

Public Law 97-164
97th Congress

An Act

To establish a United States Court of Appeals for the Federal Circuit, to establish a United States Claims Court, and for other purposes.

Apr. 2, 1982
[H.R. 4482]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Courts Improvement Act of 1982".

Federal Courts
Improvement
Act
of 1982.
28 USC 1 note.

**TITLE I—UNITED STATES COURT OF APPEALS FOR THE
FEDERAL CIRCUIT AND UNITED STATES CLAIMS COURT**

PART A—ORGANIZATION, STRUCTURE, AND JURISDICTION

NUMBER AND COMPOSITION OF CIRCUITS

SEC. 101. Section 41 of title 28, United States Code, as amended by the Fifth Circuit Court of Appeals Reorganization Act of 1980 (Public Law 96-452; 94 Stat. 1994), is amended by striking out "twelve" and inserting in lieu thereof "thirteen" and by adding at the end thereof the following:

"Federal..... All Federal judicial districts."

NUMBER OF CIRCUIT JUDGES

SEC. 102. (a) Section 44(a) of title 28, United States Code, as amended by the Fifth Circuit Court of Appeals Reorganization Act of 1980 (Public Law 96-452; 94 Stat. 1994), is amended by adding at the end thereof the following:

"Federal..... 12".

(b) Section 44(c) of title 28, United States Code, is amended by adding the following sentence at the end thereof: "While in active service, each circuit judge of the Federal judicial circuit appointed after the effective date of this Act, and the chief judge of the Federal judicial circuit, whenever appointed, shall reside within fifty miles of the District of Columbia."

PANELS OF JUDGES; NUMBER OF JUDGES FOR HEARINGS

SEC. 103. (a) Section 46(a) of title 28, United States Code, is amended by striking out "divisions" and inserting in lieu thereof "panels".

(b) Section 46(b) of title 28, United States Code, is amended—

(1) by striking out "divisions" each place it appears and inserting in lieu thereof "panels";

(2) by inserting immediately before the period at the end of the first sentence the following: "at least a majority of whom shall be judges of that court, unless such judges cannot sit because recused or disqualified, or unless the chief judge of that court certifies that there is an emergency including, but

not limited to, the unavailability of a judge of the court because of illness"; and

(3) by adding at the end thereof the following new sentence: "The United States Court of Appeals for the Federal Circuit shall determine by rule a procedure for the rotation of judges from panel to panel to ensure that all of the judges sit on a representative cross section of the cases heard and, notwithstanding the first sentence of this subsection, may determine by rule the number of judges, not less than three, who constitute a panel."

(c) The first sentence of section 46(c) of title 28, United States Code, is amended by inserting immediately after "three judges" the following: "(except that the United States Court of Appeals for the Federal Circuit may sit in panels of more than three judges if its rules so provide)".

(d) Section 46(d) of title 28, United States Code, is amended by striking out "division" and inserting in lieu thereof "panel".

PLACES FOR HOLDING COURT

SEC. 104. (a) Section 48 of title 28, United States Code, is amended by striking out the first two sentences and inserting in lieu thereof the following:

"(a) The courts of appeals shall hold regular sessions at the places listed below, and at such other places within the respective circuit as each court may designate by rule."

(b) Section 48 of title 28, United States Code, as amended by the Fifth Circuit Court of Appeals Reorganization Act of 1980 (Public Law 96-452; 94 Stat. 1994), is amended further by inserting at the end of the table of circuits and places the following:

"Federal.....	District of Columbia, and in any other place listed above as the court by rule directs."
---------------	--

(c) Section 48 of title 28, United States Code, is amended further by striking out the final paragraph and inserting in lieu thereof the following:

"(b) Each court of appeals may hold special sessions at any place within its circuit as the nature of the business may require, and upon such notice as the court orders. The court may transact any business at a special session which it might transact at a regular session.

"(c) Any court of appeals may pretermitt, with the consent of the Judicial Conference of the United States, any regular session of court at any place for insufficient business or other good cause.

"(d) The times and places of the sessions of the Court of Appeals for the Federal Circuit shall be prescribed with a view to securing reasonable opportunity to citizens to appear before the court with as little inconvenience and expense to citizens as is practicable."

ORGANIZATION OF UNITED STATES CLAIMS COURT

SEC. 105. (a) Chapter 7 of title 28, United States Code, is amended to read as follows:

"CHAPTER 7—UNITED STATES CLAIMS COURT

"Sec.

"171. Appointment and number of judges; character of court; designation of chief judge.

"172. Tenure and salaries of judges.

"173. Times and places of holding court.

"174. Assignment of judges; decisions.

"175. Official duty station; residence.

"176. Removal from office.

"177. Disbarment of removed judges.

"§ 171. Appointment and number of judges; character of court; designation of chief judge 28 USC 171.

"(a) The President shall appoint, by and with the advice and consent of the Senate, sixteen judges who shall constitute a court of record known as the United States Claims Court. The court is declared to be a court established under article I of the Constitution of the United States.

USC prec.
title 1.

"(b) The President shall designate one of the judges of the Claims Court who is less than seventy years of age to serve as chief judge. The chief judge may continue to serve as such until he reaches the age of seventy years or until another judge is designated as chief judge by the President. After the designation of another judge to serve as chief judge, the former chief judge may continue to serve as a judge of the court for the balance of the term to which appointed.

"§ 172. Tenure and salaries of judges 28 USC 172.

"(a) Each judge of the United States Claims Court shall be appointed for a term of fifteen years.

"(b) Each judge shall receive a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of this title.

"§ 173. Times and places of holding court 28 USC 173.

"The principal office of the United States Claims Court shall be in the District of Columbia, but the Claims Court may hold court at such times and in such places as it may fix by rule of court. The times and places of the sessions of the Claims Court shall be prescribed with a view to securing reasonable opportunity to citizens to appear before the Claims Court with as little inconvenience and expense to citizens as is practicable.

"§ 174. Assignment of judges; decisions 28 USC 174.

"(a) The judicial power of the United States Claims Court with respect to any action, suit, or proceeding, except congressional reference cases, shall be exercised by a single judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other judges.

"(b) All decisions of the Claims Court shall be preserved and open to inspection.

"§ 175. Official duty station; residence 28 USC 175.

"(a) The official duty station of each judge of the United States Claims Court is the District of Columbia.

"(b) After appointment and while in active service, each judge shall reside within fifty miles of the District of Columbia.

28 USC 176.

“§ 176. Removal from office

“(a) Removal of a judge of the United States Claims Court during the term for which he is appointed shall be only for incompetency, misconduct, neglect of duty, engaging in the practice of law, or physical or mental disability. Removal shall be by the United States Court of Appeals for the Federal Circuit, but removal may not occur unless a majority of all the judges of such court of appeals concur in the order of removal.

“(b) Before any order of removal may be entered, a full specification of the charges shall be furnished to the judge involved, and such judge shall be accorded an opportunity to be heard on the charges.

“(c) Any cause for removal of any judge of the United States Claims Court coming to the knowledge of the Director of the Administrative Office of the United States Courts shall be reported by him to the chief judge of the United States Court of Appeals for the Federal Circuit, and a copy of the report shall at the same time be transmitted to the judge.

28 USC 177.

“§ 177. Disbarment of removed judges

“A judge of the United States Claims Court removed from office in accordance with section 176 of this title shall not be permitted at any time to practice before the Claims Court.”

(b) The item relating to chapter 7 in the chapter analysis of part I of title 28, United States Code, is amended to read as follows:

“7. United States Claims Court 171”.

**REPEAL OF PROVISIONS RELATING TO THE COURT OF CUSTOMS AND
PATENT APPEALS**

28 USC 221
et seq.

SEC. 106. Chapter 9 of title 28, United States Code, and the item relating to chapter 9 in the chapter analysis of part I of such title, are repealed.

INTERLOCUTORY APPEALS FROM CERTAIN ORDERS

SEC. 107. Section 256(b) of title 28, United States Code, is amended by striking out “section 1541(b)” and all that follows through “in that section.” and inserting in lieu thereof the following: “section 1292(d)(1) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.”

REPEAL; ASSIGNMENT OF CIRCUIT JUDGES

SEC. 108. (a) Subsection (b) of section 291 of title 28, United States Code, is repealed.

(b) Subsection (c) of such section is amended by striking out “(c)” and inserting in lieu thereof “(b)”.

ASSIGNMENT OF DISTRICT JUDGES

SEC. 109. Section 292(e) of title 28, United States Code, is amended by striking out “the Court of Claims, the Court of Customs and Patent Appeals or” and by striking out “in which the need arises”.

REPEAL; ASSIGNMENT OF OTHER JUDGES

SEC. 110. (a) Section 293 of title 28, United States Code, is amended—

- (1) by repealing subsections (a), (c), and (d);
- (2) by redesignating subsection (b) as subsection (a); and
- (3) by redesignating subsection (e), as that subsection will become effective on April 1, 1984, as subsection (b).

(b) The section heading of section 293 of title 28, United States Code, is amended to read as follows:

“§ 293. Judges of the Court of International Trade”.

(c) The item relating to section 293 in the section analysis of chapter 13 of title 28, United States Code, is amended to read as follows:

“293. Judges of the Court of International Trade.”.

