAIR AND ALTERATION WORK.
- DECEMBER 1, 1979 - AWARD NEW CONSTRUCTION AE CONTRACT, TO DESIGN LITTLE ROCK, ARKANSAS PROJECT.

Note:

APPENDIX A

CIRCUIT AND DISTRICT JUDGESHIPS

Circuit, State or Territory	Current District Judges	New District Judges	Total	Current Circuit Judges	New Circuit Judges	Total
District of Columbia	15	0	15	9	2	11
First Circuit				3	1	4
Maine	1	1	2			
Massachusetts	6	4	10			
New Hampshire	1	1	2			
Rhode Island	2	0	2			
Puerto Rico	3	4	7			
Second Circuit				9	2	11
Connecticut	4	1	5			
New York	41	2	43			
Vermont	2	0	2			
Third Circuit				9	1	10
Delaware	3	0	3			
New Jersey	9	2	11			
Pennsylvania	32	2	34			
Virgin Islands	2	0	2			
Fourth Circuit				7	3	10
Maryland	7	2	9			
North Carolina	6	3	9			
South Carolina	5	3	8			
Virginia	8	4	12			
West Virginia	4	2	6			
Fifth Circuit				15	11	26
Alabama	8	4	12			
Florida	15	9	24			
Georgia	10	6	16			
Louisiana	14	6	20			
Mississippi	5	0	5			
Texas	22	10	32			
Canal Zone	1	0	1			
Sixth Circuit				9	2	11
Kentucky	6	3	9			
Michigan	12	5	17			
Ohio	13	3	16			
Tennessee	8	1	9			
Seventh Circuit				8	1	9
Illinois	17	4	21			
Indiana	7	2	9			
Wisconsin	4	2	6			

APPENDIX A

CIRCUIT AND DISTRICT JUDGESHIPS

Circuit, State or Territory	Current District Judges	New District Judges	Total	Current Circuit Judges	New Circuit Judges	Total
Eighth Circuit				8	1	9
Arkansas	4	2	6			
Iowa	3	1	4			
Minnesota	4	2	6			
Missouri	8	3	11			
Nebraska	3	0	3			
North Dakota	2	0	2			
South Dakota	2	1	3			
Ninth Circuit				13	10	23
Alaska	2	0	2			
Arizona	5	3	8			
California	35	7	42			
Hawaii	2	0	2			
Idaho	2	0	2			
Montana	2	0	2			
Nevada	2	1	3			
Oregon	3	2	5			
Washington	5	2	7			
Guam	1	0	1			
Tenth Circuit				7	1	8
Colorado	4	2	6			
Kansas	4	1	5			
New Mexico	3	1	4			
Oklahoma	6	2	8			
Utah	2	1	3			
Wyoming	1	0	1			
Totals	398	117	515	97	35	132

R&A PROSPECTUSES TO BE SUBMITTED
FOR THE OMNIBUS JUDGESHIP ACT

<u>LOCATION</u>	<u>PROSPECTUS AMOUNT</u>	<u>OMNIBUS REQUEST</u>
Hato Rey, PR	\$ 4,519,000	\$3,000,000
Baltimore, MD - Garmatz Bldg.	1,595,000	815,000
Tampa, FL - PO CT	2,001,000	1,000,000
Kansas City, MO - 811 Grand	4,925,000	525,000
New Orleans, LA	1,425,000	610,000
Baton Rouge, LA	700,000	470,000
Dallas, TX - 1100 Commerce	900,000	730,000
Houston, TX	2,666,300	2,000,000
Phoenix, AZ - PO CT	625,000	1,200,000*
Portland, OR	11,000,000	1,525,000
Seattle, WA	5,000,000	2,000,000
Cincinnati, OH - PO CT	5,200,000	2,100,000
Miami, FL - PO CT	5,400,000	2,000,000
Savannah, GA	1,200,000	400,000
Greenville, SC	<u>800,000</u>	<u>435,000**</u>
	\$47,956,300***	\$16,936,000*

* \$575,000 will be funded from a previously approved prospectus for this building.

