

★
96TH CONGRESS
1ST SESSION

S. 1477

I

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 2, 1979

Referred to the Committee on the Judiciary

AN ACT

To provide for improvements in the structure and administration
of the Federal courts, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Courts Improve-
4 ment Act of 1979".

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1 **TITLE I—GOVERNANCE AND ADMINISTRATION**
 2 **OF THE FEDERAL COURTS**
 3 **PART A—CHIEF JUDGE TENURE**
 4 **APPOINTMENT AND TERMS OF CHIEF JUDGES OF THE**
 5 **COURTS OF APPEALS**

6 **SEC. 101. (a)** Section 45(a) of title 28, United States
 7 Code, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

9 APPOINTMENT AND TERMS OF CHIEF JUDGES OF THE
10 DISTRICT COURTS

11 SEC. 102. (a) Section 136(a) of title 28, United States
12 Code, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

1 States, and thereafter, the chief judge of the district shall be
2 such other district judge who is qualified to serve or act as
3 chief judge under subsection (a).”

4 EFFECTIVE DATE; APPLICABILITY

5 SEC. 103. (a) The amendments to section 45 of title 28,
6 United States Code, and to section 136 of such title, made by
7 sections 101 and 102 of this part, shall take effect one year
8 from the date of enactment of this Act and shall not apply to
9 or affect any person serving as chief judge on that effective
10 date.

11 (b) The provisions of section 45(a) of title 28, United
12 States Code, in effect on the day before the effective date of
13 this part shall apply to the chief judge of a circuit serving on
14 the effective date. The provisions of section 136(a) of title 28,
15 United States Code, in effect on the day before the effective
16 date of this part shall apply to the chief judge of a district
17 court serving on the effective date.

18 PART B—PRECEDENCE AND COMPOSITION OF PANEL

19 PRECEDENCE ON PANEL

20 SEC. 111. Section 45(b) of title 28, United States Code,
21 is amended by inserting “of the court in regular active serv-
22 ice” immediately after “circuit judges” in the second
23 sentence.

1 COMPOSITION OF PANEL; REQUIREMENTS AND SIZE

2 SEC. 112. (a) Section 46(b) of title 28, United States
3 Code, is amended (1) by inserting "at least" before "three
4 judges" in the first sentence; and (2) by striking the period at
5 the end of the first sentence and inserting at the end thereof a
6 comma and the following: "at least a majority of whom shall
7 be judges of that court unless such judges cannot sit because
8 recused or disqualified."

9 (b) Section 46(c) of title 28, United States Code, is
10 amended by striking out "not more than" in the first sen-
11 tence and inserting in lieu thereof "at least".

12 PART C—JUDICIAL COUNCILS

13 CIRCUIT COUNCILS

14 SEC. 121. (a) Section 332 of title 28, United States
15 Code, is amended by striking out subsections (a) through (d)
16 and inserting in lieu thereof the following:

17 "(a) The chief judge of each court of appeals of a judicial
18 circuit shall call, at least twice in each year, and at such
19 places as he may designate, a meeting of the judicial council
20 of the circuit, consisting of:

21 "(1) the chief judge of the court of appeals for the
22 circuit, who shall preside; plus

23 "(2) that number of court of appeals judges of the
24 circuit fixed by majority vote of all such judges in reg-
25 ular active service; plus

1 “(3) that number of district court judges of the
2 circuit fixed by majority vote of all court of appeals
3 judges of the circuit in regular active service: *Provided,*
4 That—

5 “(A) if the number of court of appeals judges
6 fixed in accordance with paragraph (2) of this sub-
7 section is less than six, the number of district
8 court judges fixed in accordance with this para-
9 graph shall be no less than two; and

10 “(B) if the number of court of appeals judges
11 fixed in accordance with paragraph (2) of this sub-
12 section is six or more, the number of district court
13 judges fixed in accordance with this paragraph
14 shall be no less than three.

15 “Members of the council shall serve for terms estab-
16 lished by a majority vote of all judges of the circuit in regular
17 active status.

18 ““The number of court of appeals and district court
19 judges fixed in accordance with paragraphs (2) and (3) of this
20 subsection shall be set by order of the court of appeals for the
21 circuit no less than six months prior to a scheduled meeting
22 of the council so constituted.

23 “Only court of appeals and district court judges in regu-
24 lar active service shall serve as members of the council.