(d) Section 160(a) of title 28, United States Code, as that section will become effective on April 1, 1984, is amended by striking out “293(e)” and inserting in lieu thereof “293(b)”.

JUDICIAL CONFERENCE

SEC. 111. Section 331 of title 28, United States Code, is amended—

- (1) in the first paragraph, by striking out “, the chief judge of the Court of Claims, the chief judge of the Court of Customs and Patent Appeals,”; and
- (2) in the third paragraph, by striking out the second sentence.

RETIREMENT

SEC. 112. (a) Section 372(a) of title 28, United States Code, is amended—

- (1) in the third paragraph, by striking out “Court of Claims, Court of Customs and Patent Appeals, or”; and
- (2) in the fifth paragraph, by striking out “Court of Claims, Court of Customs and Patent Appeals, or”.

(b) Section 372(b) of title 28, United States Code, is amended by striking out “Court of Claims, Court of Customs and Patent Appeals, or” each place it appears.

(c) Section 372(c)(17) of title 28, United States Code, is amended by striking out “Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court” and inserting in lieu thereof “United States Claims Court, the Court of International Trade, and the Court of Appeals for the Federal Circuit”.

REPEAL; DISTRIBUTION OF COURT OF CLAIMS DECISIONS

SEC. 113. Section 415 of title 28, United States Code, and the item relating to section 415 in the section analysis of chapter 19 of such title, are repealed.

DEFINITIONS

SEC. 114. Section 451 of title 28, United States Code (including that section as it will become effective on April 1, 1984), is amended—

(1) in the first definition, relating to court of the United States, by striking out "the Court of Claims, the Court of Customs and Patent Appeals,"; and

(2) in the third definition, relating to judge of the United States, by striking out "Court of Claims, Court of Customs and Patent Appeals,".

TRAVELING EXPENSES AND COURT ACCOMMODATIONS

SEC. 115. (a)(1) Section 456 of title 28, United States Code (including that section as it will become effective on April 1, 1984), is amended to read as follows:

"§ 456. Traveling expenses of justices and judges; official duty stations

"(a) The Director of the Administrative Office of the United States Courts shall pay each justice or judge of the United States, and each retired justice or judge recalled or designated and assigned to active duty, while attending court or transacting official business at a place other than his official duty station for any continuous period of less than thirty calendar days (1) all necessary transportation expenses certified by the justice or judge; and (2) a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States, reimbursement for his actual and necessary expenses of subsistence not in excess of the maximum amount fixed by section 5702 of title 5. The Director of the Administrative Office of the United States Courts shall also pay each justice or judge of the United States, and each retired justice or judge recalled or designated and assigned to active duty, while attending court or transacting official business under an assignment authorized under chapter 13 of this title which exceeds in duration a continuous period of thirty calendar days, all necessary transportation expenses and actual and necessary expenses of subsistence actually incurred, notwithstanding the provisions of section 5702 of title 5, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States.

"(b) The official duty station of the Chief Justice of the United States, the Justices of the Supreme Court of the United States, and the judges of the United States Court of Appeals for the District of Columbia Circuit, the United States Court of Appeals for the Federal Circuit, and the United States District Court for the District of Columbia shall be the District of Columbia.

"(c) The official duty station of the judges of the United States Court of International Trade shall be New York City.

"(d) The official duty station of each district judge shall be that place where a district court holds regular sessions at or near which the judge performs a substantial portion of his judicial work, which is nearest the place where he maintains his actual abode in which he customarily lives.

"(e) The official duty station of a circuit judge shall be that place where a circuit or district court holds regular sessions at or near which the judge performs a substantial portion of his judicial work, or that place where the Director provides chambers to the judge where he performs a substantial portion of his judicial work, which

is nearest the place where he maintains his actual abode in which he customarily lives.

“(f) The official duty station of a retired judge shall be established in accordance with section 374 of this title.

“(g) Each circuit or district judge whose official duty station is not fixed expressly by this section shall notify the Director of the Administrative Office of the United States Courts in writing of his actual abode and official duty station upon his appointment and from time to time thereafter as his official duty station may change.”.

28 USC 374.
Notification to
Director, Admin-
istrative Office,
U.S. Courts.

(2) The item relating to section 456 in the section analysis of chapter 21 of title 28, United States Code, is amended to read as follows:

“456. Traveling expenses of justices and judges; official duty stations.”.

(b)(1) Section 460 of title 28, United States Code, is amended to read as follows:

“§ 460. Application to other courts

“(a) Sections 452 through 459 and section 462 of this chapter shall also apply to the United States Claims Court, to each court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States, and to the judges thereof.

Infra.

“(b) The official duty station of each judge referred to in subsection (a) which is not otherwise established by law shall be that place where the court holds regular sessions at or near which the judge performs a substantial portion of his judicial work, which is nearest the place where he maintains his actual abode in which he customarily lives.”.

(2) The item relating to section 460 in the section analysis of chapter 21 of title 28, United States Code, is amended to read as follows:

“460. Application to other courts.”.

(c)(1) Chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following new section:

“§ 462. Court accommodations

28 USC 462.

“(a) Sessions of courts of the United States (except the Supreme Court) shall be held only at places where the Director of the Administrative Office of the United States Courts provides accommodations, or where suitable accommodations are furnished without cost to the judicial branch.

“(b) The Director of the Administrative Office of the United States Courts shall provide accommodations, including chambers and courtrooms, only at places where regular sessions of court are authorized by law to be held, but only if the judicial council of the appropriate circuit has approved the accommodations as necessary.

“(c) The limitations and restrictions contained in subsection (b) of this section shall not prevent the Director from furnishing chambers to circuit judges at places where Federal facilities are available when the judicial council of the circuit approves.

“(d) The Director of the Administrative Office of the United States Courts shall provide permanent accommodations for the United States Court of Appeals for the Federal Circuit and for the United States Claims Court only at the District of Columbia. How-

ever, each such court may hold regular and special sessions at other places utilizing the accommodations which the Director provides to other courts.

"(e) The Director of the Administrative Office of the United States Courts shall provide accommodations for probation officers, pretrial service officers, and Federal Public Defender Organizations at such places as may be approved by the judicial council of the appropriate circuit.

"(f) Upon the request of the Director, the Administrator of General Services is authorized and directed to provide the accommodations the Director requests, and to close accommodations which the Director recommends for closure with the approval of the Judicial Conference of the United States."

(2) The section analysis of chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"462. Court accommodations."

Repeal.

(3) Section 142 of title 28, United States Code, and the item relating to section 142 in the section analysis of chapter 5 of such title, are repealed.

EXPENSES OF LITIGATION

SEC. 116. (a) Chapter 21 of title 28, United States Code, as amended by section 115 of this Act, is further amended by adding at the end thereof the following new section:

28 USC 463.

"§ 463. Expenses of litigation

"Whenever a Chief Justice, justice, judge, officer, or employee of any United States court is sued in his official capacity, or is otherwise required to defend acts taken or omissions made in his official capacity, and the services of an attorney for the Government are not reasonably available pursuant to chapter 31 of this title, the Director of the Administrative Office of the United States Courts may pay the costs of his defense. The Director shall prescribe regulations for such payments subject to the approval of the Judicial Conference of the United States."

28 USC 501
et seq.

(b) The analysis of chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"463. Expenses of litigation."

INTERESTS OF THE UNITED STATES IN CERTAIN ACTIONS

SEC. 117. Section 518(a) of title 28, United States Code, is amended by striking out "Court of Claims" and inserting in lieu thereof "United States Claims Court or in the United States Court of Appeals for the Federal Circuit".

TRANSMISSION OF PETITIONS IN SUITS AGAINST THE UNITED STATES

SEC. 118. (a) Section 520 of title 28, United States Code, is amended—

(1) in subsection (a), by striking out "Court of Claims" and inserting in lieu thereof "United States Claims Court or in the United States Court of Appeals for the Federal Circuit"; and

(2) by striking out "Court of Claims" in the section heading and inserting in lieu thereof "United States Claims Court or in United States Court of Appeals for the Federal Circuit".

(b) The item relating to section 520 in the section analysis of chapter 31 of title 28, United States Code, is amended to read as follows:

"520. Transmission of petitions in United States Claims Court or in United States Court of Appeals for the Federal Circuit; statement furnished by departments."

BUDGET ESTIMATES

SEC. 119. (a) Section 605 of title 28, United States Code, is amended—

(1) by inserting immediately before the period at the end of the second undesignated paragraph the following: "and the estimate with respect to the United States Court of Appeals for the Federal Circuit shall be approved by such court"; and

(2) by striking out "Bureau of the Budget" each place it appears and inserting in lieu thereof "Office of Management and Budget".

(b) Funds appropriated to the Court of Customs and Patent Appeals and the Court of Claims for fiscal year 1982 shall be made available for the operation of the United States Court of Appeals for the Federal Circuit and the United States Claims Court. Such sums shall be apportioned among the new appropriations as determined by the Director of the Administrative Office of the United States Courts in consultation with the chief judges of the respective courts.

DEFINITION OF COURTS

SEC. 120. (a) Section 610 of title 28, United States Code, is amended by striking out "the Court of Claims, the Court of Customs and Patent Appeals" and inserting in lieu thereof "the United States Claims Court".

(b)(1) Section 713 of title 28, United States Code, is amended to read as follows:

"§ 713. Librarians

"(a) Each court of appeals may appoint a librarian who shall be subject to removal by the court.

