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HIGH QUALITY LEADERSHIP - OUR GOVERNMENT'S

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THE REPORT OF
THE COMMISSION ON
EXECUTIVE, LEGISLATIVE AND JUDICIAL
SALARIES

December 15, 1986

"In the search for effective leadership, the government is but one among many competitors in the marketplace. Its success will depend to a substantial extent on the kinds of incentives and satisfactions it can offer."
(Leadership in Jeopardy, National Academy of Public Administration, 1985)

"In other words, it is the independently wealthy, the very young and those in the concluding phases of their careers who increasingly constitute our candidate pool."
(Ann Banning, Director of Recruitment, Office of Presidential Personnel, 1986)

30-4

**Commission on Executive, Legislative
and Judicial Salaries**

Members of the 1986 Commission

Appointed by the President:

Chairman

**James L. Ferguson
Chairman and Chief Executive Officer
General Foods Corporation**

Vice Chairman

**C. Todd Conover
Former Comptroller of the Currency**

**Edwin L. Harper
Senior Vice President - Finance
and Chief Financial Officer
Campbell Soup Company**

Appointed by the President of the Senate:

**Russell W. Meyer, Jr.
Chairman and Chief Executive Officer
Cessna Aircraft Corporation**

**Esther L. Coopersmith
Publisher
Spur Magazine**

Appointed by the Speaker of the House of Representatives:

**John J. Creedon
President and Chief Executive Officer
Metropolitan Life Insurance Company**

**John E. Lyie
Johnson, Wurzer & Westmoreland**

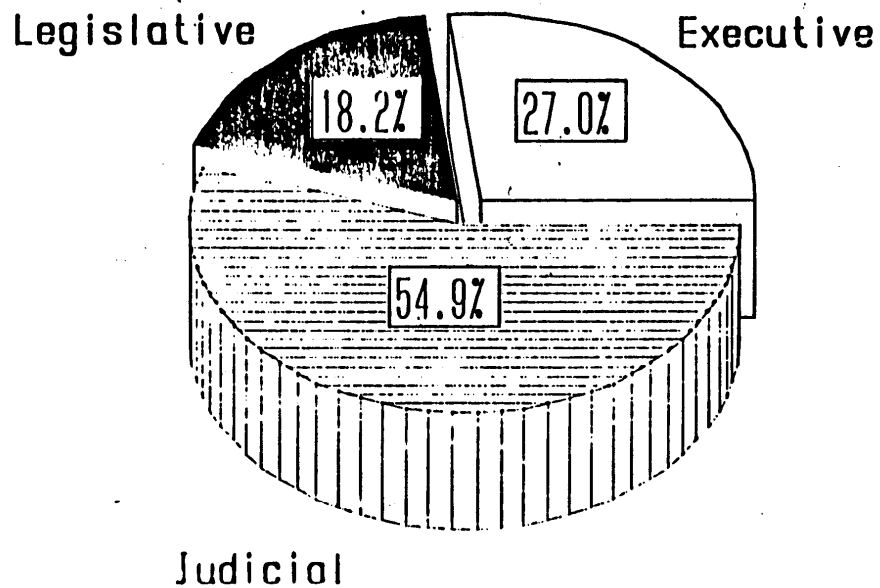
Appointed by the Chief Justice of the Supreme Court:

**James T. Lynn
Chairman
Aetna Life and Casualty Company**

**Robert L. Clare, Jr., Esq.
Shearman & Sterling**

**Executive Director
Chandler L. van Orman**

1987 Payroll - 3,037 authorized positions
total dollars = \$233,816,000



source: OPM

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**3,037 OF POSITIONS UNDER MANDATE
OF THE COMMISSION**

	<u>Current Salary</u> <u>As of January 1987</u>	<u>Number of</u> <u>Positions</u>
EXECUTIVE BRANCH		
Vice President	\$100,800	1
Level I includes Cabinet Officers . . .	88,800	16
Level II includes Deputy Secretaries of Cabinet Departments; and Heads of Offices and Agencies such as the VA, CIA, FBI, EPA, NASA and OMB	77,400	72
Level III includes Under Secretaries of Cabinet Departments; Chairmen of Regulatory Commissions such as the FTC, FDIC and the NLRB	75,800	192
Level IV includes Assistant Secretaries of Cabinet Departments; Members of Regulatory Commissions; Cabinet Department General Counsels	74,500	460
Level V includes Directors of major Bureaus of Cabinet Departments	70,800	99
Board of Governors of the U.S. Postal Service	10,000	<u>9</u>
		849
LEGISLATIVE BRANCH		
Speaker of the House	100,800	1
President Pro Tempore, Majority and Minority Leaders	87,600	5
Senators, Representatives, Four Delegates to Congress, Resident Commissioner of Puerto Rico, Comptroller General	77,400	535
Director of CBO, Deputy Comptroller General, Librarian of Congress and The Architect of the Capitol	75,800	4
Deputy Director of CBO, General Counsel, GAO, Deputy Librarian of Congress, and the Assistant Architect of the Capitol	74,500	<u>4</u>
		549

	<u>Current Salary</u> <u>As of January 1987</u>	<u>Number of</u> <u>Positions</u>
JUDICIAL BRANCH		
- Chief Justice	\$111,700	1
Retired Chief Justice	111,700	1
Associate Justices	107,200	8
Judges, Circuit Courts of Appeal; Court of Military Appeals	85,700	236
Judges, District Courts; Court of International Trade; Tax Court, Assistant to the Chief Justice; Director Administrative Office - U.S. Courts; Director, Federal Judicial Center	81,100	821
Judges, U.S. Claims Court	72,300	17
Deputy Director Administrative Office - U.S. Courts; Circuit Executives	70,800	13
Bankruptcy Judges U.S. Magistrates	70,500	<u>542</u>
		1,639

SOURCE: UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
ADMINISTRATIVE OFFICE OF THE U.S. COURTS

PREMISE

Financial compensation is becoming a strong negative factor in our ability to attract and retain our best people for the Congress, the Federal bench and our executive agencies, despite the great emotional and intellectual rewards and satisfaction which come from public service. While we can all appreciate the substantial financial sacrifices many have been willing to make in order to serve, our democracy is strengthened when public service is an option even for those with modest means and family responsibilities. Moreover, it should not be a necessary condition for those so employed to exhaust their own personal resources, go into debt or seek other income sources in order to be able to serve.

The Commission does recognize that parity between the highest level public and private executives is neither necessary nor practical. However, as the disparities increase and the sacrifice from loss of purchasing power becomes an economic hardship, it has and will become increasingly more difficult to attract to and retain in these top leadership positions the best and the brightest people this country can offer.

EXECUTIVE SUMMARY

The Interim Commission agrees with all past Quadrennial Commissions that the low salaries paid to the nation's highest ranking public servants constitute a serious national concern. Over the last 17 years, the problem has worsened significantly.

Aside from infrequent cost of living adjustments totalling 31 percent, the country's top federal officials - around 3,000 persons, including Senators and Representatives, the federal judiciary and Executive Schedule administrators - have received no salary increases since 1977.

Our most senior government officials have suffered more than a 40 percent decline in purchasing power since 1969. The gap between top level public salaries and salaries in the private sector continues to increase. The pay differential between top federal officials and their counterparts in the private sector came closest in February 1969, a gap of some 37 percent. Since then this gap has grown enormously.

The loss of purchasing power and the widening of the salary gap versus all other sectors of society make it more difficult to

attract and retain the highest caliber individuals in top level public positions.

Significant salary increases for top federal officials are essential to restore this unintended pay cut and move towards more realistic compensation for those with the most responsible jobs in government.

Both principle and pragmatism prescribe these adjustments. To do less is to risk beyond all reason the quality of our government's most precious asset - its leadership.

RECOMMENDATIONS

Every position covered by the Commission review process now pays less in real dollars than it did before the process began in 1969. Our recommendations set forth below offer the historic opportunity to restore some measure of equity to the salaries paid our top Federal officials.

We recognize our recommendations represent substantial percentage increases. However, it should be kept in mind that over the last fifteen years the Consumer Price Index has increased over 200 percent. During this period most other wage earners have more or less kept pace with the cost of living, while top federal

officials have seen their purchasing power steadily decline.

- Adjusted to current dollars, our recommendations fall entirely within the range suggested by past Commissions.

It is the sincerest hope of the Commission that the salaries recommended will be agreed to by the President. If this is done, we believe that our ability to attract and retain people of talent and dedication will improve and the personal sacrifices necessary to carry the burden of high public office will lessen.

In spite of our statutory mandate, the Commission has had insufficient time to analyze and review the appropriateness of the "relationship between and among" the respective positions covered by its mandate, especially those in the Executive Schedule. We are recommending salary parity between the U.S. Claims Court and the U.S. District Court in recognition of job similarity. We recommend further that the next regular Commission, to be convened in 1988, conduct a more probing analysis of "the "appropriateness" question and make further recommendations. To facilitate this analysis, we finally recommend that the Office of Personnel Management undertake a thorough study of the appropriateness and relationship between all 'offices and positions' covered by the Commission mandate so

that the results of that study will be available to the next Commission.¹

The Commission feels strongly that if its proposals are accepted and implemented and a significant degree of lost purchasing power is restored, the need for Senators and Representatives to supplement their salaries with outside income will be less pressing. We think it only fair that as a guid pro quo for more realistic salaries the present system of honoraria and income supplementation be re-examined with an eye towards a significant reduction or elimination.

¹Particularly vexing is the current situation where the second highest positions in all Cabinet departments are not paid at the same level. For example, the second highest position in the Department of Transportation, Deputy Secretary, is a Level II while the very same position at the Department of Health and Human Services, Under Secretary, is a Level III.

THE COMMISSION'S RECOMMENDATIONS

	<u>Current Salary</u> <u>As of January 1987</u>	<u>Recommended</u> <u>Salary</u>
EXECUTIVE BRANCH		
Vice President	\$100,800	\$175,000
Level I includes Cabinet Officers . . .	88,800	160,000
Level II includes Deputy Secretaries of Cabinet Departments; and Heads of Offices and Agencies such as the VA, CIA, FBI, EPA, NASA and OMB	77,400	135,000
Level III includes Under Secretaries of Cabinet Departments; Chairmen of Regulatory Commissions such as the FTC, FDIC and the NLRB	75,800	130,000
Level IV includes Assistant Secretaries of Cabinet Departments; Members of Regulatory Commissions; Cabinet Department General Counsels	74,500	120,000
Level V includes Directors of major Bureaus of Cabinet Departments	70,800	110,000
Board of Governors of the U.S. Postal Service	10,000	10,000

Annual Cost of These Proposed Increases

\$ 40,577,800**LEGISLATIVE BRANCH**

Speaker of the House	100,800	175,000
President Pro Tempore, Majority and Minority Leaders	87,600	160,000
Senators, Representatives, Four Delegates to Congress, Resident Commissioner of Puerto Rico, Comptroller General	77,400	135,000
Director of CBO, Deputy Comptroller General, Librarian of Congress and The Architect of the Capitol	75,800	130,000
Deputy Director of CBO, General Counsel, GAO, Deputy Librarian of Congress, and the Assistant Architect of the Capitol	74,500	120,000

Annual Cost of These Proposed Increases

\$ 31,651,000

	<u>Current Salary</u> <u>As of January 1987</u>	<u>Recommended</u> <u>Salary</u>
JUDICIAL BRANCH		
Chief Justice	\$111,700	175,000
Retired Chief Justice	111,700	175,000
Associate Justices	107,200	165,000
Judges, Circuit Courts of Appeal; Court of Military Appeals	85,700	135,000
Judges, District Courts; Court of International Trade; Tax Court, U.S. Claims Court*, Assistant to the Chief Justice; Director Administrative Office - U.S. Courts; Director, Federal Judicial Center	81,100	130,000
Bankruptcy Judges*, Deputy Director Administrative Office - U.S. Courts .	70,800	120,000
U.S. Magistrates, Circuit Executives* .	70,500	110,000
 Annual Cost of These Proposed Increases	 <u>\$ 77,600,200</u>	
Total Cost of All Proposed Increases	 <u>\$149,829,000</u> ²	

* Current Salary As of January 1987

U.S. Claims Court	\$72,300
Bankruptcy Judges	70,500
Circuit Executives	70,800

² We recognize that the implementation of our recommendations will generate additional costs in terms of fringe and pension benefits as well as in the cost associated with uncapping both the Senior Executive Service and the General Schedule. This should lend credence to the importance of ongoing studies of these issues. Nonetheless, the Commission feels that its recommendations are sufficiently important to be enacted despite such cost considerations.

THE COMMISSION'S REPORTFINDINGS AND CONCLUSIONS OF PAST COMMISSIONS

Since enactment of the Federal Salary Act of 1967, five Commissions on Executive, Legislative and Judicial Salaries have been convened. The distinguished Americans who have served on these Commissions are impressive, not only for their obvious talents and accomplishments, but for the diversity of the views and interests they represented. A list of former Commissioners may be found in the Appendix.

Given the impressive character of past Commissions, their thorough examination of the salary crisis, and the unanimity of their prior conclusions, this Commission feels it appropriate to recognize the wisdom, expertise and judgment of its predecessors. This Commission asks the President to recognize that the collective knowledge of all past Commissions is a very important part of the structure upon which this Commission's recommendations rest.

The past five Commissions have included chief executive officers of major corporations, three presidents of the American Bar Association, two presidents of the AFL-CIO, a president of the

National Association of Manufacturers, deans and presidents of major universities, economists, and other eminent Americans from a broad variety of fields. These individuals have been appointed by five different Presidents, five Presidents of the Senate, three Speakers of the House of Representatives and two Chief Justices of the United States. In short, those who have served reflect an extraordinary cross-section of American constituencies.

It would not have been surprising if this diverse group of past Commission members had reached widely divergent conclusions regarding the appropriate level of compensation for the senior leadership of our government. Such, however, was not the case. Without exception, each prior Commission concluded that top federal officials were critically underpaid.

Each Commission expressed grave concern over the adverse effect that both the erosion of real income and the growing disparity between high level private and public salaries have on those in top government positions, or those considering such positions. Previous Commissioners have been particularly concerned about the impact of low federal pay on persons with family responsibilities and those with no other source of income. They uniformly believed it critical to the true representative nature and

quality of national leadership that such people not be precluded
- from public service.

Given the weight of evidence each prior Commission has considered and the thrust of their respective conclusions, this Commission believes that consensus benchmarks have already been established. The collective wisdom of these Commissions should not be ignored.

Little has occurred in recent years to improve the economic plight of this country's top public executives. The conclusions reached and concerns expressed by each previous Commission are as valid today as ever.