1 “No more than one district court judge from any one
2 district shall serve simultaneously on the council, unless at
3 least one district court judge from each district within the
4 judicial circuit is already serving as a member of the council.

5 “In the event of the death, resignation, retirement or
6 disability of a member of the council, a replacement member
7 shall be designated to serve the remainder of the unexpired
8 term by the chief judge of the court of appeals of the circuit.

9 “Each member of the council shall attend each council
10 meeting unless excused by the chief judge of the court of
11 appeals of the circuit.

12 “(b) The council shall be known as the Judicial Council
13 of the circuit.

14 “(c) The chief judge of the court of appeals of the circuit
15 shall submit to the council the semiannual reports of the Di-
16 rector of the Administrative Office of the United States
17 Courts, and the council may take such action on matters con-
18 tained therein of concern to the courts of the circuit as may
19 be necessary.

20 “(d) Each judicial council shall make all necessary and
21 appropriate orders for the effective and expeditious adminis-
22 tration of justice within its circuit. Unless an impediment to
23 justice is involved, regular business of the courts need not be
24 referred to the council. Each council is authorized to hold
25 hearings, to take sworn testimony, and to issue subpoenas and

1 subpenas duces tecum therefore. Subpenas shall be issued by
2 the clerk of the court of appeals, at the direction of the chief
3 judge of the court of appeals or his designee, under the seal
4 of the court, and served in the manner provided in rule 45(c)
5 of the Federal Rules of Civil Procedure for subpenas issued
6 on behalf of the United States or an office or agency thereof.

7 "All judicial officers and employees of the circuit shall
8 promptly carry into effect all orders of the judicial council."

9 (b) Section 332 of the United States Code is amended
10 by adding at the end thereof the following new subsection:

11 "(g) Notwithstanding subsection (a), the judicial council
12 of the Federal Judicial Circuit shall consist of all judges of
13 the court of appeals for the Federal Judicial Circuit in regu-
14 lar active service and the chief judges of the United States
15 Customs Court and the United States Claims Court. Subsec-
16 tions (e) and (f) shall not apply to the Court of Appeals for
17 the Federal Circuit."

18 (c) The section heading for section 332 of title 28,
19 United States Code, is amended to read as follows:

20 "**§ 332. Judicial councils of circuits**".

21 (d) The item relating to section 332 in the table of sec-
22 tions for chapter 15 of title 28, United States Code, is
23 amended to read as follows:

"332. Judicial councils of circuits."

1 TECHNICAL AND CONFORMING AMENDMENTS

2 SEC. 122. (a) Section 3006A(h)(2)(A) of title 18, United
3 States Code, is amended—

4 (i) by striking “judicial council” wherever it ap-
5 pears and inserting in lieu thereof “court of appeals”
6 in each instance; and

7 (ii) by striking “Judicial Council of the circuit”
8 and inserting in lieu thereof “court of appeals of the
9 circuit”.

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

13 (c) The amendment made by subsection (a) of this sec-
14 tion shall not affect the terms of existing appointments.

15 PART D—RETIREMENT AND PENSIONS

16 JUDICIAL RESIGNATION AND RETIREMENT

17 SEC. 131. (a) Section 371 of title 28, United States
18 Code, is amended to read as follows:

19 “§ 371. Resignation or retirement for age

20 “(a) Any justice or judge of the United States appointed
21 to hold office during good behavior who resigns after attain-
22 ing the age and meeting the service requirements, whether
23 continuous or otherwise, of subsection (c) of this section shall,
24 during the remainder of his lifetime, receive an annuity equal
25 to the salary which he was receiving when he resigned.

1 “(b) Any justice or judge of the United States appointed
 2 to hold office during good behavior may retain his office but
 3 retire from regular active service after attaining the age and
 4 meeting the service requirements, whether continuous or oth-
 5 erwise, of subsection (c) of this section. He shall, during the
 6 remainder of his lifetime, continue to receive the salary of the
 7 office. The President shall appoint, by and with the advice
 8 and consent of the Senate, a successor to a justice or judge
 9 who retires.

10 “(c) The age and service requirements for resignation or
 11 retirement of a justice or judge of the United States under
 12 this section are as follows:

“Attained age:	Years service
65.....	15
70.....	10.”.

13 (b) The amendments made by subsection (a) shall apply
 14 with respect to any justice or judge of the United States who
 15 retires on or after the date of enactment of this Act.