"(b) The librarian, with the approval of the court, may appoint necessary library assistants in such numbers as the Director of the Administrative Office of the United States Courts may approve. The librarian may remove such library assistants with the approval of the court."

(2) The item relating to section 713 in the section analysis of chapter 47, United States Code, is amended to read as follows:

"713. Librarians."

(c)(1) Chapter 47 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

"§ 714. Criers and messengers

"(a) Each court of appeals may appoint a crier who shall be subject to removal by the court.

"(b) The crier, with the approval of the court, may appoint necessary messengers in such number as the Director of the Administra-

28 USC 714.

tive Office of the United States Courts may approve. The crier may remove such messengers with the approval of the court. The crier shall also perform the duties of bailiff and messenger.

28 USC 715.

“§ 715. Staff attorneys and technical assistants

“(a) The chief judge of each court of appeals, with the approval of the court, may appoint a senior staff attorney, who shall be subject to removal by the chief judge with the approval of the court.

“(b) The senior staff attorney, with the approval of the chief judge, may appoint necessary staff attorneys and secretarial and clerical employees in such numbers as the Director of the Administrative Office of the United States Courts may approve, but in no event may the number of staff attorneys exceed the number of positions expressly authorized in an annual appropriation Act. The senior staff attorney may remove such staff attorneys and secretarial and clerical employees with the approval of the chief judge.

“(c) The chief judge of the Court of Appeals for the Federal Circuit, with the approval of the court, may appoint a senior technical assistant who shall be subject to removal by the chief judge with the approval of the court.

“(d) The senior technical assistant, with the approval of the court, may appoint necessary technical assistants in such number as the Director of the Administrative Office of the United States Courts may approve, but in no event may the number of technical assistants in the Court of Appeals for the Federal Circuit exceed the number of circuit judges in regular active service within such circuit. The senior technical assistant may remove such technical assistants with the approval of the court.”.

(2) The section analysis of chapter 47, United States Code, is amended by adding at the end thereof the following new items:

“714. Criers and messengers.

“715. Staff attorneys and technical assistants.”.

OFFICERS AND EMPLOYEES OF THE UNITED STATES CLAIMS COURT

SEC. 121. (a) Section 791 of title 28, United States Code, is amended by amending subsection (a) to read as follows:

“(a) The United States Claims Court may appoint a clerk, who shall be subject to removal by the court. The clerk, with the approval of the court, may appoint necessary deputies and employees in such numbers as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies and employees shall be subject to removal by the clerk with the approval of the court.”.

Repeal.

(b) Section 792 of title 28, United States Code, and the item relating to section 792 in the section analysis of chapter 51 of such title, are repealed.

(c)(1) Section 794 of title 28, United States Code, is amended to read as follows:

“§ 794. Law clerks and secretaries

“The judges of the United States Claims Court may appoint necessary law clerks and secretaries, in such numbers as the Judicial Conference of the United States may approve, subject to any limitation of the aggregate salaries of such employees which may be imposed by law.”.

(2) The item relating to section 794 in the section analysis of chapter 51 of title 28, United States Code, is amended to read as follows:

“794. Law clerks and secretaries.”.

(d)(1) Section 795 of title 28, United States Code, is amended to read as follows:

“§ 795. Bailiffs and messengers

“The chief judge of United States Claims Court, with the approval of the court, may appoint necessary bailiffs and messengers, in such numbers as the Director of the Administrative Office of the United States Courts may approve, each of whom shall be subject to removal by the chief judge, with the approval of the court.”.

(2) The item relating to section 795 in the section analysis of chapter 51 of title 28, United States Code, is amended to read as follows:

“795. Bailiffs and messengers.”.

(e) Section 796 of title 28, United States Code, is amended by striking out “The Court of Claims” and inserting in lieu thereof “Subject to the approval of the United States Claims Court, the Director of the Administrative Office of the United States Courts”.

(f)(1) Section 797 of title 28, United States Code, is amended to read as follows:

“§ 797. Recall of retired judges

“(a) Any judge of the United States Claims Court who has retired from regular active service under subchapter III of chapter 83 of title 5 shall be known and designated as a senior judge and may perform duties as a judge when recalled pursuant to subsection (b) of this section.

5 USC 8331.

“(b) The chief judge of the Claims Court may, whenever he deems it advisable, recall any senior judge, with such judge’s consent, to perform such duties as a judge and for such period of time as the chief judge may specify.

“(c) Any senior judge performing duties pursuant to this section shall not be counted as a judge for purposes of the number of judgeships authorized by section 171 of this title.

Ante, p. 27.

“(d) Any senior judge, while performing duties pursuant to this section, shall be paid the same allowances for travel and other expenses as a judge in active service. Such senior judge shall also receive from the Claims Court supplemental pay in an amount sufficient, when added to his civil service retirement annuity, to equal the salary of a judge in active service for the same period or periods of time. Such supplemental pay shall be paid in the same manner as the salary of a judge.”.

Supplemental pay.

(2) The item relating to section 797 in the section analysis of chapter 51 of title 28, United States Code, is amended by striking out “commissioners” and inserting in lieu thereof “judges”.

(g)(1) The item relating to chapter 51 in the chapter analysis of part III of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

(2) The chapter heading of chapter 51 of title 28, United States Code, is amended by striking out "COURT OF CLAIMS" and inserting in lieu thereof "UNITED STATES CLAIMS COURT".

**ABOLISHMENT OF UNITED STATES COURT OF CUSTOMS AND PATENT
APPEALS**

Repeal.
28 USC 831
et seq.

SEC. 122. (a) Chapter 53 of title 28, United States Code, and the item relating to chapter 53 in the chapter analysis of part III of such title, are repealed.

(b) Section 957 of title 28, United States Code, is amended—
(1) in subsection (a) by striking out "(a)", and
(2) by repealing subsection (b).

**TECHNICAL AND CONFORMING AMENDMENTS RELATING TO REPEAL OF
COURT OF CUSTOMS AND PATENT APPEALS**

SEC. 123. Sections 1255 and 1256 of title 28, United States Code, and the items relating to sections 1255 and 1256 in the section analysis of chapter 81 of such title, are repealed.

COURTS OF APPEALS JURISDICTION

SEC. 124. Section 1291 of title 28, United States Code, is amended—

(1) by inserting "(other than the United States Court of Appeals for the Federal Circuit)" after "courts of appeals"; and
(2) by adding at the end thereof the following new sentence:
"The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292 (c) and (d) and 1295 of this title."

Infra;
post, p. 37.

INTERLOCUTORY DECISIONS

SEC. 125. (a) Section 1292(a) of title 28, United States Code, is amended—

(1) by striking out "The courts" and inserting in lieu thereof "Except as provided in subsections (c) and (d) of this section, the courts";

(2) by striking out the semicolon at the end of paragraph (3) and inserting in lieu thereof a period; and

(3) by striking out paragraph (4).

(b) Section 1292 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(c) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction—

"(1) of an appeal from an interlocutory order or decree described in subsection (a) of this section in any case over which the court would have jurisdiction of an appeal under section 1295 of this title; and

"(2) of an appeal from a judgment in a civil action for patent infringement which would otherwise be appealable to the United States Court of Appeals for the Federal Circuit and is final except for an accounting.

"(d)(1) When the chief judge of the Court of International Trade issues an order under the provisions of section 256(b) of this title, or when any judge of the Court of International Trade, in issuing

Exclusive
jurisdiction.

Post, p. 37.

Ante, p. 28.

any other interlocutory order, includes in the order a statement that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation, the United States Court of Appeals for the Federal Circuit may, in its discretion, permit an appeal to be taken from such order, if application is made to that Court within ten days after the entry of such order.

"(2) When any judge of the United States Claims Court, in issuing an interlocutory order, includes in the order a statement that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation, the United States Court of Appeals for the Federal Circuit may, in its discretion, permit an appeal to be taken from such order, if application is made to that Court within ten days after the entry of such order.

"(3) Neither the application for nor the granting of an appeal under this subsection shall stay proceedings in the Court of International Trade or in the Claims Court, as the case may be, unless a stay is ordered by a judge of the Court of International Trade or of the Claims Court or by the United States Court of Appeals for the Federal Circuit or a judge of that court."

Stay of appeal.

CIRCUITS IN WHICH DECISIONS ARE REVIEWABLE

SEC. 126. Section 1294 of title 28, United States Code (including that section as it will become effective on April 1, 1984), is amended by striking out "Appeals" and inserting in lieu thereof "Except as provided in sections 1292(c), 1292(d), and 1295 of this title, appeals".

Ante, p. 36;
Infra.