** Actual need for a prospectus to be determined when U.S. Courts submits finalized space requests.

*** Total prospectus funding includes omnibus related and other building work.

CONTINUED

1 OF 2

OMNIBUS JUDGESHIP ACT						
LOCATION AND COSTS FOR DISTRICT JUDGES						
LOCATION	AUTH. JUDGES	R&A COSTS			LEASING COSTS	REMARKS
		FY 1979	FY 1980	FY 1981/1982	FY 1980	
<u>REGION 1</u>						
Bridgeport, CT	(1)	300,000	-	-	-	Chambers required.
Boston, MA	(4)	-	400,000	-	16,000	Four sets facilities required.
Bangor, ME	(1)	-	-	-	-	Facilities available.
Concord, NH	(1)	285,000	-	-	30,000	Courtroom & chambers required.
Regional totals	(7)	585,000	400,000	-	46,000	
<u>REGION 2</u>						
Trenton, NJ	(2)	-	386,000	-	92,000	One courtroom & chambers required
13 Utica, NY	(1)	-	-	-	-	one available with Judge
Binghamton, NY		-	-	-	-	relocation to Newark.
Albany, NY		-	400,000	-	-	Space available.
Syracuse, NY		-	Same as above	-	-	Space available.
Brooklyn, NY	(1)	-	-	-	170,000	Courtroom & chambers required.
Hato Rey, PR	(4)	-	-	3,000,000	-	Existing courtroom to be
Regional totals	(8)	-	786,000	3,000,000	262,000	completed.
<u>REGION 3</u>						
Baltimore, MD	(2)	-	815,000	-	-	Facilities available.
Harrisburg, PA	(2)	-	-	-	-	Four sets of facilities required.
Wilkes Barre, PA		-	-	-	-	Space available.
Scranton, PA	-	-	-	-	-	Existing facilities may need
						upgrading.
						Space available.

LOCATION	AUTH.	R&A COSTS			LEASING COSTS FY 1980	REMARKS
		FY 1979	FY 1980	FY 1981/1982		
<u>REGION 3 (cont'd) JUDGES</u>						
Alexandria, VA	(1)	-	482,000	-	-	Realign existing space. Upgrade existing facilities. Lease construction or leasing required.
Richmond, VA	(1)	-	100,000	-	-	
Charlottesville, VA	(1)	-	-	-	45,000	
Lynchburg, VA	(1)	-	-	-	-	Leasing required. Space available. Space available. Space available.
Beckley, WV	(2)	-	-	-	65,000	
Bluefield, WV		-	-	-	-	
Charleston, WV	(1)	-	-	-	-	
Huntington, WV		-	801,000	-	-	Adjunct facilities required.
Regional totals	(10)	-	2,198,000	-	110,000	
<u>REGION 4</u>						
Birmingham, AL	(3)	300,000	-	-	75,000	Three interim (5 years) chambers required - Annex extension ultimately required. Facilities available.
Montgomery, AL	(1)	-	-	-	-	
Tallahassee, FL	(1)	-	300,000	-	26,000	
Jacksonville, FL	(1)	-	400,000	-	80,000	Realignment of space to provide one set of facilities. Courtroom & chambers required. Two sets of facilities required.
Tampa, FL	(2)	-	-	1,500,000	220,000	
Miami, FL	(5)	475,000	-	1,500,000	-	
Atlanta, GA	(5)	-	-	-	-	Five omnibus facilities required. Space available in Russell Bldg. Space available.
Augusta, GA	(1)	-	-	-	-	
Lexington, KY	(1)	100,000	-	-	-	
Pikeville, KY	(1)	20,000	-	-	-	Upgrade existing space. Upgrade existing space. Upgrade existing space.
Covington, KY	(1)	20,000	-	-	-	
Wilson, NC	(1)	-	400,000	-	-	
Durham, NC	(1)	-	450,000	-	7,000	Realign existing space & construct court adjunct space. Realign existing space & construct court adjunct space.
Charlotte, NC	(1)	-	650,000	-	-	
						Construct court chambers & support space.

LOCATION	AUTH.	R&A COSTS			LEASING COSTS	REMARKS
		FY 1979	FY 1980	FY 1981/1982	FY 1980	
<u>REGION 4 (Cont'd)</u>						
	JUDGES					
Greenville, SC	(1)	-	435,000	-	80,000	Realign existing space and construct courtroom and support facilities. Upgrade existing facilities. Construct courtroom and chambers. Space available.
Florence, SC	(1)	40,000	-	-	-	
Charleston, SC	(1)	-	450,000	-	86,000*	
Nashville, TN	(1)	-	-	-	-	
Regional totals	(29)	955,000	3,085,000	3,000,000	574,000	
<u>REGION 5</u>						
Chicago, IL	(3)	-	2,908,000	-	675,000	Internal realignment of space - 3 courts and support space required. Space available. Space available with realignment. Space available.
Alton, IL	(1)	-	-	-	-	
Hammond, IN	(1)	-	-	-	46,000	
Evansville, IN	(1)	-	-	-	-	
Terre Haute, IN	(1)	-	-	-	-	Realign space & construct new court & court support facilities. New facility under construction. Reactivate existing facility. One set facilities available, one required. Space available. Realign space, construct two new facilities. New set of facilities required. Expand available space. New construction needed. Interim facilities required in new building.
Detroit, MI	(1)	-	-	750,000	16,000	
Ann Arbor, MI	(1)	-	-	-	-	
Port Huron, MI	(1)	20,000	-	-	-	
Grand Rapids, MI	(2)	-	440,000	-	106,000	
Minneapolis, MN	(2)	-	-	-	-	
Cleveland, OH	(2)	-	600,000	-	80,000	
Columbus, OH	(1)	-	750,000	-	50,000	
Milwaukee, WI	(1)	-	150,000	-	-	
Green Bay, WI	(1)	-	-	-	-	
Madison, WI	(1)	75,000	-	-	60,000	
Regional totals	(18)	95,000	4,920,000	750,000	1,033,000	