16 PENSIONS OF JUDGES WHO RESIGN TO ACCEPT
 17 EXECUTIVE POSITIONS

18 SEC. 132. (a) Section 8332(b) of title 5, United States
 19 Code, is amended by striking the word “and” at the end of
 20 paragraph 8, by striking the period at the end of paragraph 9
 21 and inserting in lieu thereof “; and”, and by inserting the
 22 following new paragraph at the end of the subsection:

1 “(10) service as a justice or judge of the United
2 States as defined by section 451 of title 28 and service
3 as a judge of a court created by Act of Congress in a
4 territory which is invested with any jurisdiction of a
5 district court of the United States, but no credit shall
6 be allowed for such service if the employee is entitled
7 to a salary or an annuity under section 371, 372, or
8 373 of title 28.”.

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

12 “(i)(1) The Director of the Administrative Office of the
13 United States Courts shall pay to the Fund the amount
14 which an employee may deposit under subsection (c) of this
15 section for service creditable under section 8332(b)(10) of this
16 title if such creditable service immediately precedes service
17 as an employee subject to this subchapter with a break in
18 service of no more than ninety working days. The Director
19 shall pay such amount from any appropriation available to
20 him as a necessary expense of the appropriation concerned.

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

1 the Director pays to the Fund shall satisfy the deposit re-
2 quirement of subsection (c) of this section.

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

11 **PART E—TEMPORARY ASSIGNMENT OF JUSTICES AND**
12 **JUDGES**
13 **ASSIGNMENT TO OTHER OFFICES WITHIN THE JUDICIAL**
14 **BRANCH**

15 **SEC. 141.** (a) Title 28, United States Code, is amended
16 by inserting the following new chapter after chapter 13:

17 **“CHAPTER 14—TEMPORARY ASSIGNMENT OF JUS-**
18 **TICES AND JUDGES TO OTHER OFFICES WITHIN**
19 **THE JUDICIAL BRANCH**

“Sec.

“301. Temporary assignment.

“302. Appointment of successor.

“303. Official duty station.

“304. Return to active service; seniority and precedence.

20 **“§ 301. Temporary assignment**

21 “Any retired justice of the United States, or any judge
22 of the United States in active, senior, or retired status may
23 be temporarily assigned by the Chief Justice to the position

1 of Administrative Assistant to the Chief Justice, Director of
2 the Administrative Office of the United States Courts, or Di-
3 rector of the Federal Judicial Center. Such service shall be
4 without additional compensation.

5 **“§ 302. Appointment of successor**

6 “Upon the appointment of any judge in active status
7 pursuant to section 301 of this title, the President shall, by
8 and with the advice and consent of the Senate, appoint a
9 successor to fill the vacancy resulting from the temporary
10 assignment. Whenever such a successor is appointed, any va-
11 cancy created by the death, resignation, or retirement of the
12 judge who is temporarily assigned pursuant to section 301
13 shall not be filled. If the judge temporarily assigned resumes
14 active service pursuant to section 304(a)(1) of this title, the
15 first vacancy created on that court shall not be filled.

16 **“§ 303. Official duty station**

17 “Notwithstanding the provisions of sections 374 and
18 456 of this title, the official duty station of the Administrative
19 Assistant to the Chief Justice, the Director of the Adminis-
20 trative Office of the United States Courts, and the Director
21 of the Federal Judicial Center is the District of Columbia.

22 **“§ 304. Return to active service; seniority and precedence**

23 “(a) Any judge who was in active service at the time of
24 his temporary assignment made pursuant to section 301 of
25 this title may—

1 “(1) resume such active service upon vacating his
2 office; or

3 “(2) assume active service as a judge in the cir-
4 cuit of the District of Columbia.

5 “(b) For the purposes of seniority and precedence, a
6 judge who resumes active service under paragraph (1) of sub-
7 section (a) shall be considered to have been in continuous
8 active service as a judge of that court.”.

9 (b) The table of chapters for part I of title 28, United
10 States Code, is amended by inserting the following new item
11 immediately after the item relating to chapter 13:

“14. Temporary Assignment of Justices and Judges to Other Offices
within the Judicial Branch 301”.