JURISDICTION OF THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SEC. 127. (a) Chapter 83 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1295. Jurisdiction of the United States Court of Appeals for the Federal Circuit

28 USC 1295.

"(a) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction—

"(1) of an appeal from a final decision of a district court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, if the jurisdiction of that court was based, in whole or in part, on section 1338 of this title, except that a case involving a claim arising under any Act of Congress relating to copyrights or trademarks and no other claims under section 1338(a) shall be governed by sections 1291, 1292, and 1294 of this title;

"(2) of an appeal from a final decision of a district court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, if the jurisdiction of that court was

28 USC 1346.

based, in whole or in part, on section 1346 of this title, except that jurisdiction of an appeal in a case brought in a district court under section 1346(a)(1), 1346(b), 1346(e), or 1346(f) of this title or under section 1346(a)(2) when the claim is founded upon an Act of Congress or a regulation of an executive department providing for internal revenue shall be governed by sections 1291, 1292, and 1294 of this title;

"(3) of an appeal from a final decision of the United States Claims Court;

"(4) of an appeal from a decision of—

"(A) the Board of Appeals or the Board of Patent Interferences of the Patent and Trademark Office with respect to patent applications and interferences, at the instance of an applicant for a patent or any party to a patent interference, and any such appeal shall waive the right of such applicant or party to proceed under section 145 or 146 of title 35;

"(B) the Commissioner of Patents and Trademarks or the Trademark Trial and Appeal Board with respect to applications for registration of marks and other proceedings as provided in section 21 of the Trademark Act of 1946 (15 U.S.C. 1071); or

"(C) a district court to which a case was directed pursuant to section 145 or 146 of title 35;

"(5) of an appeal from a final decision of the United States Court of International Trade;

"(6) to review the final determinations of the United States International Trade Commission relating to unfair practices in import trade, made under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337);

"(7) to review, by appeal on questions of law only, findings of the Secretary of Commerce under headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States (relating to importation of instruments or apparatus);

"(8) of an appeal under section 71 of the Plant Variety Protection Act (7 U.S.C. 2461);

"(9) of an appeal from a final order or final decision of the Merit Systems Protection Board, pursuant to sections 7703(b)(1) and 7703(d) of title 5; and

"(10) of an appeal from a final decision of an agency board of contract appeals pursuant to section 8(g)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(g)(1)).

"(b) The head of any executive department or agency may, with the approval of the Attorney General, refer to the Court of Appeals for the Federal Circuit for judicial review any final decision rendered by a board of contract appeals pursuant to the terms of any contract with the United States awarded by that department or agency which the head of such department or agency has concluded is not entitled to finality pursuant to the review standards specified in section 10(b) of the Contract Disputes Act of 1978 (41 U.S.C. 609(b)). The head of each executive department or agency shall make any referral under this section within one hundred and twenty days after the receipt of a copy of the final appeal decision.

"(c) The Court of Appeals for the Federal Circuit shall review the matter referred in accordance with the standards specified in section 10(b) of the Contract Disputes Act of 1978. The court shall proceed with judicial review on the administrative record made before

19 USC 1202
note.

Post, p. 45.

Post, p. 47.

the board of contract appeals on matters so referred as in other cases pending in such court, shall determine the issue of finality of the appeal decision, and shall, if appropriate, render judgment thereon, or remand the matter to any administrative or executive body or official with such direction as it may deem proper and just.

“§ 1296. Precedence of cases in the United States Court of Appeals for the Federal Circuit

28 USC 1296.

“Civil actions in the United States Court of Appeals for the Federal Circuit shall be given precedence, in accordance with the law applicable to such actions, in such order as the court may by rule establish.”

(b) The section analysis of chapter 83 of title 28, United States Code, is amended by adding at the end thereof the following new items:

“1295. Jurisdiction of the United States Court of Appeals for the Federal Circuit.

“1296. Precedence of cases in the United States Court of Appeals for the Federal Circuit.”

INTERSTATE COMMERCE COMMISSION ORDERS; JURISDICTION

SEC. 128. Section 1336(b) of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

UNITED STATES AS DEFENDANT; JURISDICTION

SEC. 129. Section 1346(a) of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

INTERSTATE COMMERCE COMMISSION ORDERS; VENUE

SEC. 130. Section 1398(b) of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

UNITED STATES AS DEFENDANT; VENUE

SEC. 131. Section 1402(a) of title 28, United States Code, is amended by inserting “in a district court” after “civil action”.

CURE OR WAIVER OF DEFECTS

SEC. 132. Section 1406 of title 28, United States Code, is amended—

- (1) by repealing subsection (c); and
- (2) by redesignating subsection (d) as subsection (c).

UNITED STATES CLAIMS COURT JURISDICTION AND VENUE

SEC. 133. (a) Section 1491 of title 28, United States Code, is amended to read as follows:

“§ 1491. Claims against United States generally; actions involving Tennessee Valley Authority

“(a)(1) The United States Claims Court shall have jurisdiction to render judgment upon any claim against the United States founded

USC prec. title 1.

either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort. For the purpose of this paragraph, an express or implied contract with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States.

"(2) To provide an entire remedy and to complete the relief afforded by the judgment, the court may, as an incident of and collateral to any such judgment, issue orders directing restoration to office or position, placement in appropriate duty or retirement status, and correction of applicable records, and such orders may be issued to any appropriate official of the United States. In any case within its jurisdiction, the court shall have the power to remand appropriate matters to any administrative or executive body or official with such direction as it may deem proper and just. The Claims Court shall have jurisdiction to render judgment upon any claim by or against, or dispute with, a contractor arising under section 10(a)(1) of the Contract Disputes Act of 1978.

41 USC 609.

"(3) To afford complete relief on any contract claim brought before the contract is awarded, the court shall have exclusive jurisdiction to grant declaratory judgments and such equitable and extraordinary relief as it deems proper, including but not limited to injunctive relief. In exercising this jurisdiction, the court shall give due regard to the interests of national defense and national security.

"(b) Nothing herein shall be construed to give the United States Claims Court jurisdiction of any civil action within the exclusive jurisdiction of the Court of International Trade, or of any action against, or founded on conduct of, the Tennessee Valley Authority, or to amend or modify the provisions of the Tennessee Valley Authority Act of 1933 with respect to actions by or against the Authority."

16 USC 831.

(b) Section 1492 of title 28, United States Code, is amended by striking out "chief commissioner of the Court of Claims" and inserting in lieu thereof "chief judge of the United States Claims Court".

(c)(1) Sections 1494, 1495, 1496, and 1497 of title 28, United States Code, are amended by striking out "Court of Claims" each place it appears and inserting in lieu thereof "United States Claims Court".

(2) The section heading of section 1497 of title 28, United States Code, is amended by striking out "growers," and inserting in lieu thereof "growers".

(d) Section 1498 of title 28, United States Code, is amended—

(1) in subsection (a), by striking out "Court of Claims" and inserting in lieu thereof "United States Claims Court"; and

(2) in subsections (b) and (d), by striking out "Court of Claims" each place it appears and inserting in lieu thereof "Claims Court".

(e)(1) Sections 1499, 1500, 1501, 1502, and 1503 of title 28, United States Code, are amended by striking out "Court of Claims" each place it appears and inserting in lieu thereof "United States Claims Court".

(2)(A) The section heading of section 1499 of title 28, United States Code, is amended by inserting “and Safety” after “Hours”.

(B) The item relating to section 1499 in the section analysis of chapter 91 of title 28, United States Code, is amended to read as follows:

“1499. Liquidated damages withheld from contractors under Contract Work Hours and Safety Standards Act.”.

(f) Section 1504 of title 28, United States Code, and the item relating to section 1504 in the section analysis of chapter 91 of such title, are repealed. Repeal.

(g) Section 1505 of title 28, United States Code, is amended—

(1) by striking out “Court of Claims” the first place it appears and inserting in lieu thereof “United States Claims Court”; and

(2) by striking out “Court of Claims” the second place it appears and inserting in lieu thereof “Claims Court”.

(h) Section 1506 of title 28, United States Code, and the item relating to section 1506 in the section analysis of chapter 91 of such title, are repealed. Repeal.

(i) Section 1507 of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

(j)(1) The item relating to chapter 91 in the chapter analysis of part IV of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

(2) The chapter heading of chapter 91 of title 28, United States Code, is amended by striking out “COURT OF CLAIMS” and inserting in lieu thereof “UNITED STATES CLAIMS COURT”.

REPEAL OF PROVISIONS RELATING TO THE COURT OF CUSTOMS AND PATENT APPEALS

SEC. 134. Chapter 93 of title 28, United States Code, and the item relating to chapter 93 in the chapter analysis of part IV of such title, are repealed. 28 USC 1541
et seq.

REPEAL; CURE OF DEFECTS

SEC. 135. Section 1584 of title 28, United States Code, and the item relating to section 1584 in the section analysis of chapter 95 of such title, are repealed.

REPEAL; TIME FOR APPEAL

SEC. 136. Section 2110 of title 28, United States Code, and the item relating to section 2110 in the section analysis of chapter 133 of such title, are repealed.

COURT OF APPEALS JURISDICTION

SEC. 137. Section 2342 of title 28, United States Code, is amended—

(1) by inserting “(other than the United States Court of Appeals for the Federal Circuit)” after “court of appeals”;

(2) in paragraph (4), by inserting “and” after the semicolon;

- (3) in paragraph (5), by striking out “; and” and inserting in lieu thereof a period; and
- (4) by striking out paragraph (6).

PLANT VARIETY PROTECTION OFFICE DECISIONS

Repeal.

SEC. 138. Section 2353 of title 28, United States Code, and the item relating to section 2353 in the section analysis of chapter 158 of such title, are repealed.

UNITED STATES CLAIMS COURT PROCEDURE

SEC. 139. (a) Sections 2501 and 2502(a) of title 28, United States Code, are amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “United States Claims Court”.