LOCATION	AUTH. JUDGES	R&A COSTS			LEASING COSTS FY 1980	REMARKS
		FY 1979	FY 1980	FY 1981/1982		
REGION 6						
Des Moines, IA	(1)	-	-	360,000	70,000	New set of facilities required.
Wichita, KS	(1)	-	285,000	-	-	New facilities required.
Kansas City, KS	(1)	-	-	-	-	Facilities available.
St. Louis, MO	(1)	-	-	-	140,000	Facilities available.
Kansas City, MO	(2)	-	-	525,000	40,000	Two sets of facilities required.
Regional totals	(6)	-	285,000	885,000	250,000	
REGION 7						
Little Rock, AR	(2)	-	-	350,000	24,000	New construction required (\$2.8M)
New Orleans, LA	(4)	-	-	610,000	-	Three sets of facilities required.
Baton Rouge, LA	(1)	-	-	470,000	90,000	One set of facilities required.
Opolousa, LA	(1)	-	-	-	-	Facility available.
Albuquerque, NM	(1)	-	355,000	-	234,000	One set of facilities required.
Tulsa, OK	(1)	-	-	-	-	Facilities available.
Oklahoma City, OK	(1)	-	40,000	-	-	Realign existing court space.
Dallas, TX	(1)	-	-	365,000	480,000	One set of facilities required.
Ft. Worth, TX	(1)	-	205,000	-	20,000	One set of facilities required.
Marshall, TX	(1)	30,000	-	-	-	Upgrade existing space.
Beaumont, TX	(1)	-	-	-	-	Space.
Houston, TX	(4)	-	-	2,000,000	400,000	Four sets of facilities required.
El Paso, TX	(1)	-	-	-	-	Facilities available.
Brownsville, TX	(1)	-	-	-	-	Facilities available.
Amarillo, TX	(1)	-	-	-	-	Facilities available.
Regional totals	(21)	30,000	600,000	3,795,000	1,248,000	
REGION 8						
Denver, CO	(2)	-	60,000	-	140,000	Realignment of space.
Aberdeen, SD	(1)	-	50,000	-	-	Upgrade existing space.
Pierre, SD	(1)	-	-	-	-	Facilities available.
Salt Lake City, UT	(1)	-	160,000	-	-	Court & chambers required.
Regional totals	(4)	-	270,000	-	140,000	

LOCATION	AUTH. JUDGES	R&A COSTS			LEASING COSTS	REMARKS
		FY 1979	FY 1980	FY 1981/1982	FY 1980	
<u>REGION 9</u>						
Phoenix, AZ	(2)	575,000	625,000	-	-	Two sets of facilities required
Tucson, AZ	(1)	-	-	-	-	Facilities available.
San Francisco, CA	(1)	-	-	-	-	Facilities available.
Sacramento, CA	(2)	200,000	-	-	-	Upgrade existing space.
Fresno, CA	(1)	-	-	125,000	-	Realign existing space.
San Diego, CA	(2)	-	-	-	-	Facilities available.
Los Angeles, CA	(1)	628,000	-	-	-	One set of facilities to be constructed.
Las Vegas, NV	(1)	-	-	-	-	Space available.
Regional totals	(11)	1,403,000	895,000	125,000	-	
<u>REGION 10</u>						
Portland, OR	(2)	-	-	1,525,000	-	Two sets of facilities to be constructed.
Spokane, WA	(1)	-	-	-	-	Facilities available.
Seattle, WA	(1)*	-	-	2,000,000	595,000	Two sets of facilities and space realignment.
Tacoma, WA		-	-	375,000	-	Realignment of existing space.
Regional totals	(4)	-	-	3,900,000	595,000	
DISTRICT JUDGESHIPS	117	3,068,000	13,439,000	15,455,000	4,258,000	
CIRCUIT JUDGESHIPS	35	1,000,000	7,010,000	-	700,000	
TOTAL	152	4,068,000	20,449,000	15,455,000	4,958,000	

* Judge to split duties between these two locations.