The passage of time and the ravages of inflation, albeit "modest" in recent years, have only made the crisis recognized by past Commissions more acute. As the aggregate of inflation-caused salary dilution has become ever more burdensome, the need to implement these consensus recommendations for significant pay increases becomes ever more pressing.

THE 1986 INTERIM COMMISSION

By addressing the legislative infirmities of the procedure, the Fifth Commission in 1985 laid the foundation for a workable process for determining and legislating the salaries of those who govern our country. In its report, the Fifth Commission proposed that an Interim Commission be established in 1986 for the express purpose of making specific salary recommendations.

The task then of this 1986 Interim Commission is to build on that foundation, determine appropriate compensation levels and make recommendations to the President. This report sets out those recommendations on pages 8-9.

The Interim Commission has closely examined a wide spectrum of evidence. We have also relied heavily on the collective wisdom of previous Commissions, and their conclusions have played an integral part in our deliberations and recommendations.

No group the Commission examined has fallen so far behind: inflation as those to whom we entrust the reins of government. While many workers have lost some ground to inflation over the years, none except for our top government policy-makers, have dropped over 40 percent in purchasing power.

The Commission has received submissions from 54 interested parties. Not one commentator has claimed that the salaries paid to those in leadership positions are anything other than totally, even "dangerously", inadequate.

The new process recommended by the Fifth Commission and enacted by Congress has generated high hopes that the Federal Salary Act of 1967 can finally achieve its objectives. Many are looking to the 1986 Interim Commission's recommendations as a final opportunity for real salary redress.

The Commission strongly believes that if these expectations are not met, the adverse impact on the retention and morale of key officials will be far more severe than any which followed the failures of prior efforts to achieve adequate compensation levels.

History confirms that many exceptionally gifted individuals have been willing to serve at considerable financial sacrifice. That sacrifice has now become so great that many who might have said "yes" a decade ago, quickly say "no" today. The Commission believes the country can no longer afford to ignore the need for significant pay adjustments for those who shoulder the heaviest burden of government.

TWIN CONCERNS: PAY EROSION AND PAY DISPARITY

Over the years senior public servants have experienced both an absolute loss of earning power versus inflation and a relative decline in remuneration as peer groups have achieved salary gains. This situation cannot be allowed to continue.

PAY EROSIONThe Decline in Earning Power

The period since the First Quadrennial Commission convened has seen substantial inflation, particularly during the 1970s. The Consumer Price Index (CPI) has risen from 108 in 1969 to an estimated 334.3 in January 1987.

The real income of most Americans has roughly kept pace with the rise in the cost of living over this period, and many private sector executives have experienced real gains. In contrast, the data shows that federal executives and legislators have experienced a decline of over 40 percent in real income since 1969.

The consequences are obvious. The damage from loss of real income over time is demonstrated in the difficulties both of recruitment for positions of leadership and of retention of

trained, experienced personnel at the peak of their career, particularly in the judicial branch.

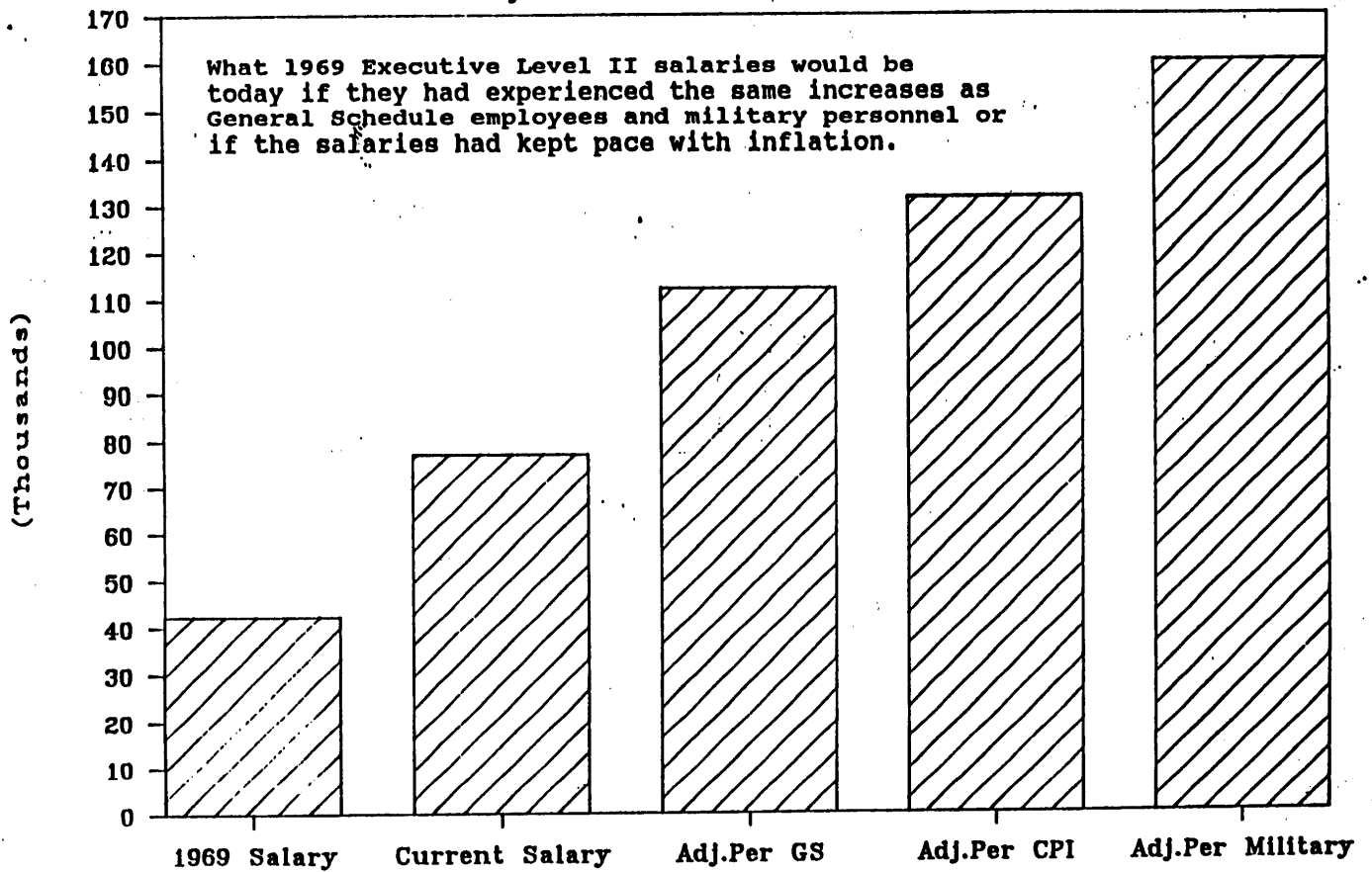
Poor remuneration has had a profoundly negative impact upon the once sacrosanct concept of lifetime judicial appointments. For those whose assets have been exhausted in service to their government, the private sector provides a tempting solution. How can the country keep the trained and experienced people it wants, of the caliber necessary to cope with the most demanding jobs in government, when much more lucrative positions are readily available in the private sector?

In many cases, the current pay of top level officials does not allow them even to maintain basic family obligations, much less build up some financial reserves, AND stay in government. People just cannot afford it. There comes a point when government salaries are so absurdly low that no one can remain unconcerned by the burdens endured by themselves and their families regardless of the non-salary rewards of government service.

"Last year I used the last of my investments to support myself and my family. All I have left is the equity in my home. I will quit before I sell it." (Hon. Warren J. Ferguson,

EXECUTIVE LEVEL II 1969 SALARIES

Adjusted to Current Indicators



source: BLS,DOL - OPM

in response to a survey of judges by the
Federal Judges Association, 1986)

In 1969, the Administrator of NASA (Level II) earned \$42,500. Adjusted for inflation, that is worth \$128,900 today. The current Administrator earns \$75,100 - an effective 42 percent pay cut. As a former NASA Administrator, Robert A. Frosch, explaining his resignation, told the 1980 Commission:

"I have simply arrived at a point where I cannot have myself and my family in a government position."

Those faced with the cost of college educations underscore the argument. In the words of the Fifth Commission, the high cost of college tuition is often an "insurmountable" barrier to public service. As former Judge Thomas A. Masterson explained:

"At that time I was 45 years old, I had five children...I was going to be faced with three or four kids in college at the same time. I concluded that I'd resign explicitly on the ground that I could not adequately take care of my family." (The Fifth Commission Report, 1985)

- Although there are exceptions, government service has not historically attracted the financially ambitious. Salary limitations have been balanced by the benefits of power and position. However, the "salary gap" is now far too wide to be able to be balanced over any reasonable time period by these more intangible benefits. As a result, the personal sacrifice demanded for public service has become unrealistic, unjust and unwise.

Without substantial increases for our judges, legislators and executive schedule officials, we cannot begin to restock the pool of exceptionally talented people from which this country must draw its leaders. Without more appropriate compensation levels permitted for these positions, we will not retain the quality of leadership needed in government. The recommendations of the 1986 Interim Commission are intended to ensure that we as a Nation do not become, in the words of the Fifth Commission, "a government led by the wealthy and by those with no current family obligations."

PUBLIC AND PRIVATE SECTOR PAY DISPARITY

The Commission has already stated that we do not expect to see the pay of "government CEO's" and others in our purview equal that of corporate CEO's - despite the often greater responsibilities, much larger budgets and staffs those in government have to manage. But, neither can these same salaries be absurdly low. The government must become at least marginally competitive with the private sector to be able to attract and retain the brightest and the best. If top level government service means both leaving high paying private sector positions and accepting a salary so low that even minimum family obligations cannot be met, we will see the pool of talent for senior government positions evaporate.

The Commission asked the Hay Group to undertake a series of analyses - using Hay Access Technology - of Level II executive jobs with comparable senior "second tier" corporate executive jobs, such as Chief Operating Officers and Division Presidents. It showed that comparable private sector positions now pay between \$216,400 and \$543,800.

The Hay Group states that:

"A pay increase of 90 percent would be required in 1987 for Level II executives to

achieve the same relative pay relationship which existed in 1970 with private sector corporate executives -- a position 37 percent below the low end of the range of comparable private sector jobs."

This comparison, of course, examined only cash compensation, taking no account of the substantial additional benefits in incentive opportunities, such as stock options, stock appreciation rights and other "perks" available to corporate executives which only serve to exaggerate the disparity.

The current salaries of the 3037 positions we have examined range from \$68,400 to \$97,900. (Only the Supreme Court Justices earn more: \$108,400 for the Chief Justice and \$104,100 for the Associate Justices).

- * The average deputy counsel in a corporate legal department earned \$134,100, 24 percent more than the Chief Justice of the United States (\$108,400) and about 70 percent more than the salary of a District Court Judge (\$78,700).

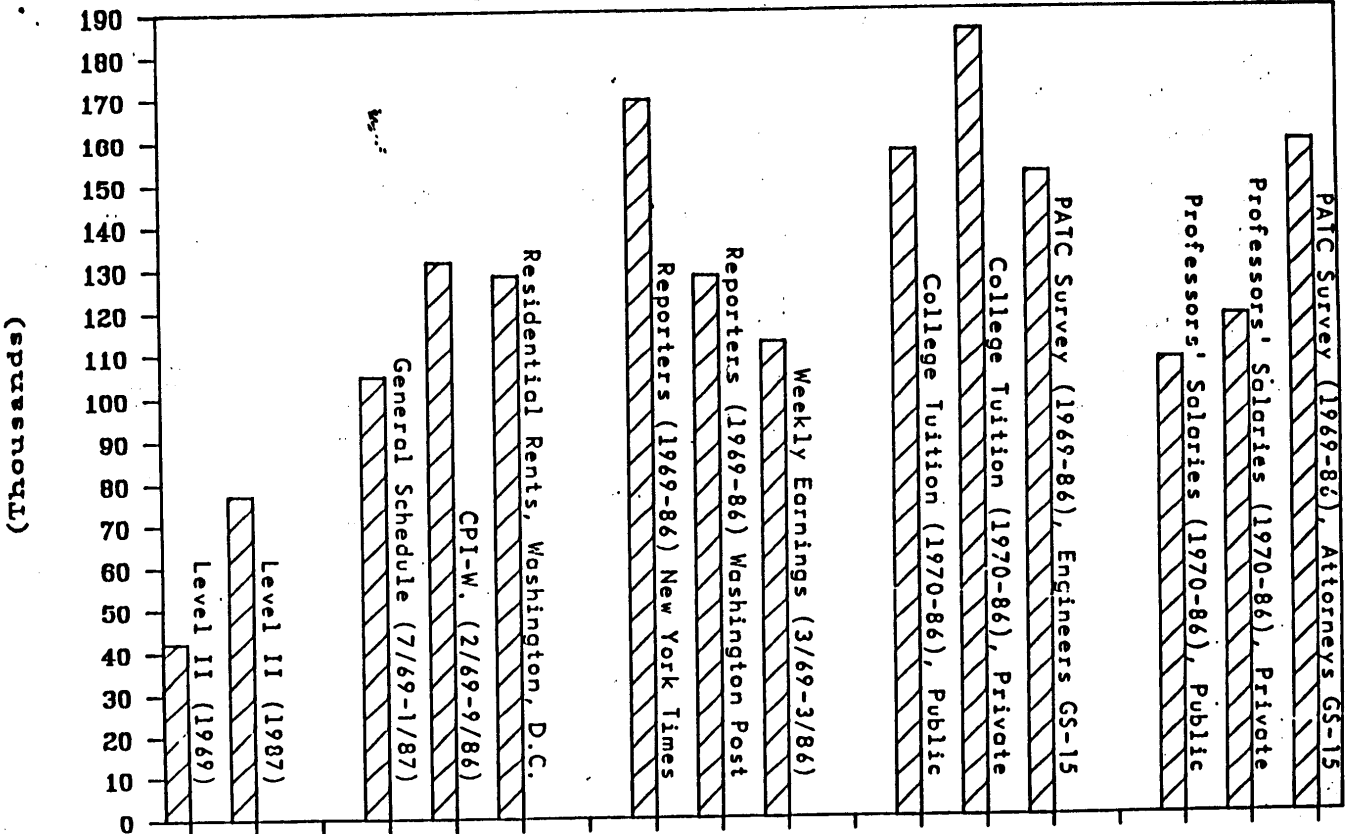
Previous Commissions have warned of the danger that public service may become the preserve of the wealthy; that only those

able to live independently of their government salary will be able to choose to serve in government. Already, there is widespread belief that substantial personal wealth is a prerequisite, certainly for elective office, and increasingly for service in other branches of government.

by...