(b)(1) Section 2503 of title 28, United States Code, is amended to read as follows:

“§ 2503. Proceedings generally

“(a) Parties to any suit in the United States Claims Court may appear before a judge of that court in person or by attorney, produce evidence, and examine witnesses.

“(b) The proceedings of the Claims Court shall be in accordance with such rules of practice and procedure (other than the rules of evidence) as the Claims Court may prescribe and in accordance with the Federal Rules of Evidence.

“(c) The judges of the Claims Court shall fix times for trials, administer oaths or affirmations, examine witnesses, receive evidence, and enter dispositive judgments. Hearings shall, if convenient, be held in the counties where the witnesses reside.”.

(2) The item relating to section 2503 in the section analysis of chapter 165 of title 28, United States Code, is amended by striking out “before commissioners”.

(c) Section 2504 of title 28, United States Code, is amended—

(1) by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”; and

(2) by striking out “commissioner” each place it appears and inserting in lieu thereof “judge”.

(d) Section 2505 of title 28, United States Code, is amended—

(1) by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”; and

(2) by striking out “report findings” and inserting in lieu thereof “enter judgment”.

(e) Section 2506 of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

(f) Section 2507 of title 28, United States Code, is amended—

(1) in subsection (a), by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”; and

(2) in subsection (c), by striking out “Court of Claims” and inserting in lieu thereof “Claims Court”.

(g) Section 2508 of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

(h)(1) Section 2509 of title 28, United States Code, is amended by amending subsection (a) to read as follows:

Hearings.

“(a) Whenever a bill, except a bill for a pension, is referred by either House of Congress to the chief judge of the United States Claims Court pursuant to section 1492 of this title, the chief judge shall designate a judge as hearing officer for the case and a panel of three judges of the court to serve as a reviewing body. One member of the review panel shall be designated as presiding officer of the panel.”.

Hearing officer.

28 USC 1492.

(2) Section 2509 of title 28, United States Code, is amended—

(A) in subsections (b), (c), (d), and (f), by striking out “trial commissioner” each place it appears and inserting in lieu thereof “hearing officer”;

(B) in subsections (b), (c), and (e), by striking out “chief commissioner” each place it appears and inserting in lieu thereof “chief judge”;

(C) in subsections (b), (f), and (g), by striking out “Court of Claims” each place it appears and inserting in lieu thereof “Claims Court”;

(D) in subsection (d), by striking out “of commissioners”; and

(E) in subsection (g), by striking out “commissioners serving as trial commissioners” and inserting in lieu thereof “judges serving as hearing officers”.

(i)(1) Section 2510 of title 28, United States Code, is amended to read as follows:

“§ 2510. Referral of cases by Comptroller General

28 USC 2510.

“(a) The Comptroller General may transmit to the United States Claims Court for trial and adjudication any claim or matter of which the Claims Court might take jurisdiction on the voluntary action of the claimant, together with all vouchers, papers, documents, and proofs pertaining thereto.

“(b) The Claims Court shall proceed with the claims or matters so referred as in other cases pending in such Court and shall render judgment thereon.”.

(2) The item relating to section 2510 in the section analysis of chapter 165 of title 28, United States Code, is amended to read as follows:

“2510. Referral of cases by Comptroller General.”.

(j)(1) Section 2511 of title 28, United States Code, is amended by striking out “, or of the Supreme Court upon review,”.

(2) Sections 2511, 2512, 2513(c), 2514, 2515(a), and 2516(a) of title 28, United States Code, are amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “United States Claims Court”.

(k) Section 2517 of title 28, United States Code, is amended—

(1) in subsection (a), by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”; and

(2) in subsection (b), by striking out the comma immediately after “discharged”.

(l) Section 2518 of title 28, United States Code, and the item relating to section 2518 in the section analysis of chapter 165 of such title, are repealed.

Repeal.

(m) Section 2519 of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

(n)(1) Section 2520 of title 28, United States Code, is amended in subsection (a)—

- (A) by striking out “(a)”;
 - (B) by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”; and
 - (C) by striking out “\$10” and inserting in lieu thereof “\$60”.
- (2) Subsections (b) and (c) of section 2520 of title 28, United States Code, are repealed.
- (3) The section heading of section 2520 of title 28, United States Code, is amended by striking out “; cost of printing record”.
- (4) The item relating to section 2520 in the section analysis of chapter 165 of title 28, United States Code, is amended to read as follows:

“2520. Fees.”.

(o)(1) The item relating to chapter 165 in the chapter analysis of part VI of title 28, United States Code, is amended to read as follows:

“165. United States Claims Court Procedure..... 2501”.

(2) The chapter heading of chapter 165 of title 28, United States Code, is amended by striking out “COURT OF CLAIMS” and inserting in lieu thereof “UNITED STATES CLAIMS COURT”.

(p)(1) Section 1926 of title 28, United States Code, is amended to read as follows:

“§ 1926. Claims Court

“(a) The Judicial Conference of the United States shall prescribe from time to time the fees and costs to be charged and collected in the United States Claims Court.

“(b) The court and its officers shall collect only such fees and costs as the Judicial Conference prescribes. The court may require advance payment of fees by rule.”.

(2) The item relating to section 1926 in the section analysis of chapter 123 of title 28, United States Code, is amended to read as follows:

“1926. Claims Court.”.

(q)(1) Chapter 165 of title 28, United States Code, is amended by adding at the end thereof the following new section:

“§ 2522. Notice of appeal

“Review of a decision of the United States Claims Court shall be obtained by filing a notice of appeal with the clerk of the Claims Court within the time and in the manner prescribed for appeals to United States courts of appeals from the United States district courts.”.

(2) The section analysis of chapter 165 of title 28, United States Code, is amended by adding at the end thereof the following new item:

“2522. Notice of appeal.”.

REPEAL OF PROVISIONS RELATING TO THE COURT OF CUSTOMS AND PATENT APPEALS

SEC. 140. Chapter 167 of title 28, United States Code, and the item relating to chapter 167 in the chapter analysis of part VI of such title, are repealed.

Fees and
costs,
collection.
28 USC 1926.

28 USC 2522.

28 USC 2601
et seq.

COURT OF INTERNATIONAL TRADE; PROCEDURE

SEC. 141. Section 2645(c) of title 28, United States Code, is amended by striking out "Customs and Patent Appeals within the time and in the manner provided in section 2601 of this title" and inserting in lieu thereof "Appeals for the Federal Circuit by filing a notice of appeal with the clerk of the Court of International Trade within the time and in the manner prescribed for appeals to United States courts of appeals from the United States district courts".

FEDERAL RULES OF EVIDENCE

SEC. 142. Rule 1101(a) of the Federal Rules of Evidence is amended by striking out "Court of Claims" the first place it appears and inserting in lieu thereof "United States Claims Court" and by striking out "and commissioners of the Court of Claims". 28 USC app.

PART B—CONFORMING AMENDMENTS OUTSIDE TITLE 28

FEDERAL SALARY ACT

SEC. 143. Section 225(f)(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(C)), is amended by inserting "and the judges of the United States Claims Court" immediately before the semicolon at the end thereof.

MERIT SYSTEMS PROTECTION BOARD

SEC. 144. Section 7703 of title 5, United States Code, is amended—

(1) in subsection (b)(1), by striking out "Court of Claims or a United States court of appeals as provided in chapters 91 and 158, respectively, of title 28" and inserting in lieu thereof "United States Court of Appeals for the Federal Circuit";

(2) in subsection (c), by striking out "Court of Claims or a United States court of appeals" and inserting in lieu thereof "Court of Appeals for the Federal Circuit"; and

(3) in subsection (d), by striking out "District of Columbia" and inserting in lieu thereof "Federal Circuit".

PLANT VARIETY PROTECTION ACT

SEC. 145. The second sentence of section 71 of the Plant Variety Protection Act (7 U.S.C. 2461) is amended to read as follows: "The United States Court of Appeals for the Federal Circuit shall have jurisdiction of any such appeal."

FEDERAL FIRE PREVENTION ACT

SEC. 146. Section 11(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2210(d)) is amended by striking out "Court of Claims of the United States" and inserting in lieu thereof "United States Claims Court".

CRIMINAL CODE

SEC. 147. Section 204 of title 18, United States Code, and the section heading thereof are amended by striking out "Court of

Claims” and inserting in lieu thereof “United States Claims Court or the United States Court of Appeals for the Federal Circuit”.

TRADEMARK ACT

SEC. 148. Section 39 of the Trademark Act of 1946 (15 U.S.C. 1121) is amended by inserting “(other than the United States Court of Appeals for the Federal Circuit)” after “circuit courts of appeal of the United States”.

INDIAN CLAIMS COMMISSION

SEC. 149. (a) Section 29 of the Act entitled “An Act to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes”, approved August 13, 1946 (25 U.S.C. 70v-3), is amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “Claims Court”.

(b) Subsection (c) of section 29 of such Act is repealed.

(c) Subsection (d) of section 29 of such Act is amended—

(1) by striking out “(d)” and inserting in lieu thereof “(c)”;

and

(2) by striking out “Supreme Court in accordance with the provisions of section 1255” and inserting in lieu thereof “United States Court of Appeals for the Federal Circuit in accordance with the provisions of section 1295”.

(d) Subsection (e) of section 29 of such Act is amended by striking out “(e)” and inserting in lieu thereof “(d)”.

Ante, p. 37.