Mr. LEVITAS. What I thought we would do is just ask a few questions, because we need to get some things in the record, and we will hold the record open for your submission.

My first overall question is, How many prospectuses do you expect us to have to consider under the omnibus judgeship bill?

Mr. KEILMAN. We are talking, Mr. Chairman, of a total of 27 prospectuses that are related directly to courts projects. Of the 27 prospectuses, 7 repair and alteration prospectuses are pending committee approval; 5 have been approved, and 15 will be submitted to the Committee by March 15.

Mr. LEVITAS. This, of course, is going to put some degree of burden on the time of this committee to deal with these, as you can obviously see, together with the other matters we have got to deal with. So all I can urge you to do is get them to us as early as possible.

Please submit for the record those which will be coming forward so we will know, and also to the extent that you can anticipate the type of questions we have been asking, if you will include that initially, I think it will save us and the staff a lot of time.

In the booklet, there is a statement which refers to the requirements created by the Omnibus Judgeship Act and you say most of these requirements must still be confirmed by the judicial councils of the U.S. court. My question is, even though they have not been confirmed, they constitute the 27 prospectuses you are talking about, is that correct?

Mr. KEILMAN. Yes, Mr. Chairman.

Mr. LEVITAS. So are we not looking for 27, plus these that have not yet been submitted?

Mr. KEILMAN. No. I believe the representatives from the Administrative Office talked in terms of having 90 to 95 percent of the district court requirements in hand. We feel that the requirements that we have are right along those lines, too. When it comes to the circuit court, however, we have not got good information at this time.

I might add that in addition to the 27 repair and alteration prospectuses, there would be 2 prospectuses for new construction; that would be Miami and Little Rock.

Mr. LEVITAS. When will they be coming forward from OMB? When will they be released from OMB?

Mr. KEILMAN. I would expect the Miami prospectus momentarily; Little Rock, I would have to check into; I could not answer that.

Mr. LEVITAS. Is it your anticipation that we can provide for these facilities within existing buildings, without going out on the market to lease new space?

Mr. KEILMAN. We are talking about leasing space in approximately 30 locations to satisfy the requirements of the courts. This does not mean necessarily that it is space for the courts, but agencies that will have to be moved out of court facilities in order to provide the additional space for the courts.

Mr. LEVITAS. So then you will have to acquire space for those facilities which are being relocated?

Mr. KEILMAN. Yes, Mr. Chairman. You mentioned the prospectuses; if I might add, I developed a briefing for the Administrator

yesterday which he has asked me to bring over to you, and that is the magnitude of the prospectus program for this calendar year.

Mr. LEVITAS. Right.

Mr. KEILMAN. We are talking in terms in excess of 100 prospectuses. I am finalizing charts now which will track these prospectuses for the committee. I will have those for you within a very short time.

Mr. LEVITAS. In connection with that, for the benefit of all members of the committee, I would like to have in our office a flow chart exactly identical to the one that you have got on the prospectuses that are coming forward so we can have some idea of what is coming and we do not get to a logjam at the end and not be able to deal with some of them.

I think that will be very helpful, and if you will work with our staff in putting this chart together, then there will be fewer problems.

Mr. KEILMAN. We will do it.

Mr. LEVITAS. Let me also ask you, if you would, to furnish the committee an estimate of the relocation and lease costs so that we can take that into account, as well. As I have already indicated, I am requesting the staff to find out from the Justice Department what additional facilities will be required by the omnibus judgeship bill, because what we want to do ultimately, aside from planning and programming our work, is get some handle on the total cost, direct and indirect, of the omnibus judgeship bill.

Mr. KEILMAN. Mr. Chairman, we are projecting at this point approximately \$5 million for leasing costs to satisfy the omnibus judgeship requirements.

Mr. LEVITAS. Does that include the relocation cost as well?

Mr. KEILMAN. Yes. The \$5 million is the first year's rental and, of course, that will continue with each succeeding year. The courts did express concern about the leasing budget. We do not expect any serious problems in that area, although there are restrictions on the availability of funding for leasing throughout the Government—not only the courts, but throughout the Government.

Mr. LEVITAS. That is really what prompted my question, because if we can keep these courts housed in existing leased facilities, then we do not have to go out on the market and lease new facilities. But, apparently, in some instances, in order to put the courts in existing facilities, you are going to have to take other agencies and put them into new leased facilities.

Mr. KEILMAN. Typically, that is what we have to do, and the reason we do it, of course, is that the noncourt agency or typical executive agency occupies general purpose space. When we prepare space for the courts, it is special purpose and it is very costly.