Level II Salary

Adjusted Relative to Other Changes



Note: Because of limitations of availability of data, projections have been made using annual averaging increases for items.
source: OPM

A comparison of a Level II salary today and what it would be today if adjusted to reflect other economic changes.

APPENDIX

THE JUDICIAL BRANCH

The framers of the Constitution intended judicial appointees to serve for a lifetime. The twin guarantees of life tenure and no diminution in compensation were designed to secure the total independence sought by the Founding Fathers for the judiciary. Neither guarantee is secure today. Erosion of judicial pay breaches faith with the Constitution.

"The simplistic notion that lifetime tenure and lifetime salary make appointment to the federal bench a plum is an anachronism.

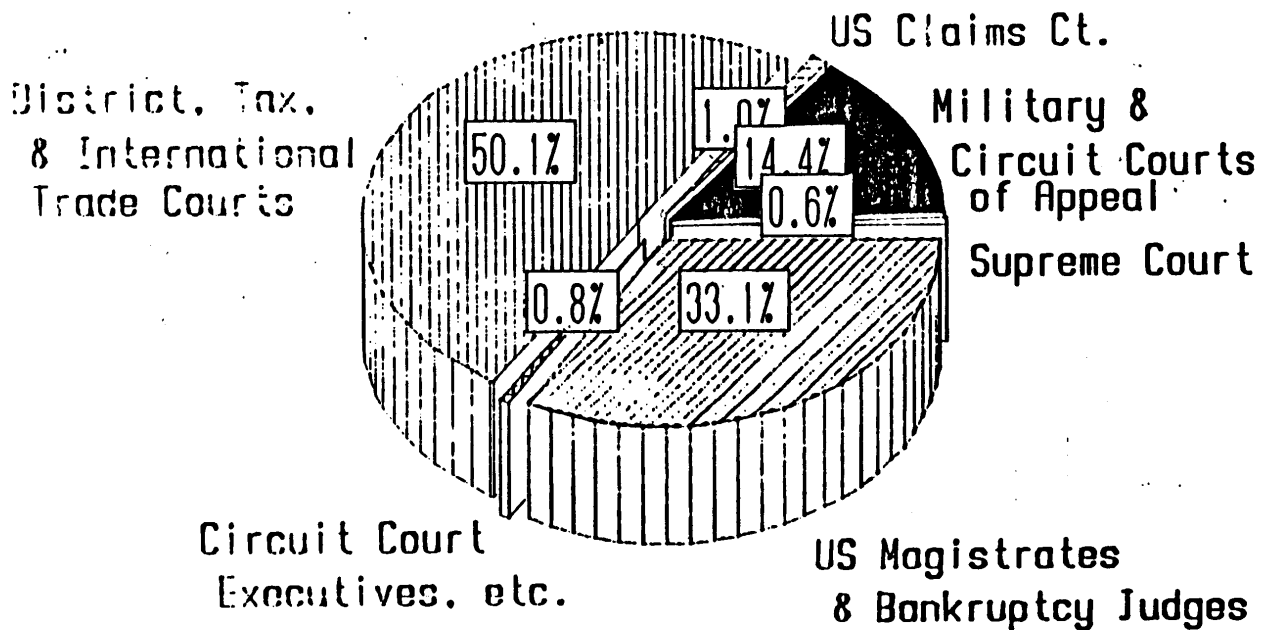
A lifetime salary of \$78,700 is not a significant benefit in an economic environment where a successful lawyer is likely to be covered by a pension plan that pays from \$80,000 to \$90,000 in retirement income at age 65."

(William M. Saxton; Butzel, Long, Gust, Klein & Van Zile, Detroit, October 22, 1986)

The Commission is concerned that judicial independence is under siege. The decline in the purchasing power of judicial salaries,

The JUDICIARY - 1986

Total Number of Positions = 1639



source: OPM

combined with the fact that such substantially higher earnings are common in the private sector, is beginning to undermine the very concept and reality of lifetime judicial appointments. Scores of people are now considering "career changes" out of, not into, the Federal Judiciary.

As the financial sacrifices of judicial service mount, lifetime tenure becomes a sentence in itself, a sentence that more and more judges are unwilling to serve. More judges have resigned from the Federal bench in the last fifteen years than at any time in the 182 year history of the judiciary. Fifteen judges resigned between 1980 and 1984 alone.

When asked in a study by the 1976 Commission what their reasons were for leaving federal employment, some 75 percent of former judges cited 'inadequate compensation' or 'better offers' as the reason for their resignations.

"Judicial salaries in the United States have become a national disgrace The inequity in the present system is so extreme that immediate corrective action is critical."

(Bruce W. Kauffman; Dilworth, Paxson, Kalish & Kauffman, October 1986)

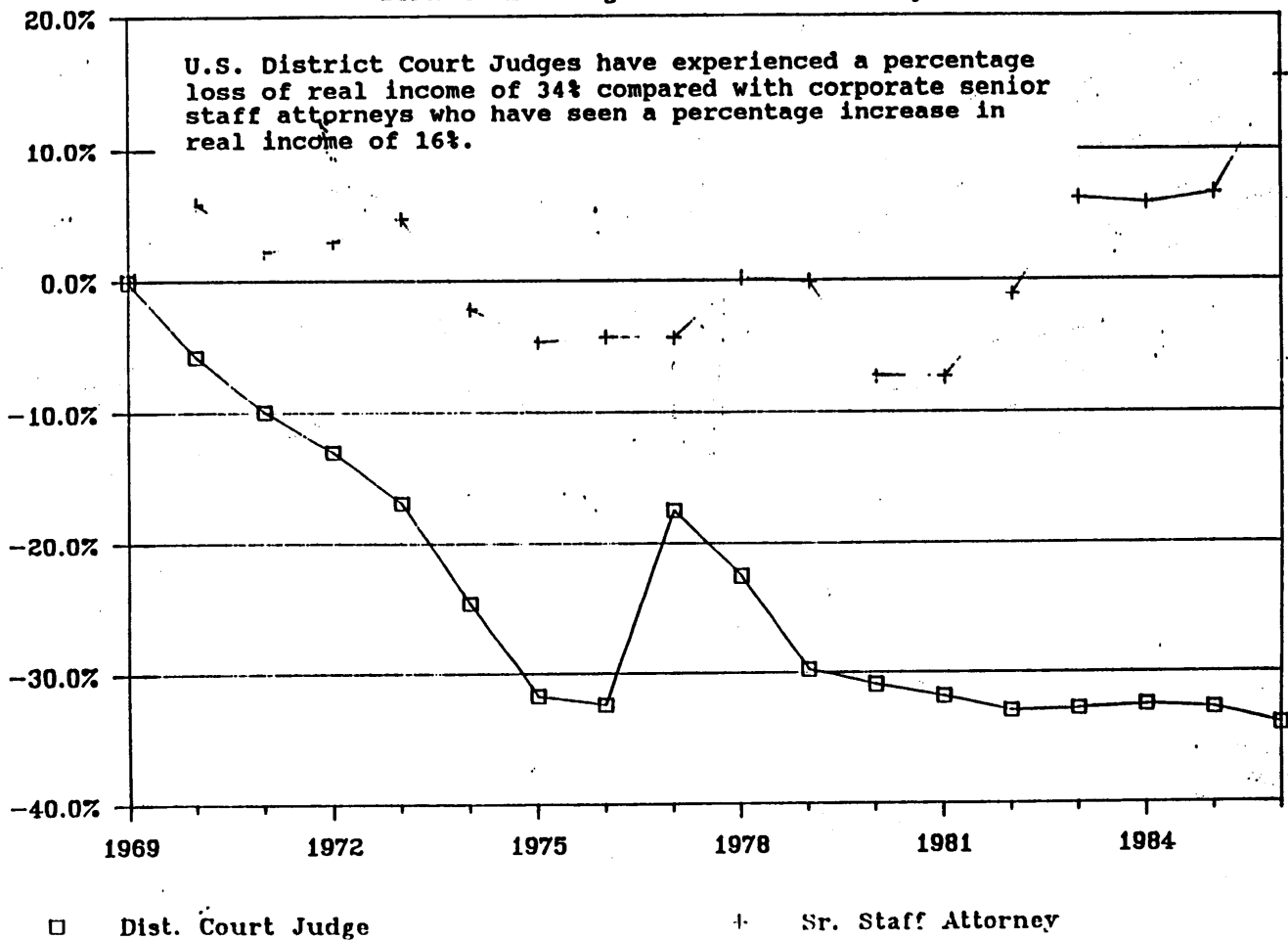
Since the beginning of the 1970s, the rate of federal judicial resignations has more than doubled, and most of the judges who resigned stated that the level of remuneration was their prime reason for doing so. If the current accelerated rate of resignations continues, the early departure of 40 judges can be expected in this decade.

It is hard to assess the real cost of replacing an experienced federal judge who resigns at the pinnacle of his career, but the implications for the judicial system are severe. It takes fully five years for a qualified attorney, once appointed to the federal bench, to reach peak efficiency. Early departure thus creates a gap in the system which at best cannot be filled for half a decade, but which at worst may result in a permanent diminution in the capabilities of the service.

As new recruitment at inadequate salaries threatens to bring less qualified men and women to the bench, the real cost cannot be calculated in dollars. The real cost will be in the insidious and longer term drain imposed on the nation's judicial system, a loss we will all feel over time, if not now adequately addressed.

EROSION of PURCHASING POWER

Dist. Court Judges vs Sen. Staff Attys



The traditional view of Federal judges as older persons taking up a judgeship at the conclusion of successful careers is not borne out by current data. In the last ten years, almost 70 percent of judges were only 40 - 55 years old at appointment. Another 8 percent were under 40 on appointment.

The figures suggest that modern judges are middle-aged, mid-career professionals with families, and thus concerned with financial planning and security. They are paid at levels well below their earning potential which fail even to reflect the impact of inflation over the years since their appointment.

"Judges don't expect to get rich on the bench. But they do expect to get, in real terms, what the job paid when they took it. I don't see how anyone can reasonably quarrel with that expectation."

(Hon. Joseph L. Tauro, United States District Judge, Massachusetts)

"I have been in public service for over ten years. During this period, I have expended most of my previously acquired savings in order to maintain a reasonable standard of

living. I will likely be required to re-mortgage my home in order to educate my son."

(Hon. Donald E. Zeigler, United States District Judge, Pennsylvania)

Because of this failure to keep pace with inflation, the level of earnings in private practice is becoming an increasingly influential factor in judicial career planning. Its lure is irresistible for many.

Reservations about life tenure and the consequent possibility of a return to private practice suggest the wisdom of "contingency planning" on the part of potential judicial appointees.

It is feared that increasing numbers of nominees may accept appointment with the quiet intention of serving only a few years before "retiring" to private practice, with the enhanced prestige of a federal judgeship and the substantial remuneration of a partnership in a leading law firm.

Such a "stepping stone" approach to service on the bench begins radically to subvert the basic premises of the constitutional structure. Any suggestion that a judge may view the attorneys before him in court not only as current advocates but also potential law partners would clearly do serious damage both to

the integrity of the judiciary itself and to public confidence in its fairness.

While we do not expect our judges to be average in any way, they earn substantially less than even the 1985 national average remuneration of \$164,000 a year for a 50 year old law firm partner. In larger cities, the median salary figure for 50 year old partners was \$254,200 in 1985 and many top lawyers, of course, earn substantially more, indicating the economic strength of the profession. The top earning firm in the nation generated \$880,000 in profits per partner in 1985.

All judicial peer groups fare better in pay than our federal judges. Chief corporate lawyers earn around \$127,000; when bonuses are included, this becomes \$157,000. Entry level positions at some major law firms pay more than federal appointments. Young associates at some law firms in New York would have to take pay cuts to accept a nomination to the federal bench!

As a result, the talent pool of "the best and the brightest" - those willing and eager to take up the job for life - is shrinking dramatically.

"If the present state of affairs continues,
those involved in the federal judicial

selection process will have for consideration only the wealthy or those individuals for whom a federal judgeship will constitute a step up the financial ladder."

(Former Deputy Attorney General, Edward C. Schmults, June 1984)

The First Commission wrote that "Judges cannot be expected to endure the diminution of their purchasing power much longer without the result being severe recruitment, retention and morale problems." We continue to see all of these problems today as, for 15 years, salary increases have been denied, reduced or granted only sporadically.

The Third Commission wrote in 1977 that "a small investment now will pay large dividends in the future," and Irving Shapiro, retired Chairman of DuPont, told the 1981 Commission:

"In industry, we know that good employees get better with years of experience, and we have to do what we can to make it worth their while to stay with us. Industry recognizes its own self interest and finds ways to keep these people. I ask that a way be found for the government to do the same."

The recommendations of this Commission, if implemented, would reverse the invidious decline in judicial remuneration and set a course towards more reasonable levels of compensation for those who nurture the American system of justice.

The Commission's recommendations, if implemented, would help restore fairness to the top federal salaries and provide some small recognition of the enormous personal and professional contribution these people make to public life. Such action would help ensure our nation's ability to attract and retain the most talented among us - and not just the wealthiest - to the service of our country.



THE LEGISLATIVE BRANCH

The question of congressional pay has generated much heated debate throughout history. Since the first Congress sat, the subject has elicited, as Congressman Morris K. Udall put it, "more self-righteousness and more passionate oratory and more posturing and more nonsense . . . than almost any other subject."

Today, Senators and Representatives are paid \$75,100. Some feel that a pay check of twice or even three times that earned by many of their constituents is something of an embarrassment, and many Members are understandably wary of voting an increase. It has always been that way.

Since the Constitution mandated that "The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law . . .", the Senators and Representatives appear to have been inherently unable to set adequate and rational levels of compensation.

Each attempt to raise pay was met by a public outcry and many in Congress simply refused to vote for any increase at all. Over 100 years ago, the pattern had emerged. When Congress voted a

pay increase from \$5,000 to \$7,000 in 1873, it was denounced as a "salary grab", as "plunder seized" and the decision rescinded.

The problem of remuneration became endemic. Today, the charge that "he voted to raise his own pay" is still good copy for election campaign commercials and thus makes many politicians understandably wary. In an attempt to circumvent the dilemma, congressional pay has been linked to that of top level executive branch officials and the senior ranks of the judiciary in the hope of seeing congressional salaries rise with them.

In fact, the reverse has been the case. Pay linkage has not overcome congressional reluctance to vote a pay raise for top officials, including themselves. In simple terms Congress has been unwilling to take the abuse for voting itself a salary increase. Instead it has arbitrarily suppressed all top level executive and judicial salaries in hopes that the pressure would eventually build to such a degree that like the "rising tide that lifts all boats" it could no longer responsibly hold back the other branches and affected salaries would increase.

