

AMENDING TITLE 28, UNITED STATES CODE, WITH
RESPECT TO DUTIES OF JUDGES OF THE UNITED
STATES COURT OF CLAIMS

JUNE 13, 1956.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. CELLER, from the Committee on the Judiciary, submitted
the following

R E P O R T

[To accompany S. 977]

The Committee on the Judiciary, to whom was referred the bill
(S. 977) to amend title 28, United States Code, with respect to duties
of judges of the United States Court of Claims, having considered
the same, report favorably thereon without amendment and
recommend that the bill do pass.

PURPOSE

The purposes of the proposed legislation are to authorize the Chief
Justice of the United States to assign temporarily a judge of the
Court of Claims to serve as a circuit or district judge upon presentation
of certificate of necessity by the chief judge or circuit justice of the
circuit wherein the need arises and also to provide for judicial service
by a retired judge of the Court of Claims in any circuit or district as
well as in the Court of Claims. The bill also provides for the partici-
pation of the chief judge of the Court of Claims in the Judicial Confer-
ence of the United States and for the inclusion of a budget estimate for
the Court of Claims for the approval of the Judicial Conference of the
United States.

GENERAL STATEMENT

The Court of Claims was declared to be a constitutional, rather
than a legislative, court under Public Law 158 of the 83d Congress
(67 Stat. 226). That law also provided that the Chief Justice could
designate a circuit or district judge to serve temporarily on the Court
of Claims when the chief judge of that court certified such a need

existed. That law, however, did not permit the assignment of judges of the Court of Claims to serve as a district or circuit judge. That omission would be covered by the provisions of the proposed legislation.

Under the proposed legislation, the chief judge of the Court of Claims would be authorized to participate in the Judicial Conference of the United States, which is composed of the Chief Justice and the chief judges of the judicial circuits (28 U. S. C. 331). Since the Court of Claims is considered to be a court of the United States (28 U. S. C. 451) and has been declared to be a constitutional court by Public Law 158 of the 83d Congress, it is proper that the court should be represented at the deliberations of the Judicial Conference. The need for this participation appears also to be substantiated by the provisions in existing law as well as those proposed in this legislation whereby there is an interchange of judges between the Court of Claims and the district courts and the courts of appeals.

The reasons set forth in the preceding paragraph are also applicable to the provision of the proposed legislation relating to the preparation of the budget estimate for the Court of Claims.

It is the opinion of the committee that the enactment of this bill would provide the overall Federal judiciary with additional manpower without creating additional judgeships. It has the effect of providing greater flexibility in the utilization of the judicial manpower.

The Judicial Conference of the United States has approved and recommended the enactment of this bill. A copy of its report on an identical bill, H. R. 6249, is attached hereto as a part of the report. The bill has also received the approval of the judges of the Court of Claims.

Therefore, the committee recommends that the bill do pass.

ADMINISTRATIVE OFFICE OF
THE UNITED STATES COURTS,
SUPREME COURT BUILDING,
Washington, D. C., June 2, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN CELLER: The bill about which you have inquired of me on May 18, 1955 (H. R. 6249), would amend a number of sections of title 28 of the United States Code in relation to the Court of Claims. The sections which would be amended and the nature of the amendments are as follows:

Section 291 (a) now empowers the Chief Justice of the United States to assign temporarily any circuit judge to act as circuit judge in another circuit under specified conditions. The amendment would empower him to assign in the same manner any judge of the Court of Claims to serve as a circuit judge.

Section 292 now provides for the designation of district judges temporarily to courts of appeals or to the district courts of other districts than those for which they are appointed. The amendment would empower the Chief Justice of the United States to designate a judge of the Court of Claims to serve similarly as a judge of a district court.

Section 294 (b) now provides for the designation of retired circuit judges or district judges to perform judicial duties in any circuit. The amendment would permit a similar designation of a retired judge of the Court of Claims. It would also empower the chief judge of the Court of Claims to call upon a retired judge of that court to perform such judicial duties in the court as he is willing to undertake. This latter power would seem to reside in the chief judge of the Court of Claims at present under the provision of subsection (c) of section 294.

Section 331 provides that the Judicial Conference of the United States shall consist of the Chief Justice of the United States as chairman and the chief judge of each of the judicial circuits. The amendment would make also a member of that body the chief judge of the Court of Claims or if he is unable to attend another judge of the court summoned by the Chief Justice.

Section 605 provides that the estimates for appropriations for the courts of appeals and the district courts which shall be submitted to the Bureau of the Budget by the Director of the Administrative Office of the United States Courts shall be approved before presentation to the Bureau of the Budget by the Judicial Conference of the United States. The section provides that the estimates with respect to the special courts, including the Court of Claims, shall be approved by those courts respectively. The amendment would require the approval by the Judicial Conference of the United States of the estimates for appropriations for the Court of Claims also.