We like to make those kinds of expenditures in a Federal building so the Government can realize the benefits indefinitely.

Mr. LEVITAS. Thank you, Mr. Keilman. Mr. Clinger?

Mr. CLINGER. Thank you, Mr. Chairman.

This \$5 million leasing cost is not, then, for courtroom space? You are talking about displacement space?

Mr. KEILMAN. That is displacement space.

Mr. CLINGER. We are talking about 17 prospectuses between now and March 15; is that right?

Mr. KEILMAN. We expect to have the 17 prospectuses to you within the next week or 10 days.

Mr. CLINGER. But at that time, we are not going to have here a comprehensive view of what the overall cost is going to be?

Mr. KEILMAN. Well, the briefing booklet we gave you, or the status report, talks in terms of \$66.8 million, which includes that which you now have and that which we will submit in the near future, as well as those that are less than prospectus requirements; that includes everything.

Mr. CLINGER. That includes all of the prospectuses you are going to submit to us; that would include the 5 percent that you do not have from the district courts, and all of the circuit courts?

Mr. KEILMAN. It includes estimates for everything.

Mr. CLINGER. Estimates for everything, the \$66.8 million?

Mr. KEILMAN. It includes those costs as well as those which we have had to estimate.

Mr. CLINGER. So that is the figure that we are going to have to deal with in terms of looking at these prospectuses?

Mr. KEILMAN. Those are GSA projections for satisfying omnibus judgeship requirements in public buildings. Now, the numbers, I believe, that the courts were using included things other than public buildings requirements.

Mr. CLINGER. That is what I was going to get at, that they were talking about \$107 million, and I wanted to know what is included in theirs that is not included in yours.

Mr. KEILMAN. I am not sure what their total figure includes. What we are going to do is take these figures and meet with them to determine what the difference is. Our cost is \$66.8 million. I do not think they have a problem with that.

Mr. CLINGER. Perhaps you answered this, but when did you anticipate that you would have all of the information on the circuit courts?

Mr. KEILMAN. On the circuit courts?

Mr. CLINGER. Yes.

Mr. KEILMAN. I cannot answer that, because that will be related directly to the people who are appointed, because the circuit courts encompass such broad geographical areas that you do not know where the circuit court judge is going to be domiciled. Until that is determined, it is almost impossible to do anything except make estimates as to cost.

As far as the district courts, the courts along with the Justice Department have expressed to the candidates, as I understand it, for nomination for these judgeships where they expect them to be sitting and to be domiciled, and that is how we came up with the locations that we are dealing with here.

Mr. CLINGER. But on the circuit courts, we really are just talking about a wild guess?

Mr. KEILMAN. We do not know at this point.

Mr. CLINGER. You do not know whether you are going to be able to lease or whether you have to build new facilities?

Mr. KEILMAN. This estimate is based on our experience in housing circuit courts in the past. In a circuit court, typically you are talking about chambers only for the judge himself or herself.

Mr. CLINGER. You are not talking about new courtroom facilities, as such?

Mr. KEILMAN. No.

Mr. CLINGER. And how many new circuit court judges are there?

Mr. KEILMAN. Thirty-five circuit court judges in the aggregate.

Mr. CLINGER. And you say that the only thing you are really concerned with there is limited to chambers?

Mr. KEILMAN. Yes, sir.

Mr. CLINGER. There are no auxiliary space requirements?

Mr. KEILMAN. Just chambers.

Mr. CLINGER. Thank you.

Mr. LEVITAS. Mr. Keilman, in the booklet, you state that \$4.1 million will be required for fiscal 1979, and \$20.4 million in fiscal 1980. Was the \$4.1 million included in the fiscal year 1979 appropriations for GSA?

Mr. KEILMAN. Yes, Mr. Chairman.

Mr. LEVITAS. There is no necessity for supplemental appropriation?

Mr. KEILMAN. There is no requirement for supplemental funding. However, it did require reprogramming other projects in order to develop this funding which we did not anticipate before.

Mr. LEVITAS. Now, what about the \$20.4 million for fiscal year 1980; is that part of your budget request?

Mr. KEILMAN. Yes, sir.

Mr. LEVITAS. It is in the President's budget?

Mr. KEILMAN. It is in the President's budget.

Mr. LEVITAS. On the reprogramming that you were required to do on the \$4.1 million, will that have the effect of pushing back the construction of other projects that had been anticipated?

Mr. KEILMAN. We were able to develop that funding from projects that had slipped or were canceled, or whatever. I am not familiar with exactly which specific projects were affected, but that is how we arrived at the number.

Mr. LEVITAS. And what about the \$20.4 million?