CLAIMS BY INDIANS OF CALIFORNIA

SEC. 150. Section 2 of the Act of May 18, 1928 (25 U.S.C. 652) is amended—

(1) by striking out “Court of Claims” the first place it appears and inserting in lieu thereof “United States Claims Court”;

(2) by striking out “Court of Claims of the United States” and inserting in lieu thereof “United States Claims Court”;

(3) by striking out “Supreme Court of the United States” and inserting in lieu thereof “United States Court of Appeals for the Federal Circuit”.

INTERNAL REVENUE CODE

SEC. 151. Section 7422(e) of the Internal Revenue Code of 1954 (26 U.S.C. 7422(e)) is amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “United States Claims Court”.

INTERNAL REVENUE CODE

SEC. 152. Section 7428 of the Internal Revenue Code of 1954 is amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “Claims Court”.

26 USC 7428.

INTERNAL REVENUE CODE

SEC. 153. (a) The second sentence of section 7456(c) of the Internal Revenue Code of 1954 is amended to read as follows: "Each commissioner shall receive pay at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of title 28, United States Code, and also necessary traveling expenses and per diem allowances, as provided in subchapter I of chapter 57 of title 5, United States Code, while traveling on official business and away from Washington, District of Columbia."

26 USC 7456.

5 USC 5701.

(b) Notwithstanding the amendment made by subsection (a), until such time as a change in the salary rate of a commissioner of the United States Tax Court occurs in accordance with section 7456(c) of the Internal Revenue Code of 1954, the salary of such commissioner shall be equal to the salary of a commissioner of the Court of Claims immediately prior to the effective date of this Act.

26 USC 7456
note.

INTERNAL REVENUE CODE

SEC. 154. Section 7482(a) of the Internal Revenue Code of 1954 is amended by inserting "(other than the United States Court of Appeals for the Federal Circuit)" after "United States Court of Appeals".

26 USC 7482.

APPROPRIATION FOR JUDGMENTS AGAINST UNITED STATES

SEC. 155. Section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a), is amended by striking out "Court of Claims" and inserting in lieu thereof "Court of Appeals for the Federal Circuit or the United States Claims Court".

CONTRACT DISPUTES

SEC. 156. Section 8(g)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(g)(1)) is amended—

(1) in subparagraph (A), by striking out "Court of Claims" and inserting in lieu thereof "United States Court of Appeals for the Federal Circuit"; and

(2) in subparagraph (B), by striking out "United States Court of Claims for judicial review, under section 2510 of title 28, United States Code, as amended herein," and inserting in lieu thereof "Court of Appeals for the Federal Circuit for judicial review under section 1295 of title 28, United States Code,".

Ante, p. 37.

CONTRACT DISPUTES

SEC. 157. Section 10(c) of the Contract Disputes Act of 1978 (41 U.S.C. 609(c)) is amended by striking out ", or, in its discretion" and all that follows through "of the case".

CONGRESSIONAL PRINTING

SEC. 158. Section 713 of title 44, United States Code, is amended—

(1) by striking out "eight hundred and twenty-two" and inserting in lieu thereof "eight hundred and twenty";

- (2) by inserting “and” after “Superintendent of Documents;”;
- and
- (3) by striking out “to the Court of Claims, two copies; and”.

EXECUTIVE AND JUDICIARY PRINTING

SEC. 159. Section 1103 of title 44, United States Code, is amended by striking out “the Court of Claims,” and by striking out “chief judge of the Court of Claims,”.

CONFORMING AMENDMENTS

SEC. 160. (a) The following provisions of law are amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “United States Claims Court”:

25 USC 1401,
1402.

(1) Sections 1 and 2 of the Act of October 19, 1973 (87 Stat. 466).

(2) Section 8715 of title 5, United States Code.

(3) Section 8912 of title 5, United States Code.

(4) Section 2273(b) of title 10, United States Code.

(5) Section 337(i) of the Tariff Act of 1930 (19 U.S.C. 1337(i)).

(6) Section 606(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2356(a)).

(7) Section 1 of the Act entitled “An Act providing for the allotment and distribution of Indian tribal funds”, approved March 2, 1907 (25 U.S.C. 119).

26 USC 6110.

(8) Section 2 of the Act of August 12, 1935 (25 U.S.C. 475a).

(9) Section 6110(i)(1) of the Internal Revenue Code of 1954.

(10) Section 2 of the Act of May 28, 1908 (30 U.S.C. 193a).

(11) Section 7 of the Act of July 31, 1894 (31 U.S.C. 72).

(12) Section 183 of title 35, United States Code.

(13) Section 104(c) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 330(c)).

(14) Sections 13(b)(2) and 14 of the Contract Settlement Act of 1944 (41 U.S.C. 113(b) and 114).

(15) Sections 8(d) and 10(d) of the Contract Disputes Act of 1978 (41 U.S.C. 607(d) and 609(d)).

(16) Sections 171 and 173 of the Atomic Energy Act of 1954 (42 U.S.C. 2221 and 2223).

(17) Section 10(i) of the Trading with the Enemy Act (50 U.S.C. App. 10(i)).

(18) Sections 103(f), 103(i), 105, 106(a)(6), 108, 108A, and 114(5) of the Renegotiation Act of 1951 (50 U.S.C. App. 1213(f), 1213(i), 1215, 1216(a)(6), 1218, 1218a, and 1224(5)).

(19) Section 4 of the Act of July 2, 1948 (50 U.S.C. App. 1984).

(b) The section heading of section 108A of the Renegotiation Act of 1951 (50 U.S.C. App. 1218a) is amended by striking out “COURT OF CLAIMS” and inserting in lieu thereof “UNITED STATES CLAIMS COURT”.

(c) Section 108A of the Renegotiation Act of 1951 (50 U.S.C. App. 1218a) is amended by striking out “Supreme Court upon certiorari in the manner provided in section 1255” and inserting in lieu thereof “United States Court of Appeals for the Federal Circuit in accordance with the provisions of section 1295”.

CONFORMING AMENDMENTS

SEC. 161. The following provisions of law are amended by striking out "Court of Claims" each place it appears and inserting in lieu thereof "Claims Court":

- (1) Section 4(c) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(c)).
- (2) Section 20 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831s).
- (3) Section 403 of the International Claims Settlement Act of 1949 (22 U.S.C. 1642b).
- (4) Section 2(a) of the Act of May 15, 1978 (92 Stat. 244).
- (5) Section 311(i) of the Federal Water Pollution Control Act (33 U.S.C. 1321(i)).
- (6) Section 10(b) of the Intervention on the High Seas Act (33 U.S.C. 1479(b)).
- (7) Section 282 of title 35, United States Code.
- (8) Section 5261 of the Revised Statutes (45 U.S.C. 87).
- (9) Section 41(a) of the Trading with the Enemy Act (50 U.S.C. App. 42(a)).
- (10) Section 10(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 609(a)(1)).

CONFORMING AMENDMENTS

SEC. 162. The following provisions of law are amended by striking out "United States Court of Customs and Patent Appeals" and "Court of Customs and Patent Appeals" each place they appear and inserting in lieu thereof "United States Court of Appeals for the Federal Circuit":

- (1) Section 21 of the Trademark Act of 1946 (15 U.S.C. 1071).
- (2) Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182).
- (3) Section 305(d) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(d)).

CONFORMING AMENDMENTS

SEC. 163. (a) The following provisions of law are amended by striking out "Court of Customs and Patent Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Federal Circuit":

- (1) Subsections (d) and (f) of section 516 of the Tariff Act of 1930 (19 U.S.C. 1516 (d) and (f)).
- (2) Section 516A (c) and (e) of the Tariff Act of 1930 (19 U.S.C. 1516a (c) and (e)).
- (3) Section 528 of the Tariff Act of 1930 (19 U.S.C. 1528).
- (4) Section 337(c) of the Tariff Act of 1930 (19 U.S.C. 1337(c)).
- (5) Section 284(c) of the Trade Act of 1974 (19 U.S.C. 2395(c)).
- (6) Section 308(9) of the Ethics in Government Act (28 U.S.C. App.).

(7) Sections 141 through 146 of title 35, United States Code.

(b)(1) The item relating to section 141 in the section analysis of chapter 13 of title 35, United States Code, is amended by striking out "Court of Customs and Patent Appeals" and inserting in lieu thereof "Court of Appeals for the Federal Circuit".

35 USC 141
et seq.

(2) The section heading of section 141 of title 35, United States Code, is amended by striking out "Court of Customs and Patent Appeals" and inserting in lieu thereof "Court of Appeals for the Federal Circuit".

CONFORMING AMENDMENTS

SEC. 164. The following provisions of law are amended by striking out "the United States Court of Claims, the United States Court of Customs and Patent Appeals" each place it appears and inserting in lieu thereof "the United States Claims Court":

- (1) Section 6001(4) of title 18, United States Code.
- (2) Section 906 of title 44, United States Code.

PART C—MISCELLANEOUS PROVISIONS

CONTINUED SERVICE OF CURRENT JUDGES

28 USC 44 note.

SEC. 165. The judges of the United States Court of Claims and of the United States Court of Customs and Patent Appeals in regular active service on the effective date of this Act shall continue in office as judges of the United States Court of Appeals for the Federal Circuit. Senior judges of the United States Court of Claims and of the United States Court of Customs and Patent Appeals on the effective date of this Act shall continue in office as senior judges of the United States Court of Appeals for the Federal Circuit.