12 PART F—RULES OF PRACTICE

13 PUBLICATION OF RULES

14 SEC. 151. (a) Chapter 131 of title 28 of the United
15 States Code is amended by adding the following section:

16 “§ 2077. **Publication of rules; advisory committees**

17 “(a) The rules for the conduct of the business of each
18 court of appeals, including the operating procedures of such
19 court, shall be published. In accordance with the request of
20 each court of appeals, the Director of the Administrative Of-
21 fice of the United States Courts, subject to the supervision
22 and direction of the Judicial Conference of the United States,
23 shall print or cause to be printed necessary copies of the
24 rules. The Judicial Conference shall prescribe the fees for

1 “(c)(1) Any person may file a written complaint against
2 a judge, as defined in paragraph (2), with the judicial council
3 of the circuit in which the judge serves, alleging that—

4 “(A) the judge is, or has been, unable to dis-
5 charge efficiently all the duties of his or her office by
6 reason of mental or physical disability; or

7 “(B) the judge is engaging, or has engaged, in
8 conduct inconsistent with the effective and expeditious
9 administration of the business of the courts.

10 “(2) For the purposes of this subsection through subsec-
11 tion (o), other than subsections (g) and (j), ‘judge’ means a
12 judge of a court of appeals or a district court.

13 “(3) Complaints which are outside the jurisdiction of the
14 judicial council include, but are not limited to, complaints re-
15 lating to the merits of any decisional or procedural ruling of a
16 judge, or any matter reviewable under any other provision of
17 law on the record. The judicial council shall dismiss any com-
18 plaint which is outside its jurisdiction.

19 “(4) The judicial council shall, with respect to judges
20 within its circuit, process and investigate each complaint not
21 dismissed under paragraph (3), and may investigate on its
22 own motion any other allegation which meets the standards
23 provided in subparagraph (A) or (B) of paragraph (1). After
24 investigation on its own motion, the judicial council may, if
25 appropriate, file a complaint under paragraph (1). The judi-

1 cial council shall notify the complainant when it receives the
2 complaint, and shall forward a copy to the judge who is the
3 subject of the complaint. The judicial council shall take action
4 on each complaint in an expeditious manner.

5 “(5) After review of the allegations, the judicial council
6 shall dismiss any complaint, the allegations of which are
7 frivolous or which do not meet the standards provided in sub-
8 paragraph (A) or (B) of paragraph (1), or proceed in accord-
9 ance with subsection (d). If the judicial council dismisses a
10 complaint under this paragraph or under paragraph (3), it
11 shall notify in writing the complainant and the judge who is
12 the subject of the complaint of the action taken and the rea-
13 sons for the order of dismissal.

14 “(6) The complainant may, within ten days of receipt of
15 the notice under paragraph (5), petition the Court on Judicial
16 Conduct and Disability (hereinafter in this section referred to
17 as the ‘Court’) for review of any order of dismissal under
18 paragraph (3) or (5).

19 “(d)(1) If the complaint is not dismissed under subsec-
20 tion (c)(3) or (c)(5), the judicial council shall notify the com-
21 plainant and shall give the judge who is the subject of the
22 complaint an opportunity to appear before the judicial coun-
23 cil, if desired.

1 “(2) If the judicial council finds that the allegations
2 meet the standards provided in subsection (c)(1)(A) or (B), it
3 shall—

4 “(A) certify disability pursuant to the procedures
5 and standard provided under subsection (b);

6 “(B) request that the judge voluntarily retire with
7 the provision that the length of service requirements
8 under section 371 of this title shall not apply;

9 “(C) order that, on a temporary basis for a time
10 certain, no further cases be assigned to the judge;

11 “(D) censure or reprimand the judge by means of
12 private communication;

13 “(E) censure or reprimand the judge by means of
14 public announcement; or

15 “(F) order such other action as it considers appro-
16 priate under the circumstances, but in no circum-
17 stances may the council order removal from office.

18 “(3) The judicial council shall maintain a record of any
19 proceedings conducted under paragraph (2), and each action
20 taken shall be accompanied by written findings, including a
21 statement of the basis upon which such action was taken.

22 “(4)(A) The judicial council shall notify in writing the
23 complainant and the judge who is the subject of the com-
24 plaint of the action taken under paragraph (2). A complainant
25 or the judge who is the subject of the complaint may, within

1 ten days of receipt of such notice, petition the Court for re-
2 view of any such action.

3 “(B) Upon the timely filing of a petition for review
4 under this paragraph or under subsection (c)(6), the judicial
5 council shall certify and transmit to the Court its action and
6 findings with respect to that action, and a record of the pro-
7 ceedings. For purposes of a petition under subsection (c)(6),
8 the record shall, at a minimum, consist of a copy of the com-
9 plaint and the written notification to the complainant and the
10 judge who is the subject of the complaint of the action taken
11 and the reasons for the order of dismissal.