Mr. KEILMAN. The \$20.4 million was planned as we developed the budget.

Mr. LEVITAS. That will not result in any reprogramming or postponement of previous projects?

Mr. KEILMAN. No, sir.

Mr. LEVITAS. Mr. Clinger?

Mr. CLINGER. No.

Mr. LEVITAS. Thank you very much, Mr. Keilman. Again, we will keep the record open for 10 days in the event that other members have questions they would like to submit in writing and to give you time to provide the information for the record which has been requested.

Accordingly, then, the committee will thank you again for your testimony and for your participation and cooperation. We look forward to receiving those charts. If I remember correctly, the committee dealt with about 40 prospectuses last year and we were overworked at that, and now you are telling us we have got 100 to look at this year.

So I cannot urge you in strong enough terms; the earlier you get them here, the more likely they are to be able to be fit in between now and the end of the year.

Mr. KEILMAN. We are pulling out all stops to escalate the delivery of these prospectuses to you, but I would be less than candid if I suggested that they will all be here today or tomorrow; it will be awhile.

Mr. LEVITAS. I understand, but I am just saying, as a matter of reality, the earlier they get here, the more likely they are to be able to be considered.

Mr. KEILMAN. Right. We are assigning additional people to our planning staffs in the regional offices as well as the central office, in an attempt to escalate the delivery to the committee.

Mr. LEVITAS. Thank you very much. The subcommittee stands adjourned.

[Whereupon, at 12:35 p.m., the subcommittee was adjourned.]
[Additions to the record:]

OMNIBUS JUDGESHIP ACT
LOCATION AND COSTS FOR DISTRICT JUDGES

LOCATION	AUTH. JUDGES	R&A COSTS			LEASING COSTS	REMARKS
		FY 1979	FY 1980	FY 1981/1982	FY 1980	
<u>REGION 1</u>						
Bridgeport, CT	(1)	300,000	-	-	-	Chambers required.
Boston, MA	(4)	-	400,000	-	16,000	Four sets facilities required.
Bangor, ME	(1)	-	-	-	-	Facilities available.
Concord, NH	(1)	285,000	-	-	30,000	Courtroom & chambers required.
Regional totals	(7)	585,000	400,000	-	46,000	
<u>REGION 2</u>						
Trenton, NJ	(2)	-	386,000	-	92,000	One courtroom & chambers required one available with Judge relocation to Newark.
Utica, NY	(1)	-	-	-	-	Space available.
Binghamton, NY		-	-	-	-	Space available.
Albany, NY		-	400,000	-	-	Courtroom & chambers required.
Syracuse, NY		-	Same as above	-	-	Existing courtroom to be completed.
Brooklyn, NY	(1)	-	-	-	170,000	Facilities available.
Hato Rey, PR	(4)	-	-	3,000,000	-	Four sets of facilities required.
Regional totals	(8)	-	786,000	3,000,000	262,000	
<u>REGION 3</u>						
Baltimore, MD	(2)	-	815,000	-	-	Two sets of facilities required.
Harrisburg, PA	(2)	-	-	-	-	Space available.
Wilkes Barre, PA		-	-	-	-	Existing facilities may need upgrading.
Scranton, PA		-	-	-	-	Space available.

LOCATION	AUTH.	R&A COSTS			LEASING COSTS	REMARKS
		FY 1979	FY 1980	FY 1981/1982	FY 1980	
<u>REGION 3 (cont'd) JUDGES</u>						
Alexandria, VA	(1)	-	482,000	-	-	Realign existing space.
Richmond, VA	(1)	-	100,000	-	-	Upgrade existing facilities.
Charlottesville, VA	(1)	-	-	-	45,000	Lease construction or leasing required.
Lynchburg, VA	(1)	-	-	-	65,000	Leasing required.
Beckley, WV	(2)	-	-	-	-	Space available.
Bluefield, WV		-	-	-	-	Space available.
Charleston, WV		-	-	-	-	Space available.
Huntington, WV	(1)	-	801,000	-	-	Adjunct facilities required.
Regional totals	(10)	-	2,198,000	-	110,000	
<u>REGION 4</u>						
Birmingham, AL	(3)	300,000	-	-	75,000	Three interim (5 years) chambers required - Annex extension ultimately required.
Montgomery, AL	(1)	-	-	-	-	Facilities available.
Tallahassee, FL	(1)	-	300,000	-	26,000	Realignment of space to provide one set of facilities.
Jacksonville, FL	(1)	-	400,000	-	80,000	Courtroom & chambers required.
Tampa, FL	(2)	-	-	1,500,000	220,000	Two sets of facilities required.
Miami, FL	(5)	475,000	-	1,500,000	-	Five omnibus facilities required.
Atlanta, GA	(5)	-	-	-	-	Space available in Russell Bldg.
Augusta, GA	(1)	-	-	-	-	Space available.
Lexington, KY	(1)	100,000	-	-	-	Upgrade existing space.
Pikeville, KY	(1)	20,000	-	-	-	Upgrade existing space.
Covington, KY	(1)	20,000	-	-	-	Upgrade existing space.
Wilson, NC	(1)	-	400,000	-	-	Realign existing space & construct court adjunct space.
Durham, NC	(1)	-	450,000	-	7,000	Realign existing space & construct court adjunct space.
Charlotte, NC	(1)	-	650,000	-	-	Construct court chambers & support space.