APPOINTMENT OF CHIEF JUDGE OF COURT OF APPEALS FOR THE FEDERAL CIRCUIT

28 USC 45 note.
Post, p. 51.

SEC. 166. Notwithstanding the provisions of section 45(a) of title 28, United States Code, the first chief judge of the United States Court of Appeals for the Federal Circuit shall be the Chief Judge of the United States Court of Claims or the Chief Judge of the United States Court of Customs and Patent Appeals, whoever has served longer as chief judge of his court. Notwithstanding section 45 of title 28, United States Code, whichever of the two chief judges does not become the first chief judge of the United States Court of Appeals for the Federal Circuit under the preceding sentence shall, while in active service, have precedence and be deemed senior in commission over all the circuit judges of the United States Court of Appeals for the Federal Circuit (other than the first chief judge of that circuit). When the person who first serves as chief judge of the United States Court of Appeals for the Federal Circuit vacates that position, the position shall be filled in accordance with section 45(a) of title 28, United States Code, as modified by the preceding sentence of this section.

COURT OF CLAIMS COMMISSIONERS

Judge,
U.S. Claims
Court.

28 USC 171 note.

Term of
office.

SEC. 167. (a) Notwithstanding the provisions of section 171(a) of title 28, United States Code, as amended by this Act, a commissioner of the United States Court of Claims serving immediately prior to the effective date of this Act shall become a judge of the United States Claims Court on the effective date of this Act.

(b) Notwithstanding the provisions of section 172(a) of title 28, United States Code, as amended by this Act, the initial term of office of a person who becomes a judge of the United States Claims

Court under subsection (a) of this section shall expire fifteen years after the date of his or her employment with the United States Court of Claims, or on October 1, 1986, whichever occurs earlier. Any such judge shall continue in office until a successor is sworn or until reappointed. No such individual shall serve as a judge after reaching the age of seventy years.

Salary.

(c) Notwithstanding the provisions of section 172(b) of title 28, United States Code, as amended by this Act, until such time as a change in the salary rate of a judge of the United States Claims Court occurs in accordance with such section 172(b), the salary of such judge shall be equal to the salary of a Commissioner of the Court of Claims.

APPOINTMENT OF JUDGES BY THE PRESIDENT

SEC. 168. The Congress—

28 USC 44 note.

(1) takes notice of the fact that the quality of the Federal judiciary is determined by the competence and experience of its judges; and

(2) suggests that the President, in nominating individuals to judgeships on the United States Court of Appeals for the Federal Circuit and the United States Claims Court, select from a broad range of qualified individuals.

TENNESSEE VALLEY AUTHORITY LEGAL REPRESENTATION

SEC. 169. Nothing in this Act affects the authority of the Tennessee Valley Authority under the Tennessee Valley Authority Act of 1933 to represent itself by attorneys of its choosing.

28 USC 171 note.

16 USC 831.

TITLE II—GOVERNANCE AND ADMINISTRATION OF THE FEDERAL COURTS

PART A—CHIEF JUDGE TENURE

APPOINTMENT AND TERMS OF CHIEF JUDGES OF THE COURTS OF APPEALS

SEC. 201. (a) Section 45 of title 28, United States Code, is amended by amending subsection (a) to read as follows:

“(a)(1) The chief judge of the circuit shall be the circuit judge in regular active service who is senior in commission of those judges who—

“(A) are sixty-four years of age or under;

“(B) have served for one year or more as a circuit judge; and

“(C) have not served previously as chief judge.

“(2)(A) In any case in which no circuit judge meets the qualifications of paragraph (1), the youngest circuit judge in regular active service who is sixty-five years of age or over and who has served as circuit judge for one year or more shall act as the chief judge.

“(B) In any case under subparagraph (A) in which there is no circuit judge in regular active service who has served as a circuit judge for one year or more, the circuit judge in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.

“(3)(A) Except as provided in subparagraph (C), the chief judge of the circuit appointed under paragraph (1) shall serve for a term of

seven years and shall serve after expiration of such term until another judge is eligible under paragraph (1) to serve as chief judge of the circuit.

“(B) Except as provided in subparagraph (C), a circuit judge acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge has been appointed who meets the qualifications under paragraph (1).

“(C) No circuit judge may serve or act as chief judge of the circuit after attaining the age of seventy years unless no other circuit judge is qualified to serve as chief judge of the circuit under paragraph (1) or is qualified to act as chief judge under paragraph (2).”.

(b) Section 45 of title 28, United States Code, is amended by amending subsection (c) to read as follows:

“(c) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as circuit judge, he may so certify to the Chief Justice of the United States, and thereafter the chief judge of the circuit shall be such other circuit judge who is qualified to serve or act as chief judge under subsection (a).”.

APPOINTMENT AND TERMS OF CHIEF JUDGES OF THE DISTRICT COURTS

SEC. 202. (a) Section 136 of title 28, United States Code, is amended by amending subsection (a) to read as follows:

“(a)(1) In any district having more than one district judge, the chief judge of the district shall be the district judge in regular active service who is senior in commission of those judges who—

“(A) are sixty-four years of age or under;

“(B) have served for one year or more as a district judge; and

“(C) have not served previously as chief judge.

“(2)(A) In any case in which no district judge meets the qualifications of paragraph (1), the youngest district judge in regular active service who is sixty-five years of age or over and who has served as district judge for one year or more shall act as the chief judge.

“(B) In any case under subparagraph (A) in which there is no district judge in regular active service who has served as a district judge for one year or more, the district judge in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.

“(3)(A) Except as provided in subparagraph (C), the chief judge of the district appointed under paragraph (1) shall serve for a term of seven years and shall serve after expiration of such term until another judge is eligible under paragraph (1) to serve as chief judge of the district.

“(B) Except as provided in subparagraph (C), a district judge acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge has been appointed who meets the qualifications under paragraph (1).

“(C) No district judge may serve or act as chief judge of the district after attaining the age of seventy years unless no other district judge is qualified to serve as chief judge of the district under paragraph (1) or is qualified to act as chief judge under paragraph (2).”.

(b) Section 136 of title 28, United States Code, is amended by amending subsection (d) to read as follows:

“(d) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as district judge, he may so certify to the Chief Justice of the United States, and thereafter, the

chief judge of the district shall be such other district judge who is qualified to serve or act as chief judge under subsection (a).”.

EFFECTIVE DATE; APPLICABILITY

SEC. 203. (a) The amendments to section 45 of title 28, United States Code, and to section 136 of such title, made by sections 201 and 202 of this Act, shall not apply to or affect any person serving as chief judge on the effective date of this Act. 28 USC 45 note.

(b) The provisions of section 45(a) of title 28, United States Code, as in effect on the day before the effective date of this Act, shall apply to the chief judge of a circuit serving on such effective date. Ante, p. 51.
The provisions of section 136(a) of title 28, United States Code, as in effect on the day before the effective date of this part, shall apply to the chief judge of a district court serving on such effective date. Ante, p. 52.

PART B—PRECEDENCE AND COMPOSITION OF PANEL

PRECEDENCE ON PANEL

SEC. 204. Section 45(b) of title 28, United States Code, is amended by inserting “of the court in regular active service” immediately after “circuit judges” in the second sentence.

COMPOSITION OF PANEL; REQUIREMENTS AND SIZE

SEC. 205. Section 46(c) of title 28, United States Code, is amended by striking out the period at the end of the second sentence and inserting in lieu thereof the following: “, or such number of judges as may be prescribed in accordance with section 6 of Public Law 95-486 (92 Stat. 1633), except that any senior circuit judge of the circuit shall be eligible to participate, at his election and upon designation and assignment pursuant to section 294(c) of this title and the rules of the circuit, as a member of an in banc court reviewing a decision of a panel of which such judge was a member.”.

PART C—JUDICIAL COUNCILS OF THE CIRCUITS

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 206. (a) Section 3006A(h)(2)(A) of title 18, United States Code, is amended—

(1) by striking out “judicial council” each place it appears and inserting in lieu thereof “court of appeals”; and

(2) by striking out “Judicial Council of the Circuit” and inserting in lieu thereof “court of appeals of the circuit”.

(b) Section 3006A(i) of title 18, United States Code, is amended by striking “judicial council” and inserting in lieu thereof “court of appeals”.

(c) The amendment made by subsection (a) of this section shall not affect the terms of existing appointments. 18 USC 3006A note.

PART D—JUDICIAL RESIGNATION; PENSIONS**PENSIONS OF JUDGES WHO RESIGN TO ACCEPT EXECUTIVE POSITIONS**

SEC. 207. (a) Section 8332(b) of title 5, United States Code, is amended by striking out “and” at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof “; and”, and by inserting at the end thereof the following new paragraph:

“(12) service as a justice or judge of the United States, as defined by section 451 of title 28, and service as a judge of a court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States, but no credit shall be allowed for such service if the employee is entitled to a salary or an annuity under section 371, 372, or 373 of title 28.”.

(b) Section 8334 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

“(i)(1) The Director of the Administrative Office of the United States Courts shall pay to the Fund the amount which an employee may deposit under subsection (c) of this section for service creditable under section 8332(b)(12) of this title if such creditable service immediately precedes service as an employee subject to this subchapter with a break in service of no more than ninety working days. The Director shall pay such amount from any appropriation available to him as a necessary expense of the appropriation concerned.