12 “(C) Except as provided in this section, there shall be
13 no judicial review of any action taken by the judicial council
14 under this subsection or subsection (c).

15 “(e)(1) The Judicial Conference of the United States
16 shall promulgate rules of procedure for the judicial councils
17 for discharging the duties under subsections (c) and (d), or
18 authorize the judicial council of each circuit to promulgate
19 rules of procedure for its respective circuit.

20 “(2) The Judicial Conference of the United States shall
21 also promulgate rules of procedure for the Judicial Council of
22 the District of Columbia Circuit and the chief judges of the
23 Court of Claims, the Court of Customs and Patent Appeals,
24 and the Customs Court, for discharging the duties under sub-
25 section (j).

1 “(3) Any rule promulgated under this subsection may be
2 modified by the Judicial Conference of the United States and
3 shall be a matter of public record.

4 “(f)(1) Administrative, professional, and financial assist-
5 ance from the Administrative Office of the United States
6 Courts and from the Federal Judicial Center may be request-
7 ed by—

8 “(A) each judicial council for discharging the du-
9 ties under subsections (c) and (d); and

10 “(B) the Judicial Council of the District of Co-
11 lumbia Circuit and the chief judges of the Court of
12 Claims, the Court of Customs and Patent Appeals, and
13 the Customs Court, for discharging the duties under
14 subsection (j).

15 “(2) The Administrative Office of the United States
16 Courts and the Federal Judicial Center are authorized to
17 provide assistance requested under paragraph (1) and to ex-
18 pend funds to insure such assistance, within the limits of its
19 available resources.

20 “(g)(1) There is established a court of record to be
21 known as the Court on Judicial Conduct and Disability. The
22 Court may exercise all appropriate judicial powers incident or
23 necessary to the jurisdiction conferred upon it. The Court
24 may prescribe such rules for the conduct of its proceedings as
25 it considers appropriate. Attendance of witnesses and the

1 production of relevant material may be required from any
2 place in the United States and its territories at any place
3 designated for holding court. Whenever possible, the Court
4 shall sit in the district or circuit in which the judge who is the
5 subject of the complaint serves. If the judge who is the sub-
6 ject of the complaint serves on the Court of Claims, the
7 Court of Customs and Patent Appeals, or the Customs
8 Court, the Court shall sit, whenever possible, in the location
9 in which that court is usually held.

10 “(2) The Court shall consist of five Federal judges, in-
11 cluding at least one district court judge, to be appointed by
12 the Chief Justice of the United States. Each member shall be
13 a judge of the United States in regular active service. The
14 Chief Justice shall designate the chief judge of the Court.

15 “(3) A judge of any court created by an Act of Congress
16 in a territory which is vested with the jurisdiction of a district
17 court of the United States may not be a member of the
18 Court.

19 “(4) The term of each member shall be three years, ex-
20 cept that when the Court is initially appointed, three of the
21 members shall serve three-year terms and two of the mem-
22 bers shall serve two-year terms. The term of any member
23 shall automatically be extended until his or her successor has
24 been appointed. A member selected to fill a vacancy shall
25 commence a full three-year term. A judge may serve on the

1 court any number of times, but may not serve consecutive
2 terms.

3 “(h)(1) The Court shall grant a petition filed by a com-
4 plainant under subsection (c)(6) or (d)(4), or a petition filed by
5 a judge who is the subject of the complaint under subsection
6 (d)(4), upon the concurrence of two of its members.

7 “(2) Upon the grant of a petition under paragraph (1),
8 the Court shall—

9 “(A) dismiss any complaint, the allegations of
10 which do not meet the standards provided in subsection
11 (c)(1) (A) or (B), and any complaint relating to the
12 merits of any decisional or procedural ruling of a judge
13 or any matter reviewable under any other provision of
14 law on the record;

15 “(B) affirm any action taken by the judicial council
16 if the action is supported by clear and convincing
17 evidence on the record;

18 “(C) modify any action taken by the judicial council
19 if such modification is supported by clear and con-
20 vincing evidence on the record, but no such modifica-
21 tion may include an order of removal from office;

22 “(D) reverse and remand to the judicial council
23 for further proceedings any action which is unsupport-
24 ed by clear and convincing evidence on the record; or

1 “(E) when required in the interests of justice, con-
2 duct a hearing under subsection (i)(1) to determine the
3 matter de novo, and any action taken under subsection
4 (i)(2) shall be supported by clear and convincing evi-
5 dence.