LOCATION	AUTH.	R&A COSTS			LEASING COSTS	REMARKS
		FY 1979	FY 1980	FY 1981/1982		
<u>REGION 4 (Cont'd)</u>						
	JUDGES					
Greenville, SC	(1)	-	435,000	-	80,000	Realign existing space and construct courtroom and support facilities. Upgrade existing facilities. Construct courtroom and chambers. Space available.
Florence, SC	(1)	40,000	-	-	-	
Charleston, SC	(1)	-	450,000	-	86,000*	
Nashville, TN	(1)	-	-	-	-	
Regional totals	(29)	955,000	3,085,000	3,000,000	574,000	
<u>REGION 5</u>						
Chicago, IL	(3)	-	2,908,000	-	675,000	Internal realignment of space - 3 courts and support space required. Space available. Space available with realignment. Space available.
Alton, IL	(1)	-	-	-	-	
Hammond, IN	(1)	-	-	-	46,000	
Evansville, IN	(1)	-	-	-	-	
Terre Haute, IN	(1)	-	-	-	-	Realign space & construct new court & court support facilities. New facility under construction. Reactivate existing facility. One set facilities available, one required. Space available. Realign space, construct two new facilities. New set of facilities required. Expand available space. New construction needed. Interim facilities required in new building.
Detroit, MI	(1)	-	-	750,000	16,000	
Ann Arbor, MI	(1)	-	-	-	-	
Port Huron, MI	(1)	20,000	-	-	-	
Grand Rapids, MI	(2)	-	440,000	-	106,000	
Minneapolis, MN	(2)	-	-	-	-	
Cleveland, OH	(2)	-	600,000	-	80,000	
Columbus, OH	(1)	-	750,000	-	50,000	
Milwaukee, WI	(1)	-	150,000	-	-	
Green Bay, WI	(1)	-	-	-	-	
Madison, WI	(1)	75,000	-	-	60,000	
Regional totals	(18)	95,000	4,920,000	750,000	1,033,000	

LOCATION	AUTH. JUDGES	R&A COSTS			LEASING COSTS	REMARKS
		FY 1979	FY 1980	FY 1981/1982	FY 1980	
REGION 6						
Des Moines, IA	(1)	-	-	360,000	70,000	New set of facilities required.
Wichita, KS	(1)	-	285,000	-	-	New facilities required.
Kansas City, KS	(1)	-	-	-	-	Facilities available.
St. Louis, MO	(1)	-	-	-	140,000	Facilities available.
Kansas City, MO	(2)	-	-	525,000	40,000	Two sets of facilities required.
Regional totals	(6)	-	285,000	885,000	250,000	
REGION 7						
Little Rock, AR	(2)	-	-	350,000	24,000	New construction required. (\$2.8M)
New Orleans, LA	(4)	-	-	610,000	-	Three sets of facilities required.
Baton Rouge, LA	(1)	-	-	470,000	90,000	One set of facilities required.
Opolousa, LA	(1)	-	-	-	-	Facility available.
Albuquerque, NM	(1)	-	355,000	-	234,000	One set of facilities required.
Tulsa, OK	(1)	-	-	-	-	Facilities available.
Oklahoma City, OK	(1)	-	40,000	-	-	Realign existing court space.
Dallas, TX	(1)	-	-	365,000	480,000	One set of facilities required.
Ft. Worth, TX	(1)	-	205,000	-	20,000	One set of facilities required.
Marshall, TX	(1)	30,000	-	-	-	Upgrade existing space.
Beaumont, TX	(1)	-	-	-	-	Space.
Houston, TX	(4)	-	-	2,000,000	400,000	Four sets of facilities required.
El Paso, TX	(1)	-	-	-	-	Facilities available.
Brownsville, TX	(1)	-	-	-	-	Facilities available.
Amarillo, TX	(1)	-	-	-	-	Facilities available.
Regional totals	(21)	30,000	600,000	3,795,000	1,248,000	
REGION 8						
Denver, CO	(2)	-	60,000	-	140,000	Realignment of space.
Aberdeen, SD	(1)	-	50,000	-	-	Upgrade existing space.
Pierre, SD	(1)	-	-	-	-	Facilities available.
Salt Lake City, UT	(1)	-	160,000	-	-	Court & chambers required.
Regional totals	(4)	-	270,000	-	140,000	