Since 1967 and the establishment of the Quadrennial Commission system, Congress has reacted to the President's recommendations by allowing increases pursuant to Quadrennial Commission

procedures only twice, in 1969 and in 1977. All top government officials have suffered as a result.

After a raise to \$42,500 in 1969, there were no increases until 1975, despite a rise in the cost of living of over 50 percent. Today's salary of \$75,100 represents an increase less than even one half the cost of living during the same period (77% vs. 224%).

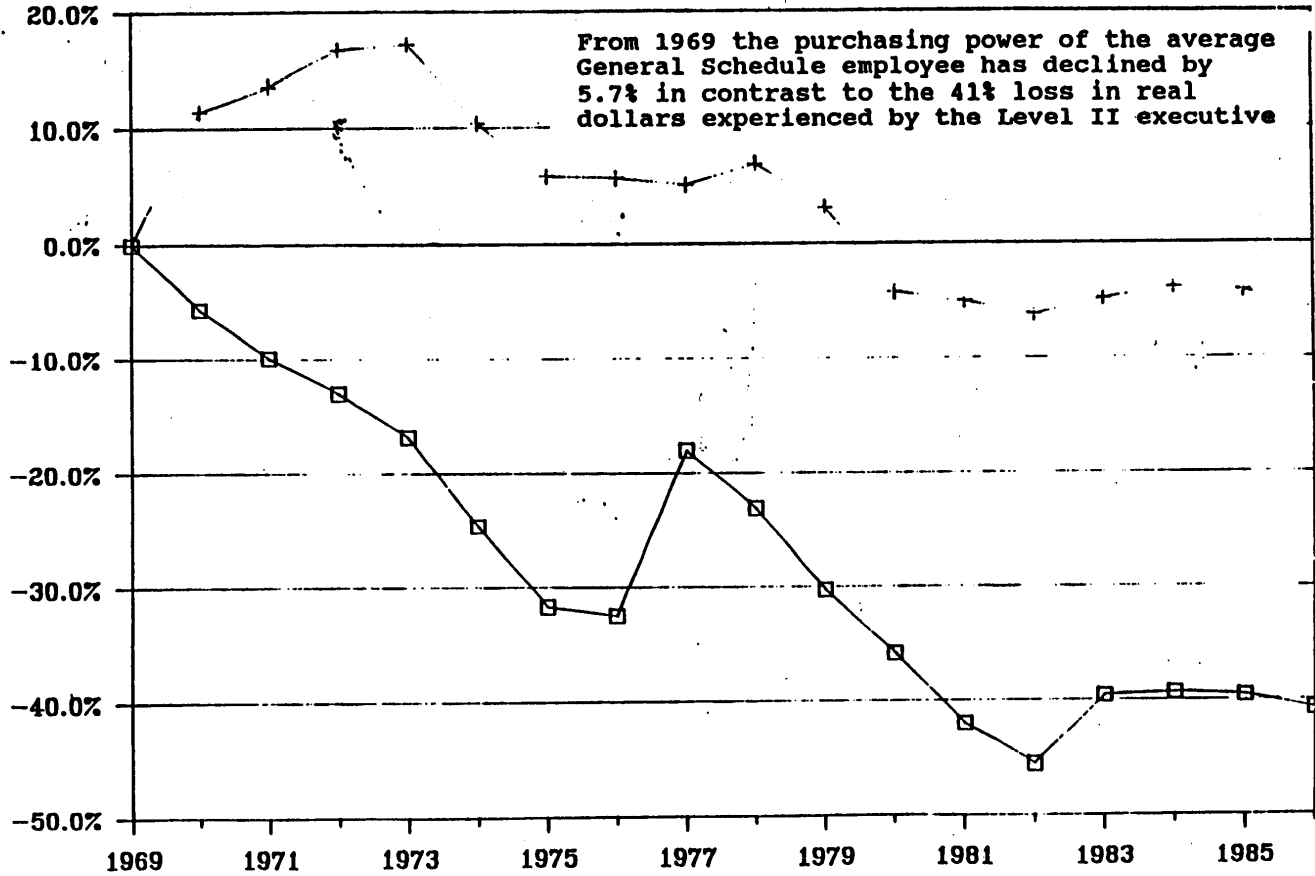
A profile of those serving in Congress shows that most enter in their early forties, while the average age of a Congressman is around 50 years. Most are married and have children. The typical Senator or Representative therefore is middle-aged, with family responsibilities, maintaining two homes.

Some might feel little sympathy for the financial position in which politicians may find themselves. Some former Members have been able to attain lucrative positions on corporate boards, in law offices, and with special interest groups, as a "reward" for their service to the nation.

However, the lure of the private sector is getting stronger, and being felt earlier. Although the call to public service and, in the words of one Member, the chance "to do good" leads most

EROSION OF PURCHASING POWER

Level II vs. General Schedule Employee



□ Level II & Congress

source: OPM

+ GS Employee

Members to try to remain in public service, the benefits of the private sector are becoming increasingly more attractive.

"The combination of better pay and fewer hours [in the private sector] creates an irresistible temptation to many Members."

(Hibbing, "Voluntary Retirement from the U.S. House: The Costs of Congressional Service," Legislative Studies Quarterly, February 1982)

The large and growing gap between congressional pay and private sector salaries is more evident now than ever.

"The relationship of the congressional salary to private industry salaries has done a reversal. When I entered Congress, the salary was \$10,000. At that time, there weren't but two or three lawyers in all of my hometown making \$10,000. Now the salary is \$60,000 but there must be two hundred in this town making that, maybe more." (Ibid.)

The hidden stresses and strains of life in Congress have been well covered by the media. The New York Times featured Repre-

sentative Daniel Lungren and his family in May 1986 in an article it called "Down and A Little Out on \$75,100 a year."

As Representative Lungren said, "We are doing fine on a day-to-day basis. My concern is that I'm not able to prepare for the future the way I should." He has three children between the ages of 9 and 12 years.

In this situation, the incentive to increase income by a variety of means is strong. The attractions of high paying honoraria and apparently lucrative investments - with the potential for perceived or possible conflict of interest - is in part a consequence of inadequate congressional pay. To the extent that such "back-door" compensation may approach the norm, or is even publicly perceived to be the norm, the integrity of its elected representatives is undermined and the country's faith in the democratic process is diminished.

THE EXECUTIVE BRANCH

In 1969, a Cabinet Secretary, Level I executive, earned \$60,000 or the equivalent of \$182,000 in today's dollars. The pay today is \$86,200, which adjusted for inflation over the two decades, has a real dollar value of \$28,400.

The Administrator of the Veterans' Administration is a Level II executive. He runs an agency with a staff of 243,000 and a budget over \$25 billion. In 1986, he earned \$75,100.

The Secretary for Health and Human Services, running a department which spends around \$292 billion a year and employs 141,000 people, earned \$86,200 in 1986.

The Chairman of General Dynamics, with sales of \$8.2 billion and 108,000 employees, received \$1 million in total compensation in 1985, while the Chairman of First Boston, Inc., with sales of \$2.2 billion and a workforce of 4,500, received \$2.3 million.

The 839 officials covered by the five levels of the Executive Schedule are the managers, directors and general counsels of a

wide variety of Cabinet departments and independent agencies of government. They face complex issues and make difficult decisions, often with profound, long-term national and international consequences.

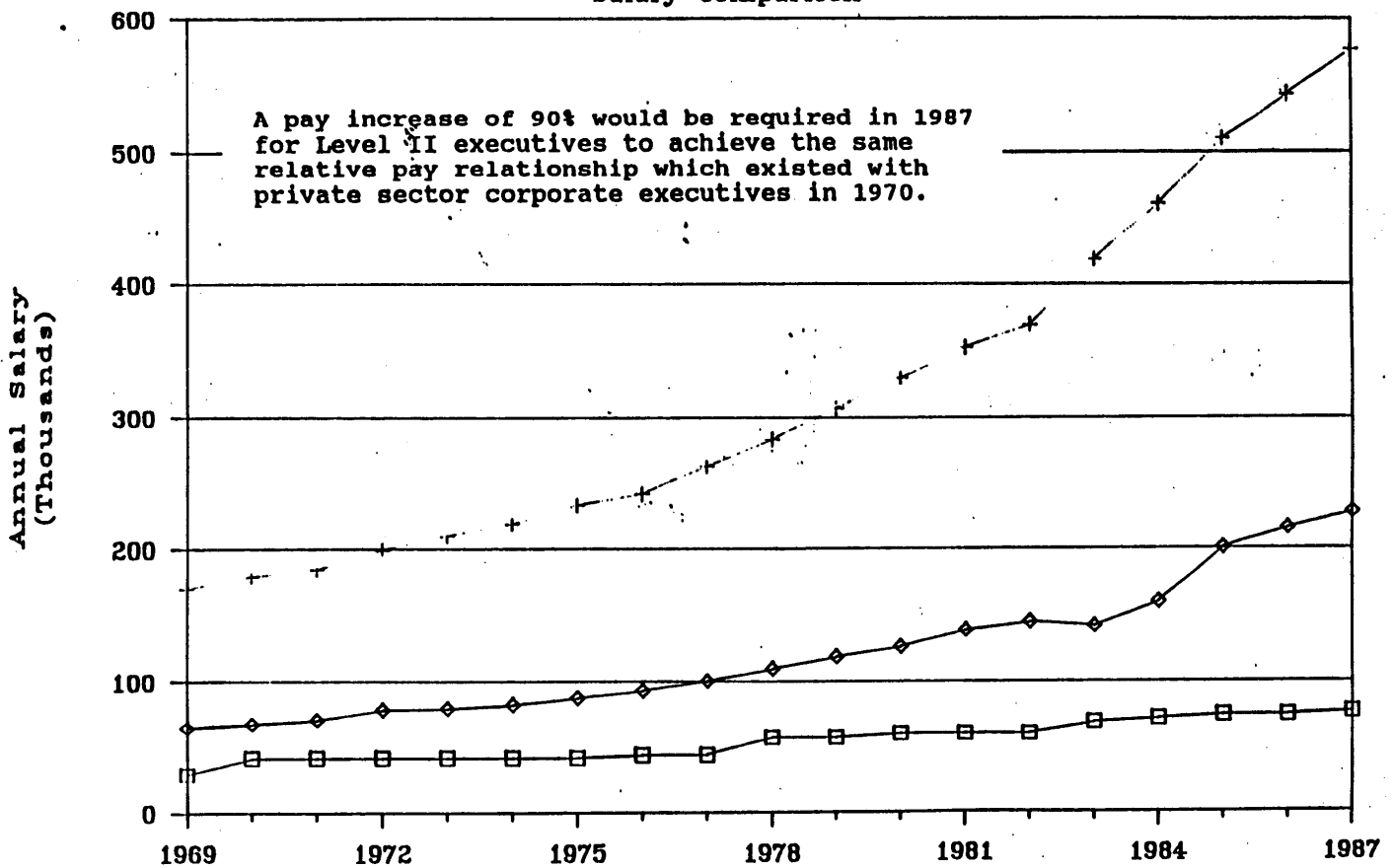
This Commission has concluded that present executive level salaries are in no way commensurate with the responsibilities of the positions held. It is not unreasonable to expect the compensation of those to whom we entrust the highest responsibilities and authority in government to bear some reasonable relationship to those received by their peers in the private sector.

What do top government officials sacrifice to serve in government? At what point does that sacrifice become too great? What forces them to leave public service? Why are more individuals asking NOT to be considered for appointments?

The enormous disparity between public and private sector executive pay is obvious. The gap is so wide one might wonder why anyone would serve in government; and so wide it makes one wonder with renewed respect at the even more significant contribution many of our top public servants make in serving their nation.

Private Sector Counterpart vs Level II

Salary Comparison



Level II (Jan 1)

source: HayGroup - OPM
 + Upper Range

◇ Lowest Range

The data are compelling. Our top government officials have lost over 40 percent in purchasing power since 1969, and in recent years, the trends are disheartening.

Public-private salary discrepancies at the executive level are at an all-time high. A study done by the Hay Group for the Commission shows that, since 1969, the gap between public and private sector executive pay has widened so dramatically that an increase of over 90 percent would be necessary to bring Level II executives back into their 1969 relationship with private corporate executives.

The Commission has stated it recognizes that it is unrealistic to attempt a return to the public-private salary relationship which existed in 1970. But the rationale is sound, and the Commission's recommendations move towards narrowing the current gap.

The case for significant increases to stem this erosion in earning power is incontrovertible. Every indicator the Commission has examined - from the salaries of corporate CEO's and Federal Reserve Bank presidents, to those in state and city governments, universities and schools, as well as the salary of the average government employee - illustrates the weight of the argument for fundamental change.

Hourly paid workers in basic manufacturing industries have also done better than Cabinet officers in maintaining purchasing power. Automobile mechanics and electricians have improved their real income since 1969. Even teachers, whose pay has been the cause of much national concern over the last few years, have kept pace with the cost of living much more nearly than have our country's leaders.

Even when comparisons are made WITHIN the federal government, the top federal official has fared badly. The average civil service employee in government departments and agencies - the General Schedule employee - has done much better than senior government executives in maintaining his or her level of real earnings. While the purchasing power of top positions has declined by 41 percent since 1969, the GS employee has suffered a loss of 5.7 percent in real income.

Had the salaries of top executives in government even kept pace with increases given to the average GS employee, we would be paying Cabinet members about \$140,000 today.

Had the salaries of top executives in government kept pace with the Consumer Price Index (CPI), we would be paying Cabinet members more than \$180,000 today, STILL well below the salaries earned by their counterparts in the private sector.