6 “(i)(1) If the Court decides to hear the matter de novo,
7 the judge who is the subject of the complaint shall be given
8 adequate notice of the hearing, shall be admitted to the hear-
9 ing, may be represented by counsel, may testify and present
10 testimony at the hearing in his or her own behalf, and may
11 confront and cross-examine any witness.

12 “(2) After a hearing de novo under paragraph (1), the
13 Court shall—

14 “(A) upon a determination that the allegations do
15 not meet the standards provided in subsection (c)(1) (A)
16 or (B), order dismissal of the action;

17 “(B) upon a determination that the judge is un-
18 able to discharge efficiently all the duties of his or her
19 office by reason of permanent mental or physical dis-
20 ability and that the appointment of an additional judge,
21 in the manner provided in subsection (b), is necessary
22 for the efficient dispatch of business, certify disability;
23 or

1 “(C) upon a determination that the allegations
2 meet the standards provided in subsection (c)(1) (A) or
3 (B)—

4 “(i) order that, on a temporary basis for a
5 time certain, no further cases be assigned to the
6 judge;

7 “(ii) censure or reprimand the judge by
8 means of public announcement; or

9 “(iii) order such other action as it considers
10 appropriate under the circumstances, but in no
11 circumstances may the Court order removal from
12 office.

13 “(3) Each action taken under subsection (h)(2) and
14 under paragraph (2) of this subsection shall be made by a
15 majority of the members of the Court. Each order or action
16 of the Court shall be in writing, and the complainant and the
17 judge who is the subject of the complaint shall receive a
18 copy. There shall be no judicial review of any order or action
19 of the Court taken under this subsection or subsection (h).

20 “(j)(1) Any person may file a written complaint—

21 “(A) with the Judicial Council of the District of
22 Columbia Circuit, with respect to the chief judge of the
23 Court of Claims, the Court of Customs and Patent Ap-
24 peals, or the Customs Court; or

1 “(B) with the chief judge of the applicable court,
2 with respect to any judge of the Court of Claims, the
3 Court of Customs and Patent Appeals, or the Customs
4 Court;

5 alleging that the conduct of the judge meets the standards
6 provided in subsection (c)(1) (A) or (B).

7 “(2) The Judicial Council of the District of Columbia
8 Circuit or the chief judge, as the case may be, shall proceed
9 in accordance with the provisions of paragraphs (3) through
10 (6) of subsection (c) and the provisions of subsection (d). If a
11 complainant or judge who is the subject of the complaint peti-
12 tions the Court for review, the provisions of subsections (g),
13 (h), and (i) shall apply. For purposes of this paragraph, all
14 references to ‘judicial council’ in paragraphs (3) through (6)
15 of subsection (c), subsections (d), (h), and (i), shall be treated
16 as referring to ‘the Judicial Council of the District of Colum-
17 bia Circuit or the chief judge, as the case may be,’.

18 “(k)(1) The Court shall submit to the House of Repre-
19 sentatives a record of all proceedings by the council, the Ju-
20 dicial Council of the District of Columbia Circuit or a chief
21 judge under subsection (j), or the Court, revealing conduct
22 which, in its view, would constitute an impeachable offense
23 as defined in article II, section 4, of the Constitution of the
24 United States. The record shall be accompanied by the com-
25 plaint made against the judge and any order or findings made

1 by a judicial council, the Judicial Council of the District of
2 Columbia Circuit or a chief judge under subsection (j), or the
3 Court.

4 “(2) The Committee on the Judiciary of the House of
5 Representatives shall give timely consideration to such rec-
6 ord and accompanying materials, and shall make its best ef-
7 forts to take action within 90 days of receipt of such record.

8 “(l) A judge shall not sit in any proceeding as a member
9 of a judicial council or of the Court, or under the provisions
10 of subsection (j), when it inquires into his or her own conduct,
11 or when it inquires into a complaint filed by him or her
12 against another judge.

13 “(m) No person shall be granted the right to intervene
14 or appear as amicus curiae in any proceeding before a judicial
15 council, the Judicial Council of the District of Columbia Cir-
16 cuit or a chief judge under subsection (j), or the Court.