“(2) The amount the Director pays in accordance with paragraph (1) of this subsection shall be reduced by the amount of any refund to the employee under section 376 of title 28. Except to the extent of such reduction, the amount the Director pays to the Fund shall satisfy the deposit requirement of subsection (c) of this section.

“(3) Notwithstanding any other provision of law, the amount the Director pays under this subsection shall constitute an employer contribution to the Fund, excludable under section 402 of the Internal Revenue Code of 1954 from the employee’s gross income until such time as the contribution is distributed or made available to the employee, and shall not be subject to refund or to lump-sum payment to the employee.”.

26 USC 402.

PART E—RULES OF PRACTICE**PUBLICATION OF RULES**

SEC. 208. (a) Chapter 131 of title 28, the United States Code, is amended by adding at the end thereof the following new section:

28 USC 2077.

“§ 2077. Publication of rules; advisory committees

“(a) The rules for the conduct of the business of each court of appeals, including the operating procedures of such court, shall be published. Each court of appeals shall print or cause to be printed necessary copies of the rules. The Judicial Conference shall prescribe the fees for sales of copies under section 1913 of this title, but the Judicial Conference may provide for free distribution of copies to members of the bar of each court and to other interested persons.

“(b) Each court of appeals shall appoint an advisory committee for the study of the rules of practice and internal operating procedures of the court of appeals. The advisory committee shall make recommendations to the court concerning such rules and procedures. Members of the committee shall serve without compensation, but the Director may pay travel and transportation expenses in accordance with section 5703 of title 5.”

(b) The section analysis of chapter 131 of title 28, United States Code, is amended by adding at the end thereof the following new item:

“2077. Publication of rules; advisory committees.”

TITLE III—JURISDICTION AND PROCEDURE

PART A—TRANSFER OF CASES

TRANSFER TO CURE WANT OF JURISDICTION

SEC. 301. (a) Title 28, United States Code, is amended by adding the following new chapter after chapter 97:

“CHAPTER 99.—GENERAL PROVISIONS

“Sec.

“1631. Transfer to cure want of jurisdiction.

“§ 1631. Transfer to cure want of jurisdiction

28 USC 1631.

“Whenever a civil action is filed in a court as defined in section 610 of this title or an appeal, including a petition for review of administrative action, is noticed for or filed with such a court and that court finds that there is a want of jurisdiction, the court shall, if it is in the interest of justice, transfer such action or appeal to any other such court in which the action or appeal could have been brought at the time it was filed or noticed, and the action or appeal shall proceed as if it had been filed in or noticed for the court to which it is transferred on the date upon which it was actually filed in or noticed for the court from which it is transferred.”

(b) The chapter analysis of part IV of title 28, United States Code, is amended by adding at the end thereof the following:

“99. General Provisions..... 1631”.

PART B—INTEREST

INTEREST ON JUDGMENTS

SEC. 302. (a) Section 1961 of title 28, United States Code, is amended—

(1) by inserting “(a)” immediately before “Interest shall” in the first sentence;

(2) by striking out “at the rate allowed by State law” in the last sentence and inserting in lieu thereof the following: “at a rate equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately prior to the date of the judgment. The Director of the Administrative Office of the United

States Courts shall distribute notice of that rate and any changes in it to all Federal judges"; and

(3) by adding at the end thereof the following new subsections:

"(b) Interest shall be computed daily to the date of payment except as provided in section 2516(b) of title 28, United States Code, and section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a), and shall be compounded annually.

"(c)(1) This section shall not apply in any judgment of any court with respect to any internal revenue tax case. Interest shall be allowed in such cases at a rate established under section 6621 of the Internal Revenue Code of 1954.

"(2) Except as otherwise provided in paragraph (1) of this subsection, interest shall be allowed on all final judgments against the United States in the United States Court of Appeals for the Federal circuit, at the rate provided in subsection (a) and as provided in subsection (b).

"(3) Interest shall be allowed, computed, and paid on judgments of the United States Claims Court only as provided in paragraph (1) of this subsection or in any other provision of law.

"(4) This section shall not be construed to affect the interest on any judgment of any court not specified in this section."

(b) Section 2411 of title 28, United States Code, is amended—

(1) in subsection (a) by striking out "(a)"; and

(2) by repealing subsection (b).

(c) Section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a), is amended by striking out "to which the provisions of section 2411(b) of Title 28 apply".

(d) Section 2516(b) of title 28, United States Code, is amended by striking out "at the rate of four percent per annum" and all that follows through "affirmance" and inserting in lieu thereof ", from the date of the filing of the transcript of the judgment in the General Accounting Office to the date of the mandate of the affirmance, at a rate of interest equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately prior to the date of the judgment".

TITLE IV—MISCELLANEOUS PROVISIONS

DISTRICT COURT REPORTERS

SEC. 401. (a) Section 753(b) of title 28, United States Code, shall be amended to read as follows:

"(b) Each session of the court and every other proceeding designated by rule or order of the court or by one of the judges shall be recorded verbatim by shorthand, mechanical means, electronic sound recording, or any other method, subject to regulations promulgated by the Judicial Conference and subject to the discretion and approval of the judge. The regulations promulgated pursuant to the preceding sentence shall prescribe the types of electronic sound recording or other means which may be used. Proceedings to be recorded under this section include (1) all proceedings in criminal cases had in open court; (2) all proceedings in other cases had in open court unless the parties with the approval of the judge shall agree specifically to the contrary; and (3) such other proceed-

Recording
methods.

ings as a judge of the court may direct or as may be required by rule or order of court as may be requested by any party to the proceeding.

"The reporter or other individual designated to produce the record shall attach his official certificate to the original shorthand notes or other original records so taken and promptly file them with the clerk who shall preserve them in the public records of the court for not less than ten years.

Record
preservation.

"The reporter or other individual designated to produce the record shall transcribe and certify such parts of the record of proceedings as may be required by any rule or order of court, including all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording as provided in this subsection and the original records so taken have been certified by him and filed with the clerk as provided in this subsection. He shall also transcribe and certify such other parts of the record of proceedings as may be required by rule or order of court. Upon the request of any party to any proceeding which has been so recorded who has agreed to pay the fee therefor, or of a judge of the court, the reporter or other individual designated to produce the record shall promptly transcribe the original records of the requested parts of the proceedings and attach to the transcript his official certificate, and deliver the same to the party or judge making the request.

Transcripts.

"The reporter or other designated individual shall promptly deliver to the clerk for the records of the court a certified copy of any transcript so made.

"The transcript in any case certified by the reporter or other individual designated to produce the record shall be deemed prima facie a correct statement of the testimony taken and proceedings had. No transcripts of the proceedings of the court shall be considered as official except those made from the records certified by the reporter or other individual designated to produce the record.

"The original notes or other original records and the copy of the transcript in the office of the clerk shall be open during office hours to inspection by any person without charge."

Records,
inspection
availability.

(b) The regulations promulgated by the Judicial Conference pursuant to subsection (b) of section 753 of title 28, as amended by subsection (a) of this section, shall not take effect before one year after the effective date of this Act. During the one-year period after the date of the enactment of this Act, the Judicial Conference shall experiment with the different methods of recording court proceedings. Prior to the effective date of such regulations, the law and regulations in effect the day before the date of enactment of this Act shall remain in full force and effect.

Regulations,
effective date.
28 USC 753 note.

EFFECTIVE DATE

SEC. 402. Unless otherwise specified, the provisions of this Act shall take effect on October 1, 1982.

28 USC 171 note.

EFFECT ON PENDING CASES

SEC. 403. (a) Any case pending before the Court of Claims on the effective date of this Act in which a report on the merits has been filed by a commissioner, or in which there is pending a request for

28 USC 171 note.

review, and upon which the court has not acted, shall be transferred to the United States Court of Appeals for the Federal Circuit.

(b) Any matter pending before the United States Court of Customs and Patent Appeals on the effective date of this Act shall be transferred to the United States Court of Appeals for the Federal Circuit.

(c) Any petition for rehearing, reconsideration, alteration, modification, or other change in any decision of the United States Court of Claims or the United States Court of Customs and Patent Appeals rendered prior to the effective date of this Act that has not been determined by either of those courts on that date, or that is filed after that date, shall be determined by the United States Court of Appeals for the Federal Circuit.

(d) Any matter pending before a commissioner of the United States Court of Claims on the effective date of this Act, or any pending dispositive motion that the United States Court of Claims has not determined on that date, shall be determined by the United States Claims Court.

(e) Any case in which a notice of appeal has been filed in a district court of the United States prior to the effective date of this Act shall be decided by the court of appeals to which the appeal was taken.

Approved April 2, 1982.

LEGISLATIVE HISTORY—H.R. 4482 (S. 1700):

HOUSE REPORT No. 97-312 (Comm. on the Judiciary).

SENATE REPORT No. 97-275 accompanying S. 1700 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Nov. 17, 18, considered and passed House.

Dec. 8, S. 1700 considered and passed Senate; proceedings vacated and H.R. 4482, amended, passed in lieu.

Vol. 128 (1982): Mar. 9, House concurred in Senate amendment, with an amendment.

Mar. 22, Senate concurred in House amendment.