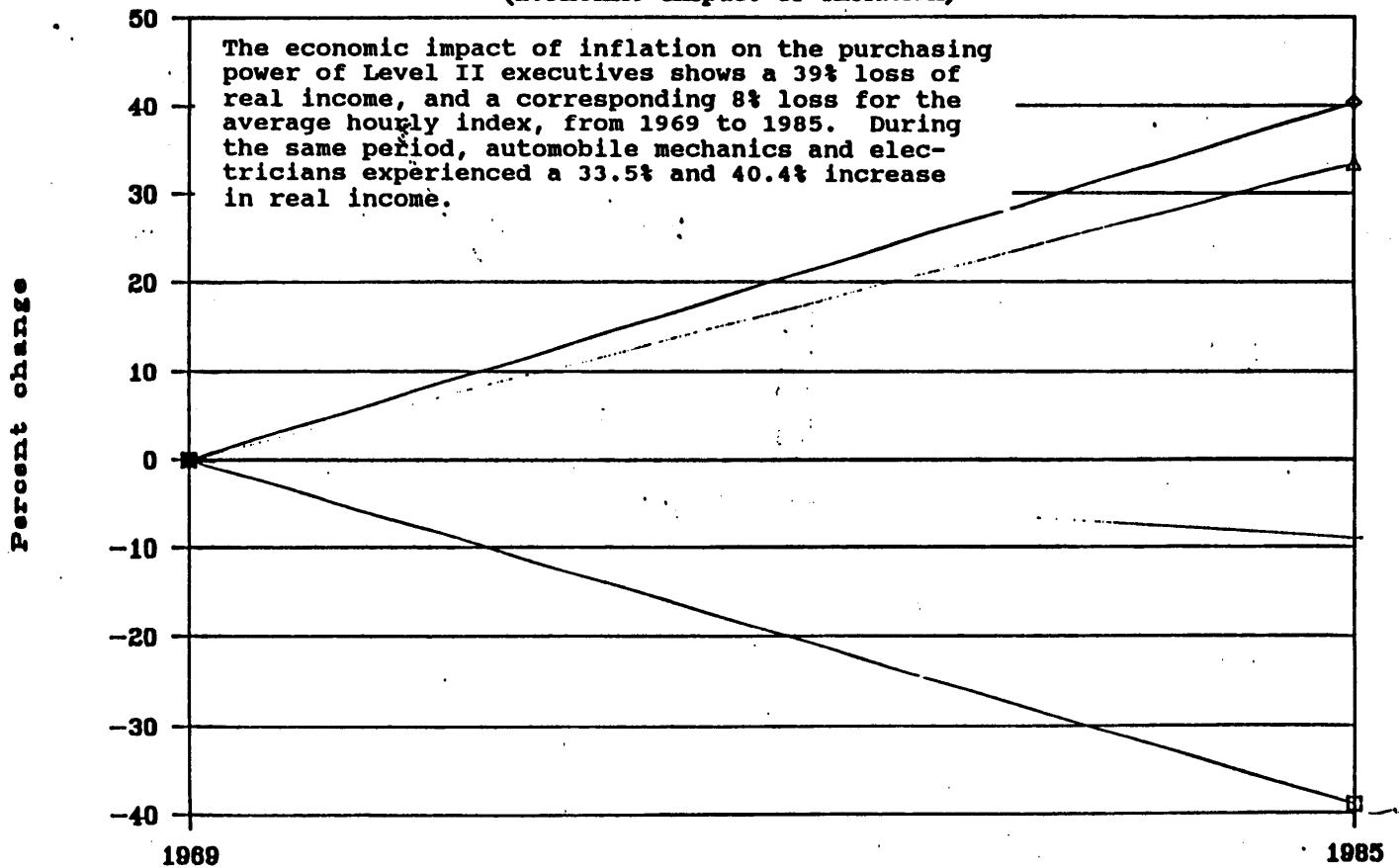
The inequities are obvious. The arithmetic is clear as well. A government salary is increasingly unable to support the cost of one or more college educations, in addition to normal family living expenses. Where choice is a factor, people are generally unwilling to inflict severe financial sacrifices on their families. For this reason they find that they simply cannot afford to serve in government.

As Ann Banning, the current Director of Recruitment and an Associate Director of White House Personnel said in September 1986:

"What we increasingly see is that men and women at the peak of their private sector careers don't even seriously consider taking senior federal jobs.

. . . we find ourselves out of the running, not only with large numbers of major prospects in their 40s, but are increasingly unable to persuade those in their 50s to even enter the interview process."

Purchasing Power - Misc. Occupations (Economic Impact of Inflation)



source: bureau of labor statistics

□ L II

△ Hourly Index

◇ Electrician

△ AutoMech

Low salaries are not the only problem, although they may be at the root of other problems. As one member of the Interim Commission pointed out, a successful nominee for high administrative office not only has to take a large cut in salary when appointed, but also has to accept the very high risks of public office, placing his or her reputation on the line.

He or she must work under constant public scrutiny; may become a target of the media; must be willing to live a fishbowl existence; must be willing to lead private lives tightly circumscribed by the host of measures enacted by Congress to reduce or eliminate potential conflicts of interest and which are open to anyone who cares to investigate. Most top level executives serve at great personal risk. When the possibility of an unjust accusation of misfeasance is coupled with confiscatorily low pay, a potent formula results which dissuades many highly talented people from even considering government service.

The Third Commission recommended many of these restrictions as the price of adequate compensation. Today, without adequate compensation, the current system works at cross-purposes. Conflict of interest regulations seek to ensure the independence of federal officeholders; low salaries force them to consider life after government. The corrosive effect of the perception of

such "contingency planning" in the executive service, as noted in our discussion of the judicial situation, is hard to overstate.

The prospect that officeholders may be spending part of their time positioning themselves for lucrative private sector employment, in order to recoup the financial losses inflicted by government work, is highly disturbing. It is a particularly worrisome issue when those serving on regulatory bodies make decisions involving millions of dollars to the private sector they oversee, and to which they may be planning to return.

THE QUESTION OF LINKAGE

Congressional salaries have historically been placed a little under those of Cabinet Secretaries. The First and Second Quadrennial Commissions recommended that congressional pay should be the same as that of Level II executives and Circuit Court judges.

There are two schools of thought about such "linkage". In practical terms, it has arbitrarily depressed the pay of judges and executives simply because Congress found it politically unpalatable to raise its own salaries, and it has capped the salaries for several thousand senior career officials in the Senior Executive Service and General Schedule. Congress has been reluctant to break that linkage with the other two branches of government in the hope of generating enough political and public support for across-the-board salary increases.

Others see linkage more as a matter of principle. The Constitution has built a framework which balances the three equal branches of government. Compensation for each of the three branches should also be balanced. Lower pay for Congressmen may risk implying lesser status to Congress than to the highest ranks of the judicial or executive branches.

The Founding Fathers intended Members of Congress to be equal to the other branches in status, prestige, ability and integrity. Setting Congress adrift on the pay issue is politically impractical and will not serve the national interest well. Therefore, we have concluded that parity between Level II, Congress and judges on the Circuit Court is important and should be maintained. However if Congress is unable to develop the courage to raise its own pay, it is better to limit the unfairness thereby caused and not impose inadequate pay levels on the two other branches, thus compounding the harm to our government and our country.

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MEMBERS OF PAST COMMISSIONS

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Polaroid Corporation

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Norma Pace
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Meglen & Bradley

Bernard G. Segal
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Past President, American Bar Association

Edward H. Foley
Former Under Secretary of the Treasury

Sherman Hazeltine
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First National Bank of Arizona

Charles T. Duncan
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Chesterfield Smith
Holland & Knight
Past President, American Bar Association

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Structural & Ornamental Iron Workers

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Joseph F. Meglen
Meglen & Bradley

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Past President, American Bar Association

Edward H. Foley
Corcoran, Foley, Youngman, and Rowe
Former Under Secretary of the Treasury

William Spoelhof
President, Calvin College

Roger M. Blough
White & Case

William T. Gossettt
Dykema, Gossett, Spencer, Goodnow, and Trigg
Past President, American Bar Association

1969 COMMISSION

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Chairman, American Telephone and Telegraph Company

John J. Corson
Consultant and Corporate Director

George Meany
President, American Federation of Labor
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Stephen K. Bailey
Dean, Maxwell Graduate School
Syracuse University

Sidney J. Weinberg
Senior Partner, Goldman, Sachs & Co.

Edward H. Foley
Corcoran, Foley, Youngman, and Rowe
- Former Under Secretary of the Treasury

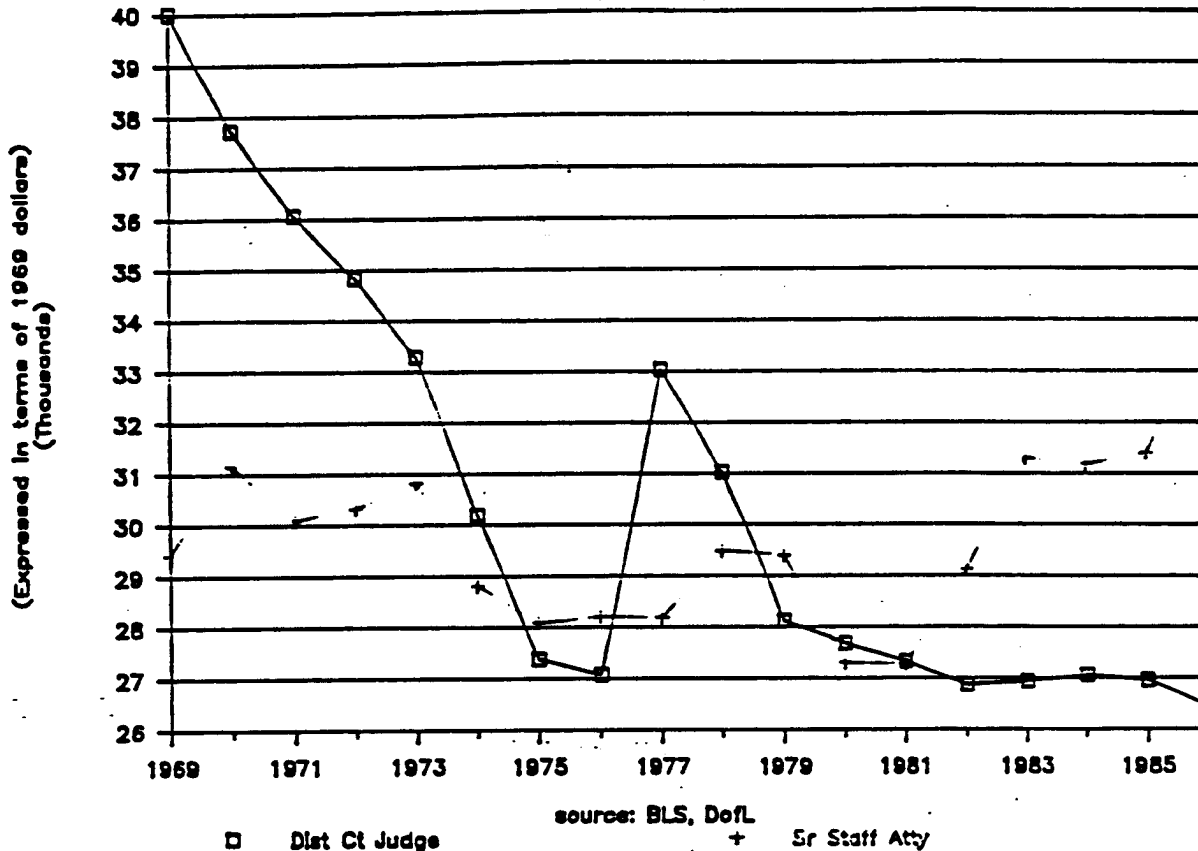
William Spoelhof
President, Calvin College

Arthur H. Dean
Sullivan and Cromwell
Chairman, U.S. Delegation, Nuclear Test Ban and Disarmament
Conference

William T. Gossett
Dykema, Wheat, Spence, Goodnow, and Trigg
President, American Bar Association

Comparison of Real Income

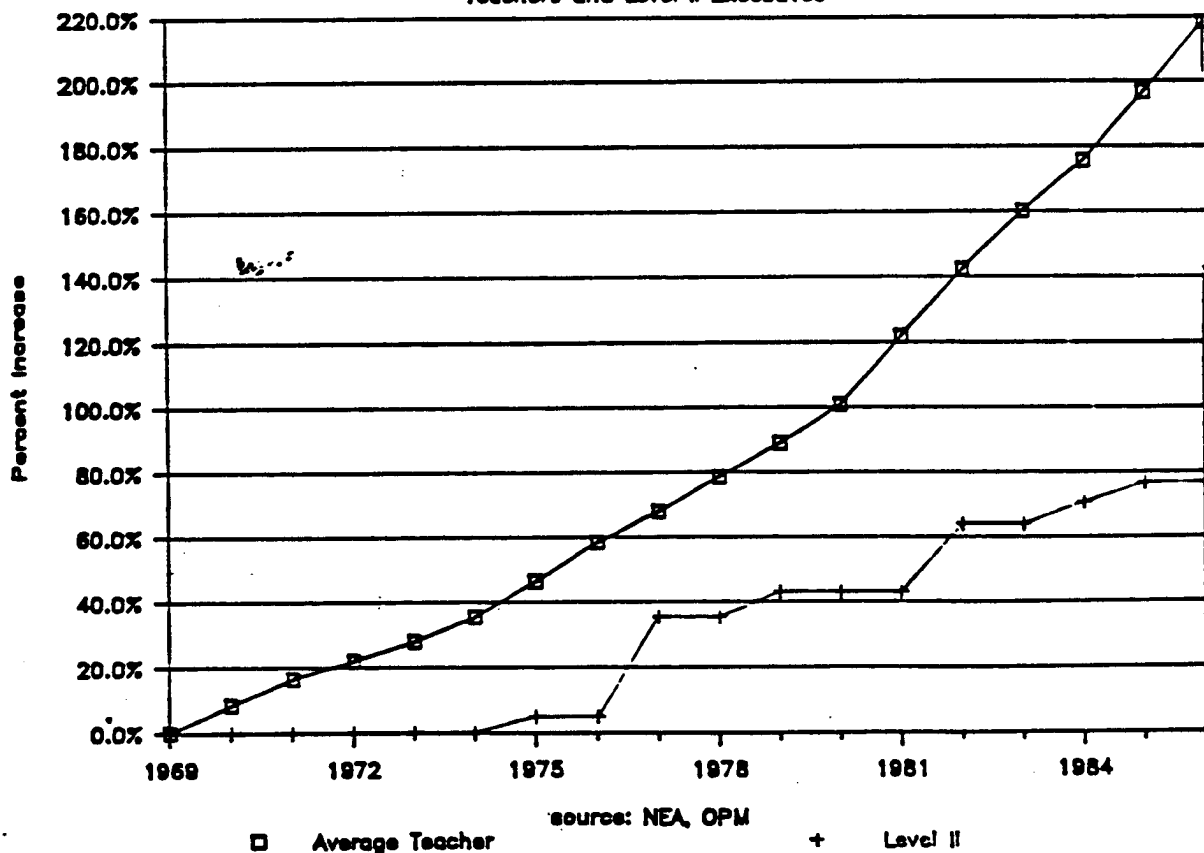
US Dist Ct Judge vs Corp Sr Staff Atty



Since 1969 U.S. District Court Judges' real income has declined by \$13,500 while corporate senior staff attorneys' real income has climbed \$4,500.