The Judicial Conference of the United States at a recent meeting held March 24 and 25, 1955, approved in principle legislation of the nature of the pending bill. It particularly approved a provision which would authorize the Chief Justice of the United States to designate the chief judge of the Court of Claims, or the chief judge of the Court of Customs and Patent Appeals to sit in the Judicial Conference, and recommended that the budget estimates of those courts should be made subject to the approval of the Judicial Conference in the same way that the budget estimates for the courts of appeals and the district courts are now subject. Later Chief Judge Marvin Jones of the Court of Claims informed this office that the Court of Customs and Patent Appeals did not desire to be represented in the Judicial Conference of the United States. It was the view of the Judicial Conference that if either the Court of Claims or the Court of Customs and Patent Appeals was represented in the Judicial Conference its estimates for appropriations should be subject to the approval of that body. Inasmuch as it now appears that only the Court of Claims is requesting to be represented in the Judicial Conference the provision of the pending bill which would make the estimates for appropriations for that court but not the estimates of the other special courts subject to the approval of the Judicial Conference seems logical.

The various provisions of the pending bill as above explained would appear to be in accordance with the intent of the Judicial Conference of the United States as expressed at its last meeting in March of this year.

With kind regards, I am,
Sincerely yours,

HENRY P. CHANDLER.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the House of Representatives, there is printed below in roman existing law in which no change is proposed, with matter proposed to be stricken out enclosed in black brackets, and new matter proposed to be added shown in italics:

TITLE 28, UNITED STATES CODE

§ 291. Circuit judges

(a) The Chief Justice of the United States may designate and assign temporarily any circuit judge to act as circuit judge in another circuit, *or any judge of the Court of Claims to serve as a circuit judge in any circuit*, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

(b) * * *

(c) * * *

(d) * * *

§ 292. District judges

(a) The chief judge of a circuit may designate and assign one or more district judges within the circuit to sit upon the court of appeals or a division thereof whenever the business of that court so requires. Such designations or assignments shall be in conformity with the rules or orders of the court of appeals of the circuit.

(b) The chief judge of a circuit may, in the public interest, designate and assign temporarily any district judge of the circuit to hold a district court in any district within the circuit.

(c) The Chief Justice of the United States may designate and assign temporarily a district judge of one circuit for service in another circuit, either in a district court or court of appeals, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

(d) The Chief Justice of the United States may designate and assign temporarily any district judge to serve as a judge of the United States Court of Claims, when requested so to do, upon a certificate by the chief judge of such court that is in need of such assistance.

(e) *The Chief Justice of the United States may designate and assign any judge of the Court of Claims to serve as a judge of any district court, when requested so to do, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.*

§ 294. Assignment of retired justices or judges to active duty.

(a) Any retired Chief Justice of the United States or associate justice of the Supreme Court may be designated and assigned by the Chief Justice of the United States to perform such judicial duties in any circuit, including those of a circuit justice, as he is willing to undertake.

(b) Any retired circuit or district judge may be designated and assigned to perform such judicial duties in any circuit as he is willing to undertake. Designation and assignment of such judge for service within his circuit shall be made by the chief judge or judicial council of the circuit. Designation and assignment for service elsewhere shall be made by the Chief Justice of the United States.

Any retired judge of the Court of Claims (1) may be designated and assigned by the Chief Justice of the United States to perform such judicial

duties in any circuit as he is willing to undertake, and (2) may be called upon by the chief judge of the Court of Claims to perform such judicial duties in such court as he is willing to undertake.

(c) * * *

(d) * * *

§ 331. Judicial Conference of the United States.

The Chief Justice of the United States shall summon annually the chief judges of the judicial circuits to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States.

If the chief judge of any circuit is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the conference and advise as to the needs of his circuit and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

The Chief Justice of the United States shall also summon the chief judge of the Court of Claims, or if he is unable to attend, another judge of such court, to participate in the conference. Any judge summoned shall attend, and, unless excused by the Chief Justice, shall remain throughout the conference and advise as to the needs of such court and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

The conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary, and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.

The Attorney General shall, upon request of the Chief Justice, report to such conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.

§ 605. Budget estimates.

The Director, under the supervision of the Judicial Conference of the United States, shall submit to the Bureau of the Budget annual estimates of the expenditures and appropriations necessary for the maintenance and operation of the courts and the Administrative Office, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law.

Such estimates shall be approved, before presentation to the Bureau of the Budget, by the Judicial Conference of the United States, except that estimates with respect to the Court of Customs and Patent Appeals [.,] and the Customs Court [,] and the Court of Claims] shall be approved by such courts, respectively.

All such estimates shall be included in the budget without revision, but subject to the recommendations of the Bureau of the Budget, as provided by section 11 of Title 31 for the estimates of the Supreme Court.

