

12-5-1986

Commemorative Event #1: The Midnight Judge and Six Other Exhibits

Second Circuit Steering Committee on the Bicentennial of the U.S. Constitution

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SECOND CIRCUIT COMMITTEE ON THE
BICENTENNIAL OF THE UNITED STATES CONSTITUTION

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DEC - 8 1986

December 5, 1986

ROGER J. MINER
U.S. CIRCUIT JUDGE
ALBANY, NEW YORK

TO: John D. Gordan, III, Esq., Chair, Subcommittee on
Commemorative Events

FROM: J. Pierce, Chair, Steering/Coordinating Subcommittee

Com. Ev. #1: The Midnight Judges and Six Other Exhibits

The S/C Subcommittee recommends:

a) Approval of the concept of displaying each of the seven (7) proposed exhibits in the Foley Square Courthouse.

b) Although we recommend approval of the Midnight Judges Exhibit as a traveling exhibit, this is subject to the availability of funds, since this entails receipt of up to \$10,000 from the 2d Cir. Bicen. Com. for special fabrication and transportation expenses, over and beyond \$13,500 already raised or likely to be raised from other sources. Therefore, it is necessary to propose that this aspect of this exhibit be placed on a temporary "hold" to await discussion with the Subcom. on Funding. The need to resolve this issue (of whether to fabricate for travel or not) requires resolution within 6-8 weeks since the exhibit is to open in June 1987.

c) The Patent Law Exhibit has its own funding (\$12,000) and probably will not lend itself to serving as a traveling exhibit--still, the opportunity to embellish this exhibit so that it can be transported is not considered foreclosed, especially if outside funding sources pick up the transportation and related expenses.

d) The remaining exhibits are not recommended for approval presently as traveling exhibits, subject to the opportunity of the Subcom. on Com. Events to renew its request following continuing discussions with the Subcom. on Funding and consideration of the possibility of placing a cap on fabrication and transportation expenses.

The S/C Subcommittee recommends continuing meetings between the Subcom. on Com. Events and the Subcom. on Funding to determine the availability of funds for the proposed exhibits.

Forwarded to Judge Oakes for review and action.

LWP
12/5/86



cc: Judge Oakes
Judge Meskill
Members, S/C Subcommittee
SFlanders
PPetruck

Summary of Project Proposal*Date: Nov. 19, 1986Name of Subcommittee: Commemorative EventsTitle of Proposed Project: The Midnight Judges (Exhibit and Pamphlet)Short Title of Proposed Project, if any:

Constitutional Theme: Article III; also the evolution of the government from the Articles of Confederation to the Constitution and the Bill of Rights, illustrated by the life of Egbert Benson, the first Chief Judge of the Second Circuit.

Summary Description of Project:

(more detailed information should be submitted
by attachments to this face sheet)

SEE ATTACHED

Date(s): mid-June, 1987 - mid-December, 1987 and later datesTime(s):

Place(s): the U.S. Courthouse, Foley Square, and other
locations, subsequently

Required Funding (state amount): \$10,000 (additional to \$13,500 already
applied for from other sources)

Itemize Proposed Expenditures:

Exhibit - \$16,000
Pamphlet - \$ 7,500

Recommended Sources of Funding, if any:

Name of Liaison Person: John D. Gordan, III
Address: 25 Broadway, 8th Floor
Telephone number: New York, NY 10004
(212) 344 8480

Name of Publicity Person: Same
Address:
Telephone number:

Action Undertaken by Steering Committee:

See attached.

* Submit 8 copies to the Steering/Coordinating Subcommittee,
Room 2002, 40 Centre Street, New York City, N.Y. 10007.

November 19, 1986

TO: The Honorable Lawrence W. Pierce
Chairman, Steering Committee

FROM: The Subcommittee on Commemorative Events

RE: Outline of Proposed Activities

This memorandum records the informal presentation made at the Steering Committee meeting on November 10, 1986.