Comparison of Salary Increases

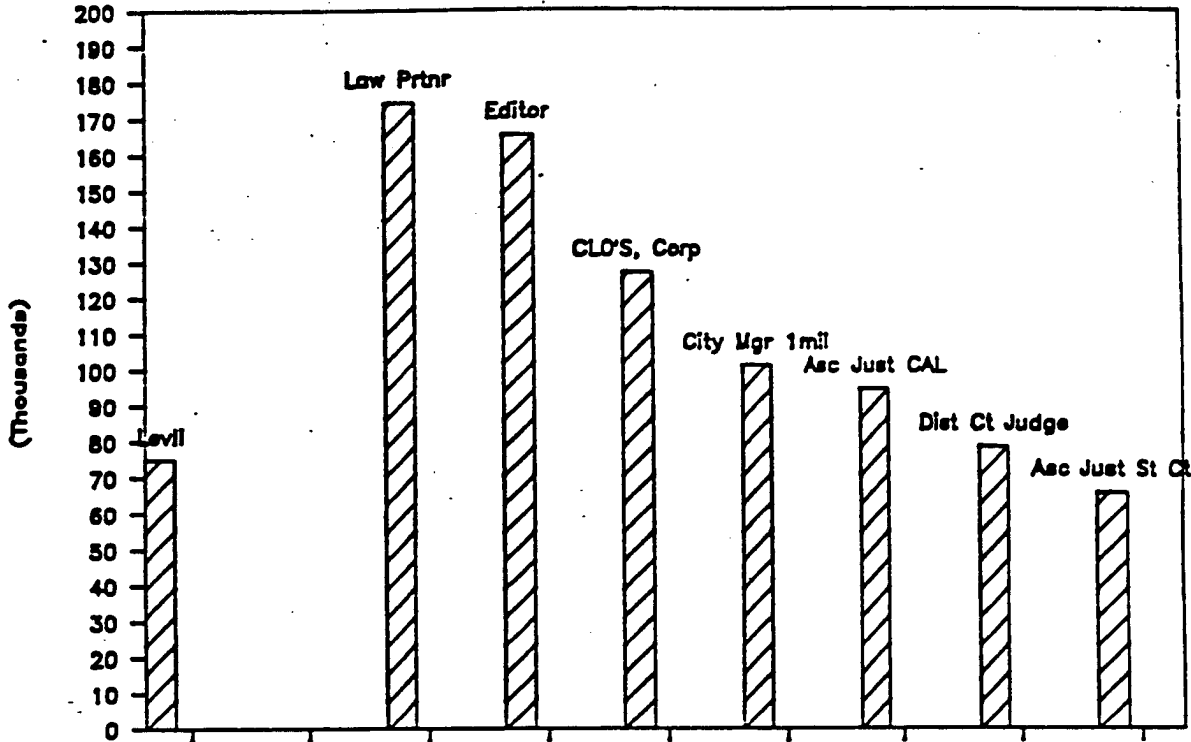
Teachers and Level II Executives



Since 1969 a salary increase of 76 percent, the average public school teacher has experienced an increase of over 200 percent.

Public and private sector employees of comparable responsibilities routinely have higher salaries than Level II executives.

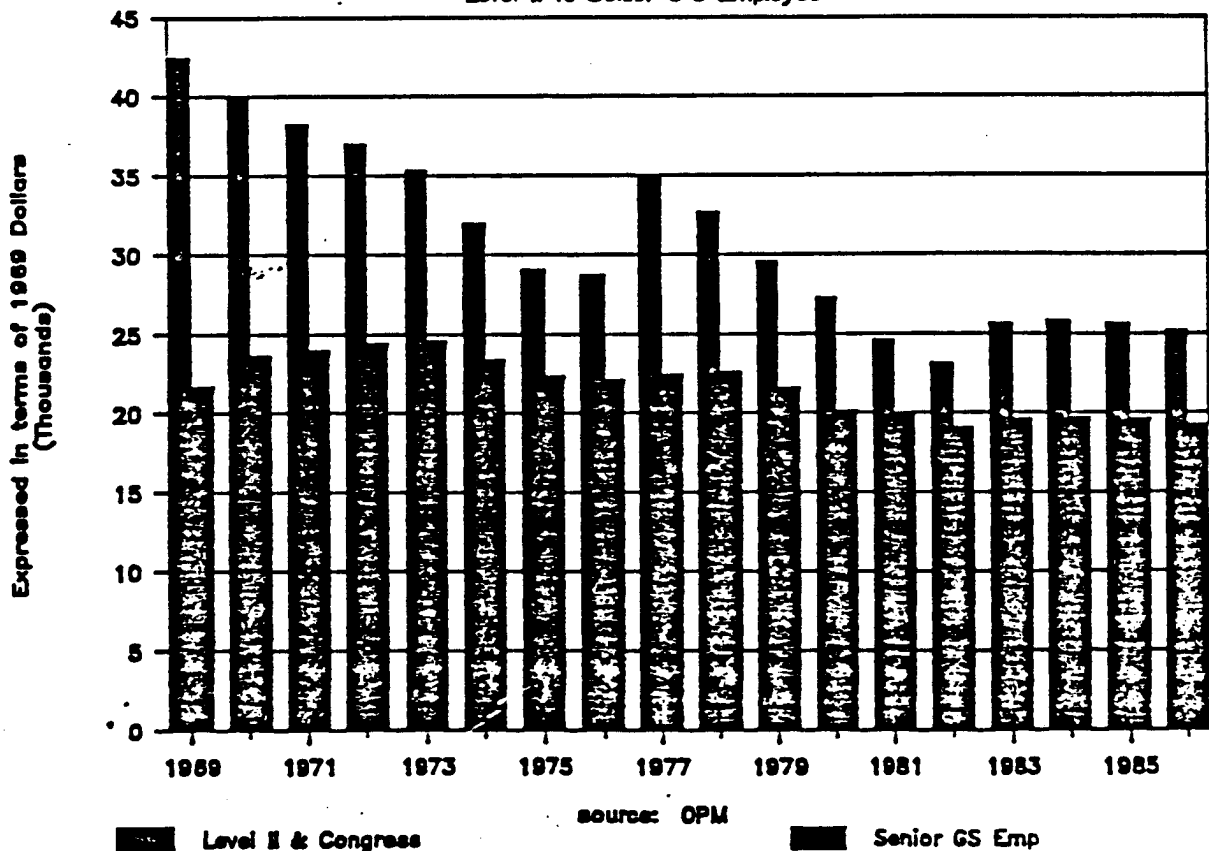
Current Salary Level II versus Public and Private Sector Employees



source: OPM

Erosion of Purchasing Power

Level II vs Senior G S Employee

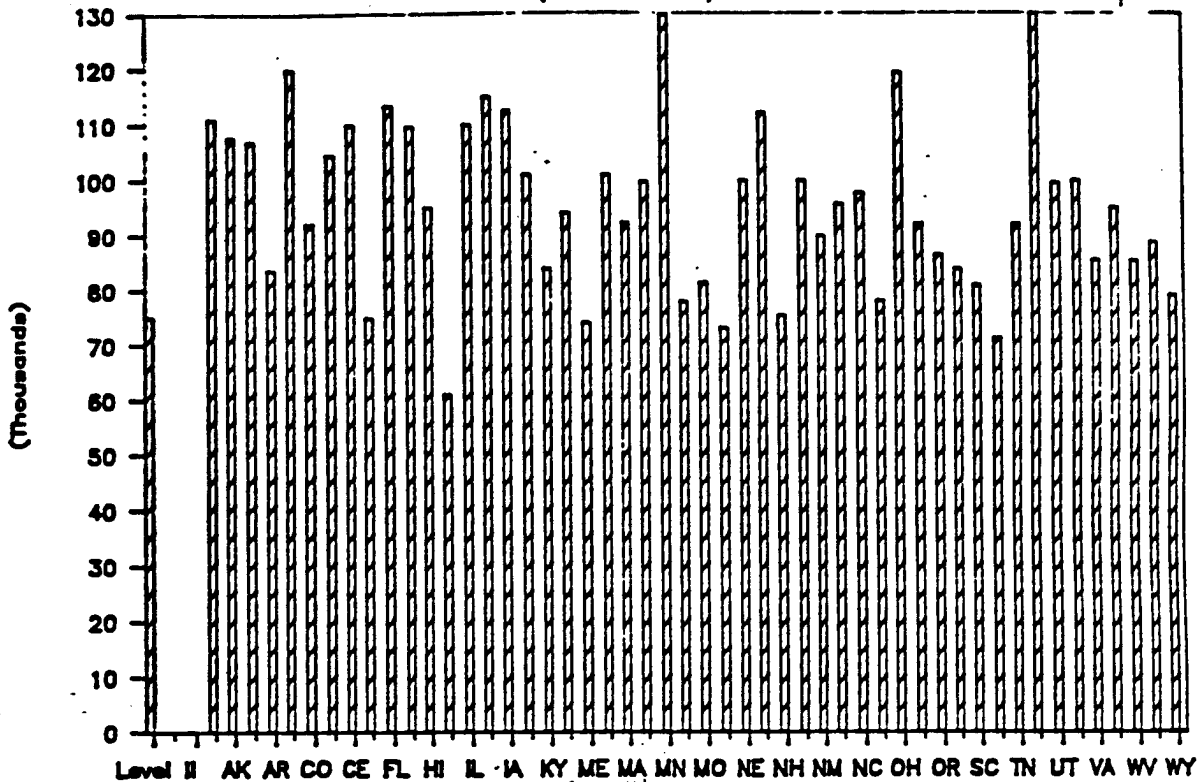


source: OPM

Level II executives have failed to keep pace with the cost of living to the extent Senior General Schedule employees have.

Level II vs State University Presidents

(actual salaries)

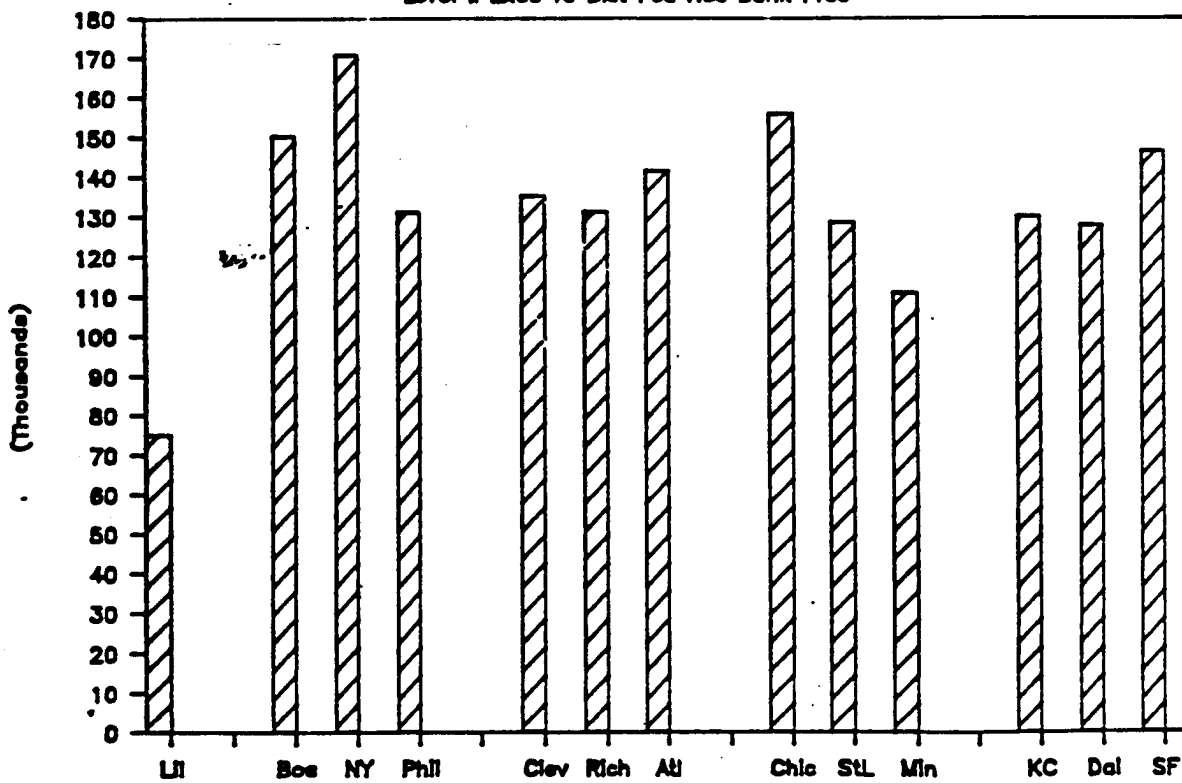


source: Council of State Governments

The president of virtually every major state university receives more in salary than the state's Congressmen.

Current Salaries

Level II Exec vs Dist Fed Res Bank Pres

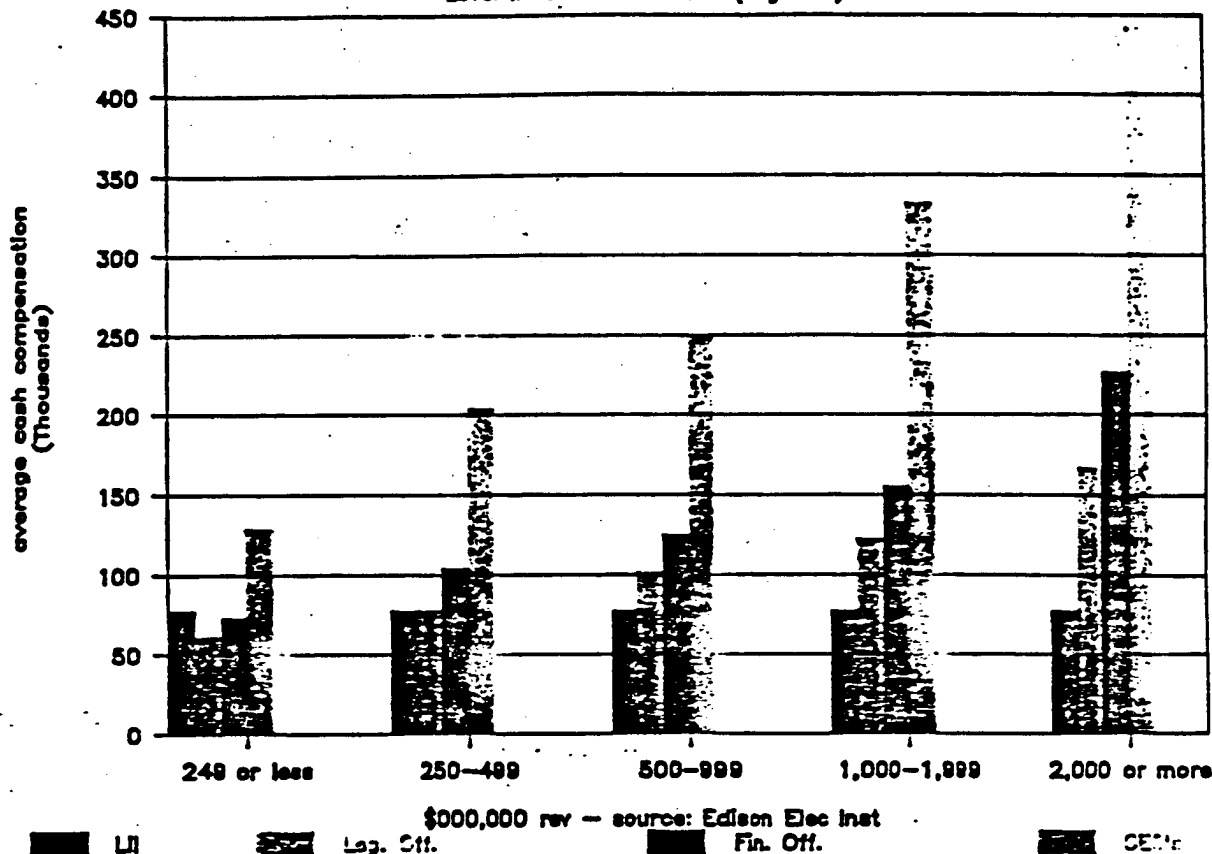


source: Bd of Governors, Fed Res Sys

Level II executives, senators and congressmen receive lower salaries than any District Federal Reserve Bank president.