LOCATION	AUTH. JUDGES	R&A COSTS			LEASING COSTS	REMARKS
		FY 1979	FY 1980	FY 1981/1982	FY 1980	
<u>REGION 9</u>						
Phoenix, AZ	(2)	575,000	625,000	-	-	Two sets of facilities required
Tucson, AZ	(1)	-	-	-	-	Facilities available.
San Francisco, CA	(1)	-	-	-	-	Facilities available.
Sacramento, CA	(2)	200,000	-	-	-	Upgrade existing space.
Fresno, CA	(1)	-	-	125,000	-	Realign existing space.
San Diego, CA	(2)	-	-	-	-	Facilities available.
Los Angeles, CA	(1)	628,000	-	-	-	One set of facilities to be constructed.
Las Vegas, NV	(1)	-	-	-	-	Space available.
Regional totals	(11)	1,403,000	895,000	125,000	-	
<u>REGION 10</u>						
Portland, OR	(2)	-	-	1,525,000	-	Two sets of facilities to be constructed.
Spokane, WA	(1)	-	-	-	-	Facilities available.
Seattle, WA	(1)*	-	-	2,000,000	595,000	Two sets of facilities and space realignment.
Tacoma, WA	(1)*	-	-	375,000	-	Realignment of existing space.
Regional totals	(4)	-	-	3,900,000	595,000	
<u>DISTRICT</u>						
JUDGESHIPS	117	3,068,000	13,439,000	15,455,000	4,258,000	
CIRCUIT	35	1,000,000	7,010,000	-	700,000	
TOTAL	152	4,068,000	20,449,000	15,455,000	4,958,000	

* Judge to split duties between these two locations.

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

WASHINGTON, D.C. 20544

WILLIAM E. FOLEY
DIRECTOR

JOSEPH F. SPANIOLO, JR.
DEPUTY DIRECTOR

March 15, 1979

Honorable Elliott Levitas
Chairman, Subcommittee on
Public Buildings and Grounds
Committee on Public Works
and Transportation
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Levitas:

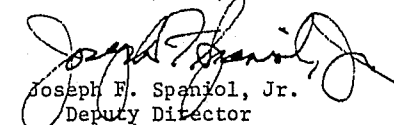
During hearings held by your Subcommittee on March 6, 1979, to consider the impact of Public Law 95-573, the Omnibus Judgeship Act, there was some confusion as to the total cost of the new judgeships authorized for the United States courts of appeals and United States district courts. For the record, the budgetary impact of these new judgeships on the appropriations of the Judiciary is approximately \$42 million, of which \$10 million is included in a request for a supplemental appropriation for fiscal year 1979 to cover the nonrecurring expenses of providing furniture and furnishings, lawbooks, and general office equipment. The sum of \$32 million is included in our Budget for fiscal year 1980 for the salaries of the judges, the salaries of their supporting personnel, the anticipated increase in GSA's billings for space (Standard Level User Charges), travel and miscellaneous expenses of a recurring nature. We did not include in our budget any funds for repairs and alterations or for new construction that may be required to accommodate the new judges. The General Services Administration has agreed to finance all such alterations and construction projects as they relate to the new judgeships, irrespective of whether the facilities are to be provided within or outside of our current space inventory.

The General Services Administration has estimated that the total cost of alterations and new construction to accommodate new judges over the next three years is \$66.8 million. It is my understanding that this estimate takes into account the requirements of all of the new circuit and district judges. The actual cost of alterations and construction may in some cases vary based on where the newly appointed judges are stationed. The General Services Administration has furnished your Committee with a statement which shows by location the estimated cost of the repairs and alterations that will be required to accommodate the new judges.

The total budgetary impact of the Omnibus Judgeship Act on the Judiciary and GSA is \$108.8 million, of which \$32 million represents recurring expenses. We do not have any information as to the budgetary requirements of the United States Attorneys and United States Marshals or any other office or agency in the Department of Justice as it relates to the new judgeships. It is my understanding that members of your staff have asked the Department of Justice to provide such information for the record.

I trust that the information contained herein will serve your purpose and that it will clear up any confusion or inconsistencies in our testimony before your Committee.

Sincerely yours,


Joseph F. Spaniol, Jr.
Deputy Director

END