1. The Subcommittee proposes to devote its energies to the preparation of commemorative exhibits. Alternative formats would duplicate activities already undertaken by other organizations, the program of monthly symposiums being organized by the Association of the Bar of the City of New York being an example cited.

2. The Subcommittee presently proposes the following commemorative exhibits:

Spring 1987	Midnight Judges
Fall 1987	Patents
Spring 1988	The Ratification of the Constitution and the Federalist Papers
Fall 1988	The First Congress: The Bill of Rights
Spring 1989	The First Congress: The Judiciary Act
Fall 1989	The United States District Courts
Spring 1990	The Supreme Court of the United States and the United States Circuit Courts

3. Responsibility for the creation of the Midnight Judges exhibit and the Patent exhibit has been assumed. A number of candidates in academia have been suggested for

responsibility for the Ratification and First Congress exhibits proposed for 1988 and 1989, and members of the Subcommittee are beginning to make contact with them to determine their interest in participating. This process may lead to some alteration of the order and precise subject matter of the exhibits proposed for 1988 and 1989.

4. The Subcommittee recommends that, although exhibits should first be shown in the United States Court House in Foley Square, subsequent display in courthouses in other Districts within the Circuit, and if feasible, in other public buildings be undertaken.

5. If the exhibits are to travel, they will probably have to be of the free-standing kind presently in the Foley Square lobby.* The total cost of creating such an exhibit is about \$15,000, and a further allowance for disassembly, packing, shipping, and reassembly would be required. If the exhibits do not travel, the cost of mounting them would be approximately halved.

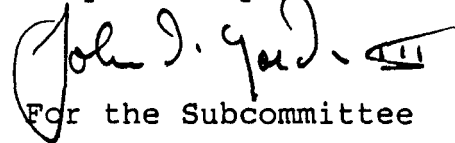
6. It would be desirable for a pamphlet publication to accompany each exhibit. These would probably cost \$7500 for 2000 copies, per exhibit.

7. Funding of \$12,000 has been committed for the Patent exhibit, and apparently additional funds are available, if required.

* Certain materials, such as original models proposed for the Patent exhibit, probably will not be able to travel.

8. With respect to the Midnight Judges exhibit, it is expected that \$6,000 in funding for the exhibit itself will be made available by or through the Federal Bar Council. Application has been made to the William Nelson Cromwell Foundation for a grant of \$7,500 to support the publication of a pamphlet to accompany the exhibit. An additional \$10,000 is requested from the Second Circuit Bicentennial Committee to cover the costs of mounting the exhibit as a traveling exhibit and to partially defray traveling costs.

Respectfully submitted,


For the Subcommittee

cc: The Honorable James L. Oakes
Steering Committee Members
Commemorative Events Subcommittee Members

A. An exhibit focusing on:

(1) Egbert Benson as the first Attorney General of New York; representative of New York (with Alexander Hamilton) at the Annapolis Convention (1786); representative from New York in Congress under the Articles of Confederation (1787); representative from New York in the First Congress under the Constitution (1789), in which Benson played a leading role in the drafting of the Bill of Rights and the Judiciary Act; Justice of New York Supreme Court (1794-1800).

(2) The Judiciary Act of 1801, under which Benson was appointed Chief Judge of the United States Circuit Court of the Second Circuit; the repeal of the Act by the Jeffersonian Seventh Congress, and the constitutional issues raised by the divestiture of the Circuit Judges of their offices, as seen by contemporaries (Marshall, Hamilton, the Judges, etc.).

B. An illustrated pamphlet, with two articles by Professor Wythe Holt of the University of Alabama Law School on (1) Benson's proposal in the last days of the First Congress of an amendment to the Constitution to fuse the state and federal trial courts; and (2) Benson's leadership of the Circuit Judges' resistance to the loss of the offices after repeal of the Judiciary Act of 1801; and an article by David A. Nourse, Esq., on the marine insurance cases decided by the New York Supreme Court during Benson's membership on it.