Investor Owned Public Utilities

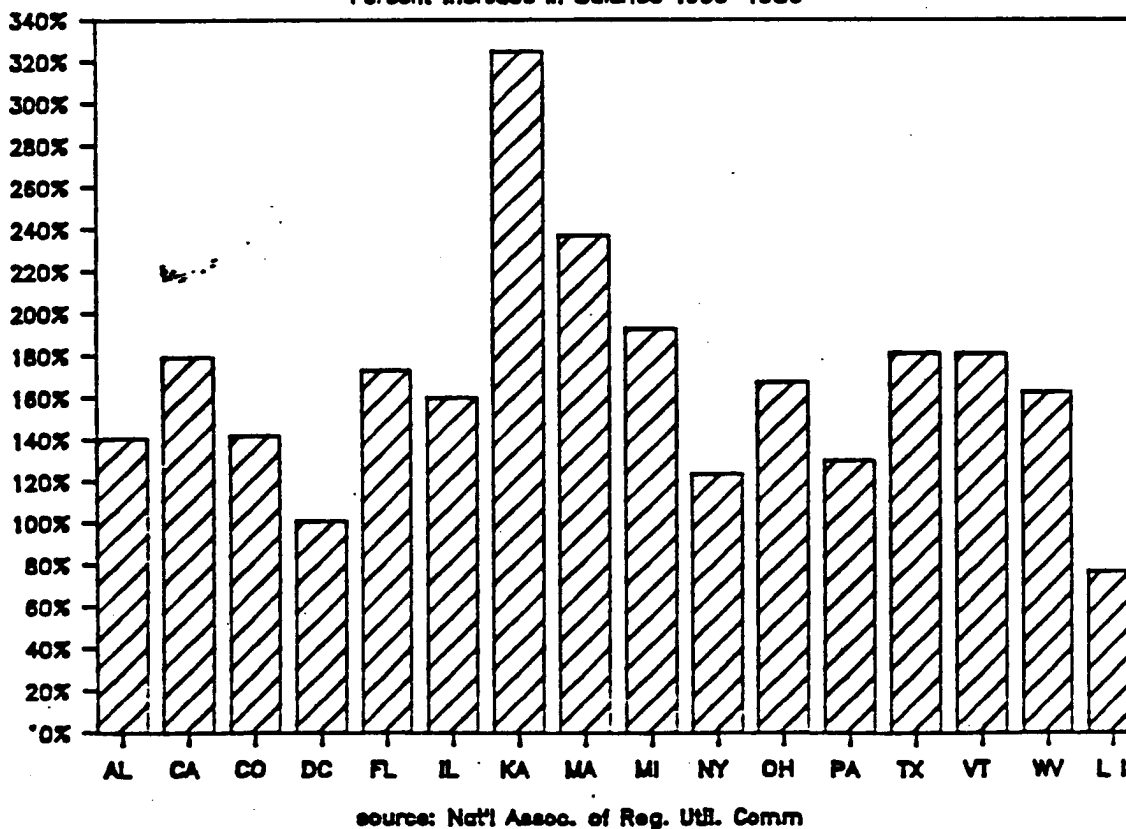
Level II vs 109 executives (avg. sal.)



Positions of comparable responsibility in large investor-owned public utilities pay more in salaries than received by Level II executives.

Chairmen of State Regulatory Util Comm

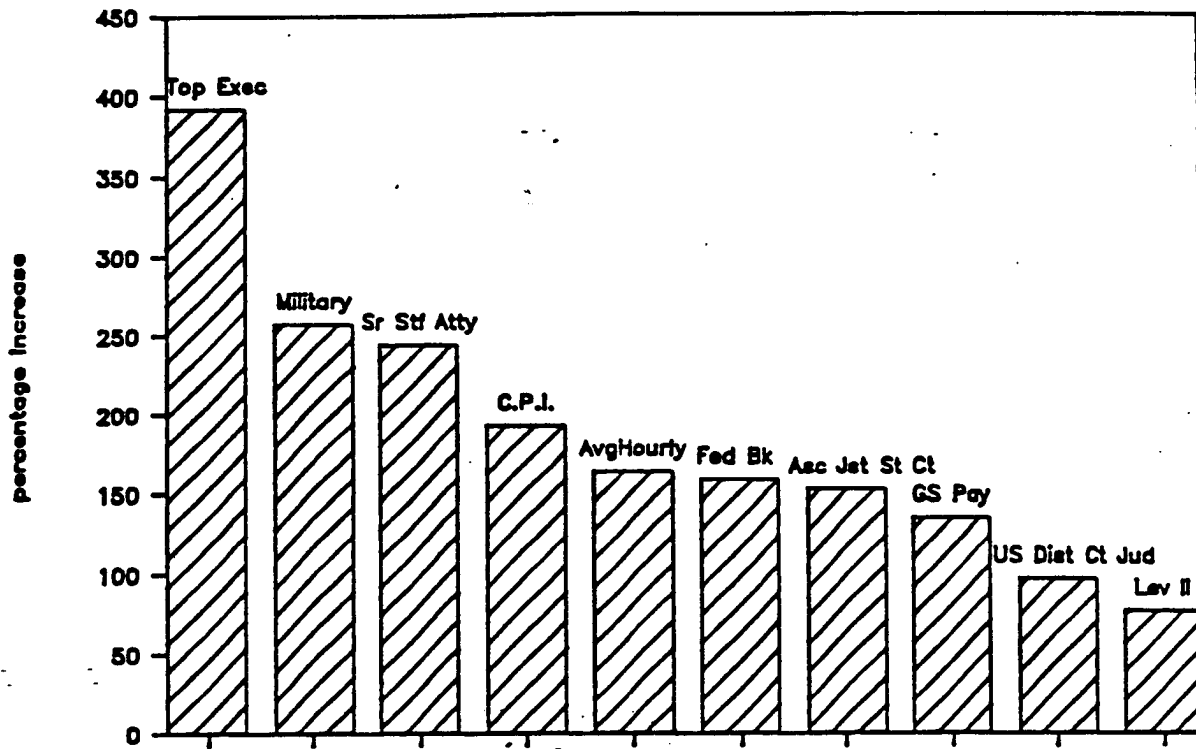
Percent Increase in Salaries 1969-1986



Commissions have increased at a higher rate Level II executives.

Percentage Increases in Salaries

1969 thru 1986

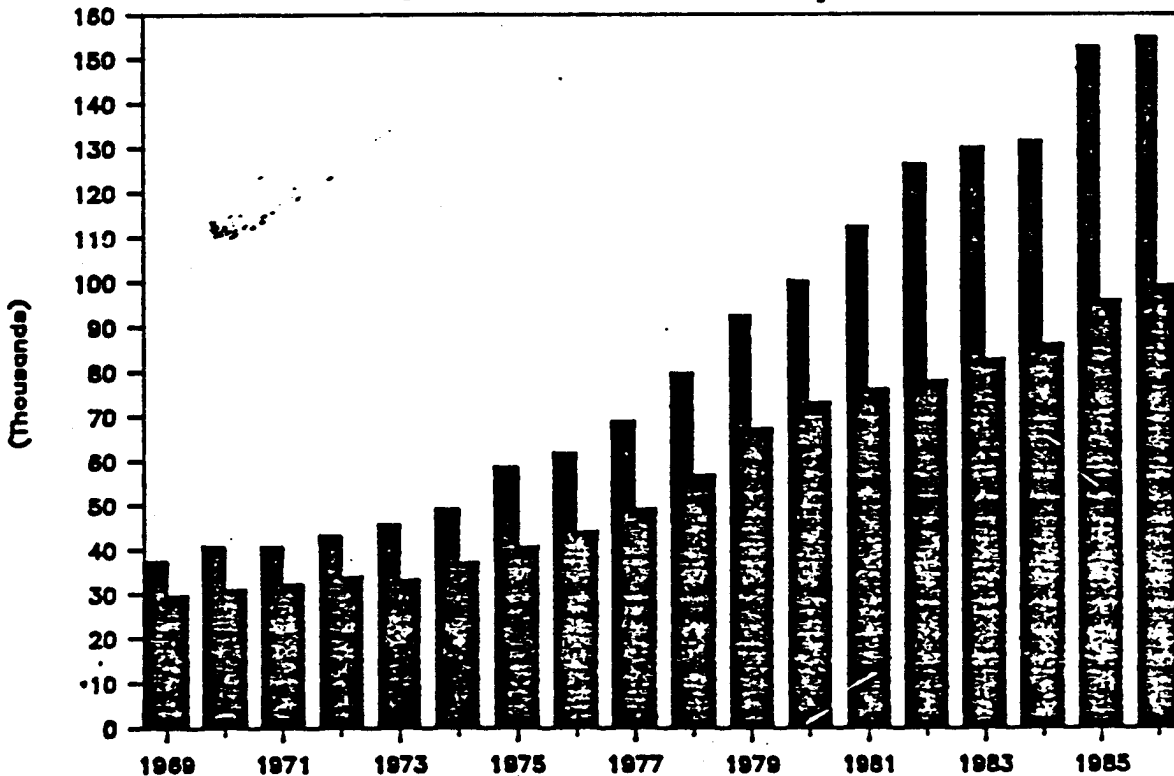


source: OPM

The relationship between Level II and other increases.

Housing Costs

District of Columbia v National Average

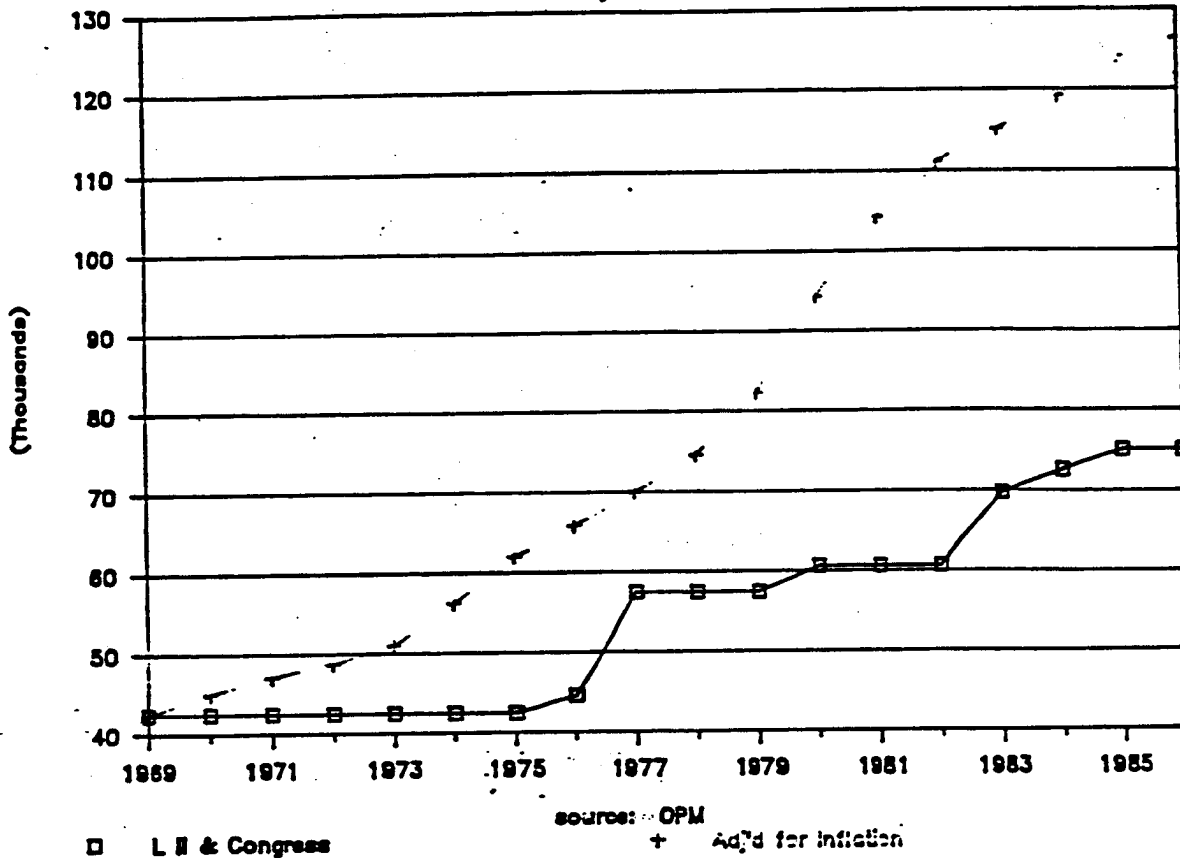


source: Fed. Home Loan Bank Bd

Federal employees living in the Washington D.C. area face housing costs well in excess of the national average.

Level II and Congress Salaries

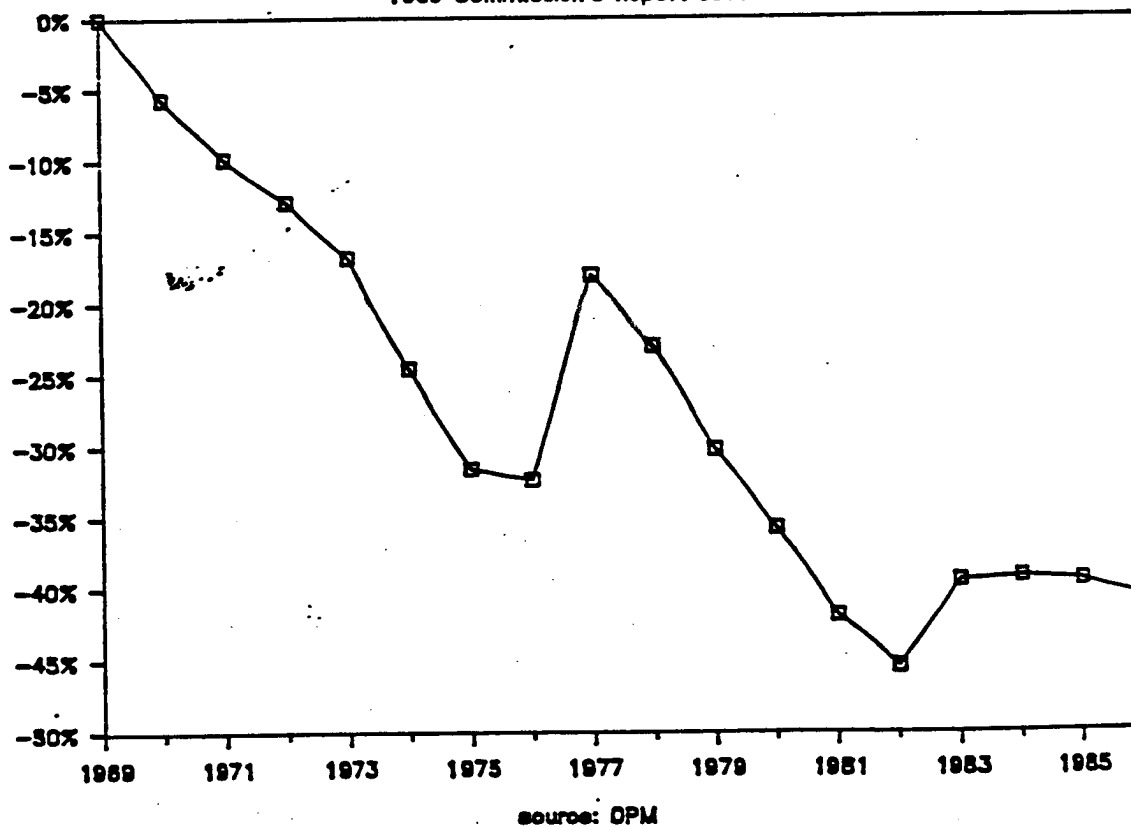
Current and Adjusted for Inflation



the cost of living has increased at a rate more than double that of the salaries of Level II executives.

Level II Loss of Purchasing Power

1986 Commission's Report Cover



Loss of purchasing power of top government officials since 1969.

ORGANIC STATUTE

LEGISLATIVE
101 THE COMMISSION
and Judicial Salaries

Section 225 of Public Law 90-206 (81 Stat. 613, 642), as amended by section 6(a) of Public Law 91-375 (84 Stat. 719, 775), section 206(a) of Public Law 94-82 (89 Stat. 419, 423), section 401 of Public Law 95-19 (91 Stat. 39, 45), section 301 of Public Law 95-598 (92 Stat. 2549, 2688) section 143 of Public Law 97-164 (96 Stat. 45), and section 152 of Public Law 99-190.

Sec. 225. (a) ESTABLISHMENT OF COMMISSION.--There is hereby established a commission to be known as the Commission on Executive, Legislative, and Judicial Salaries (hereinafter referred to as the "Commission").

(b) MEMBERSHIP.--

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

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

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

(3) After the close of the 1969 fiscal year of the Federal Government, persons shall be appointed as members of the Commission with respect to every fourth fiscal year following the 1969 fiscal year and with respect to fiscal year 1987. The terms of office of persons so appointed shall be for the period of the fiscal year with respect to which the appointment is made, except that, if any appointment is made after the beginning and before the close of any such fiscal year, the term of office based on such appointment shall be for the remainder of such fiscal year.

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

(5) Each member of the Commission shall be paid at the rate of \$100 for each day such member is engaged upon the work of the Commission and shall be allowed travel expenses, including a per diem allowance, in accordance with section 5703(b) 1 of title 5, United States Code, when engaged in the performance of services for the Commission.

-2-

(c) PERSONNEL OF COMMISSION.--

(1) Without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, and on a temporary basis for periods covering all or part of any fiscal year referred to in subsection (b)(2) and (3) of this section--

(A) the Commission is authorized to appoint an Executive Director and fix his basic pay at the rate provided for level W of the Executive Schedule by section 5316 of title 5, United States Code; and

(B) with the approval of the Commission, the Executive Director is authorized to appoint and fix the basic pay (at respective rates not in excess of the maximum rate of the General Schedule in section 5332 of title 5, United States Code) of such additional personnel as may be necessary to carry out the function of the Commission.

(2) Upon the request of the Commission, the head of any department, agency, or establishment of any branch of the Federal Government is authorized to detail, on a reimbursable basis, for periods covering all or part of any fiscal year referred to in subsection (b)(2) and (3) of this section, any of the personnel of such department, agency, or establishment to assist the Commission in carrying out its function.

(d) **USE OF UNITED STATES MAILS BY COMMISSION.--**The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) **ADMINISTRATIVE SUPPORT SERVICES.--**The Administrator of General Services shall provide administrative support services for the Commission on a reimbursable basis.

(f) **FUNCTION.--**The Commission shall conduct, in each of the respective fiscal years referred to in subsection (b)(2) and (3) of this section, a review of the rates of pay of--

(A) the Vice President of the United States, Senators, Members of the House of Representatives, the Resident Commissioner from Puerto Rico, the Speaker of the House of Representatives, the President pro tempore of the Senate and the majority and minority leaders of the Senate and the House of Representatives;

(B) offices and positions in the legislative branch referred to in subsections (a), (b), (c), and (d) ^{2/} of section 203 of the Federal Legislative Salary Act of 1964 (78 Stat. 415; Public Law 88-426);

(C) justices, judges, and other personnel in the judicial branch referred to in section 403 ^{3/} of the Federal Judicial Salary Act of

-3-

1964 (78 Stat. 434; Public Law 88-426) and magistrates 4/ and the judges of the United States Claims Court 3/;

(D) offices and positions under the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code; and

(E) the Governors of the Board of Governors of the United States Postal Service appointed under section 202 of title 39, United States Code.

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

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

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

In reviewing the rates of pay of the offices or positions referred to in subparagraph (D) of this subsection, the Commission shall determine and consider the appropriateness of the executive levels of such offices and positions.

(g) REPORT BY COMMISSION TO THE PRESIDENT.--The Commission shall submit to the President a report of the results of each review conducted by the Commission of the offices and positions within the purview of subparagraphs (A); (B), (C), and (D) 5/ of subsection (f) of this section, together with its recommendations. Each such report shall be submitted on such date as the President may designate but not later than December 15 of the fiscal year in which the review is conducted by the Commission.

(h) RECOMMENDATIONS OF THE PRESIDENT WITH RESPECT TO PAY.--The President shall include, in the budget next transmitted under section 1105(a) of title 31, United States Code, by him to the Congress after the date of the submission of the report and recommendations of the Commission under subsection (g) of this section, his recommendations with respect to the exact rates of pay which he deems advisable, for those offices and positions within the purview of subparagraphs (A), (B), (C), and (D) 5/ of subsection (f) of this section.

(i) EFFECTIVE DATE OF RECOMMENDATIONS OF THE PRESIDENT.--

(1) The recommendations of the President which are transmitted to the Congress pursuant to subsection (h) of this section shall be effective as provided in paragraph (2) of this subsection unless any such recommendation is disapproved by a joint resolution agreed to by the Congress not later than the last day of the 30-day period which begins on the date of which such recommendations are transmitted to the Congress.

(2) The effective date of the rate or rates of pay which take effect for an office or position under paragraph (1) of this subsection shall be the first day of the first pay period which begins for such office or position after the end of the 30-day period described in such paragraph.

(j) EFFECT OF RECOMMENDATIONS OF THE PRESIDENT ON EXISTING LAW AND PRIOR PRESIDENTIAL RECOMMENDATIONS.--The recommendations of the President taking effect as provided in subsection (i) of this section shall be held and considered to modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith--

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

(B) any prior recommendations of the President which take effect under this section.

(k) PUBLICATION OF RECOMMENDATIONS OF THE PRESIDENT.--The recommendations of the President which take effect shall be printed in the Statutes at Large in the same volume as public laws and shall be printed in the Federal Register and included in the Code of Federal Regulations.

FOOTNOTES

- 1/ Subsection (b) of section 5703 was eliminated by Public Law 94-22.
- 2/ Positions covered by these subsections are: the Comptroller General of the United States and Deputy Comptroller General; the General Counsel, GAO; the Librarian and Deputy Librarian of Congress; and the Architect and Assistant Architect of the Capitol.
- 3/ Positions covered by this section are: the Chief Justice of the United States and the Associate Justices; circuit judges; district judges; judges of the Court of Claims and the Court of Customs and Patent Appeals (now replaced by judges of the United States Court of Appeals for the Federal Circuit); judges of the Customs Court; the Director and Deputy Director of the Administrative Office of the United States Courts; Commissioners of the Court of Claims (now known as judges of the United States Claims Court); and judges of the Tax Court and of the Court of Military Appeals.
- 4/ Section 301 of Public Law 95-598 removed referees in bankruptcy from paragraph (C), and added magistrates. However, rates of pay for bankruptcy judges are subject to adjustment under section 225 of Public Law 90-206, as amended. See section 404(d) and (f) of Public Law 95-598 and 28 U.S.C. 153, as amended by Public Law 98-353.
- 5/ Public Law 91-375 added paragraph (E) to subsection (f) but neglected to add a corresponding reference to this new paragraph to subsections (g) and (h). Public Law 95-19 amended subsection (i) but again paragraph (E) was not included.

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BIBLIOGRAPHY

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Previous Reports of The Commission on Executive, Legislative, and Judicial Salaries

- The Quiet Crisis: A Report by the 1984-85 Commission on Executive, Legislative, and Judicial Salaries. Washington, D.C., 1985.

Report of the Commission on Executive, Legislative, and Judicial Salaries. Washington, D.C.:U.S. Government Printing Office, December 1980.

Report of the Commission on Executive, Legislative, and Judicial Salaries. Washington, D.C.:U.S. Government Printing Office, December 1976.

Staff Report to the Commission on Executive, Legislative, and Judicial Salaries. Washington, D.C.:U.S. Government Printing Office, February 1977.

Report of the Commission on Executive, Legislative, and Judicial Salaries. Washington, D.C.:U.S. Government Printing Office, June 1973.

Report of the Commission on Executive, Legislative, and Judicial Salaries. Washington, D.C.:U.S. Government Printing Office, December 1968.

Historical Reports of Interest to The Commission

Hartman, Robert W. and Arnold R. Weber. The Rewards of Public Service: Compensating Top Federal Officials. Washington, D.C.: The Brookings Institution, 1980.

National Academy of Public Administration. The National Institute of Public Affairs. America's Unelected Government; Appointing the President's Team. Editors: John W. Macy, Bruce Adams, J. Jackson Walter; Senior Consultant: G. Calvin MacKenzie, 1983.

Congressional Hearings, Reports and Research

U.S. House of Representatives. Committee on Post Office and Civil Service. Current Salary Schedules of Federal Officers and Employees Together With a History of Salary and Retirement Annuity Adjustments. 99th Congress, 1st Sess. Report No. 99-12. Washington, D.C.:U.S. Government Printing Office, February 15, 1985.

- U. S. House of Representatives. Committee on Post Office and Civil Service. Study of Total Compensation in the Federal, State, and Private Sectors. 98th Congress, 2nd Session, Washington, D.C.:U.S. Government Printing Office, December 4, 1984.
- U.S. Senate. Committee on the Judiciary. Constitutional Commission To Set The Compensation of Members of the Congress: Report on S.J. Res. 1. 98th Congress, 2nd Sess. Report No. 98-655. Washington, D.C.:U.S. Government Printing Office, October 2, 1984.
- U.S. Senate. Committee on Governmental Affairs, Subcommittee on Civil Service, Post Office, and General Services. Hearing on Government Brain Drain, 97th Congress, 1st Sess. September 14, 1981. Washington, D.C.:U.S. Government Printing Office.
- U.S. Library of Congress. Congressional Research Service. Rate of Increase of Selected Public and Private Wages and Public Pensions Compared With Change In Consumer Price Index, 1970-1983, by Frederick H. Pauls, Paul Dwyer and Kirk Brown. Washington, D.C.: U.S. Government Printing Office, June 1, 1984.
- U.S. Department of Labor, Bureau of Labor Statistics, National Survey of Professional, Administrative, Technical, and Clerical Pay, March 1985, Bulletin 2243. U.S. Government Printing Office, August 1985.
- U.S. Department of Labor, Bureau of Labor Statistics, National Survey of Professional, Administrative, Technical, and Clerical Pay, March 1986, Bulletin 2271. U.S. Government Printing Office, October 1986.
- Comptroller General of the United States, Federal Compensation Comparability: The Need for Congressional Action, Report to the Congress, FPCD-78-60 (GAO,1978).
- Comptroller General of the United States, Proposal To Lower The Federal Compensation Comparability Standard Has Not Been Substantiated, Report to Congress, FPCD-84-34 (GAO,1982).
- U.S. Library of Congress. Congressional Research Service. A Brief History of Congressional Pay Legislation, by Paul E. Dwyer and Frederick H. Pauls. Washington D.C.:U.S. Government Printing Office (86-820), August 15, 1986.

Court Decisions and Laws

P.L. 94-82, Executive Salary Cost-of-Living Adjustment Act.
August 9, 1975.

P.L. 90-206, Federal Salary Act of 1967. December 16, 1967.

P.L. 99-190, Amendment to Federal Salary Act of 1967,
December 19, 1985.

Other Sources

Corporate Committee for Fair Compensation of the Federal
Judiciary. Federal Judicial Salaries, A Gamble With the
Future, April 3, 1985.

Hibbing, John R., Voluntary Retirement from the U.S. House,
Legislative Studies Quarterly, VII, I, February 1982.,
Comparative Legislative Research Center 0362-
9805/82/0701.

Means, Howard, "Going Broke on \$100,000 a Year," The
Washingtonian, p. 130-139, March 1985.

International City Management Association. Municipal Year Book,
Vol. 53, 1986, ISBN 0-87326-961-6, Washington, D.C.

The Council of State Governments. The Book of the States, 1986-87
Edition, Volume 26. Lexington, Kentucky.

Pack, Robert, "How Much Do You Make?," The Washingtonian,
p. 119-136, December 1986.

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