17 “(n)(1) All matters filed with, all testimony or evidence
18 given before, and all deliberations of, a judicial council under
19 subsections (c) and (d), the Judicial Council of the District of
20 Columbia Circuit or a chief judge under subsection (j), or the
21 Court under subsection (h), shall be confidential—

22 “(A) unless authorized in writing by the judge
23 who is the subject of a complaint;

1 “(B) unless the judge is censured or reprimanded
2 by means of public announcement under subsection
3 (d)(2)(E); or

4 “(C) unless final adverse action is taken against a
5 judge, not including an order of dismissal.

6 “(2) For the purposes of subparagraph (C) of paragraph
7 (1), an action is final—

8 “(A) if no petition for review is filed, on the date
9 of expiration of the time period during which a petition
10 for review may be filed; or

11 “(B) if a petition for review is filed, the date on
12 which—

13 “(i) the Court denies a petition for review; or

14 “(ii) the Court grants the petition for review
15 and takes action under subsection (h)(2) (B), (C),
16 or (D).

17 “(3) If the Court determines under subsection (h)(2)(E)
18 to hear the matter de novo, all proceedings conducted by the
19 Court pursuant to subsection (i) shall be open and shall be a
20 matter of public record.

21 “(o) The Director of the Administrative Office of the
22 United States Courts shall include in its annual report filed
23 with the Congress under section 604 of this title a summary
24 of the number of complaints filed with each judicial council
25 under subsection (c), and with the Judicial Council of the

1 District of Columbia Circuit or a chief judge under subsection
 2 (j), indicating the general nature of such complaints and the
 3 disposition of those complaints in which action has been
 4 taken, including any action taken by the Court.”.

5 (b)(1) The section heading for section 372 of title 28,
 6 United States Code, is amended to read as follows:

7 “§ 372. Retirement for disability; substitute judge on fail-
 8 ure to retire; judicial discipline”

9 (2) The table of sections for chapter 17 of title 28,
 10 United States Code, is amended by amending the item relat-
 11 ing to section 372 to read as follows:

“372. Retirement for disability; substitute judge on failure to retire; judicial
 discipline.”.

12 ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

13 SEC. 163. Section 604 of title 28, United States Code,
 14 is amended by adding at the end the following:

15 “(1) The Director shall provide facilities and pay neces-
 16 sary expenses incurred by the Court on Judicial Conduct and
 17 Disability under chapter 17 of this title, including mileage
 18 allowance and witness fees, at the same rate as provided in
 19 section 1821 of this title.”.

20 SEPARABILITY

21 SEC. 164. If any provision of this part or any amend-
 22 ment made by this part, or the application of such provision
 23 or amendment to any person or circumstances, shall be held
 24 invalid, the remainder of this part or such amendment or the

1 application of such provision or amendment to persons or cir-
2 cumstances other than those as to which it is held invalid,
3 shall not be affected thereby.

4 AUTHORIZATION

5 SEC. 165. There are authorized to be appropriated such
6 sums as may be necessary to carry out this part.

7 EFFECTIVE DATE

8 SEC. 166. This part shall become effective October 1,
9 1980.

10 TITLE II—JURISDICTION AND PROCEDURE

11 PART A—TRANSFER OF CASES

12 TRANSFER TO CURE WANT OF JURISDICTION

13 SEC. 201. (a) Title 28, United States Code, is amended
14 by adding the following new chapter after chapter 97:

15 "CHAPTER 99.—GENERAL PROVISIONS

"Sec.

"1631. Transfer to cure want of jurisdiction.

16 "§ 1631. Transfer to cure want of jurisdiction

17 "Whenever a civil action is filed in a court of the United
18 States, the United States Claims Court, a court created by
19 Act of Congress in a territory which is invested with any
20 jurisdiction of a district court of the United States, or a
21 United States bankruptcy court, and that court finds that
22 there is a want of jurisdiction, the court shall, if it is in the
23 interests of justice, transfer such action to any other such
24 court in which the action could have been brought at the time

1 such action was filed, and the action shall proceed as if it had
 2 been filed in the transferee court on the date upon which it
 3 was actually filed in the transferor court.”.

4 (b) The table of chapters for title 28, United States
 5 Code, and for part IV of such title, are each amended by
 6 adding at the end thereof the following:

“99. General Provisions 1651”.

7 PART B—INTEREST

8 INTEREST ON JUDGMENTS AND PREJUDGMENT INTEREST

9 SEC. 211. (a) Section 1961 of title 28, United States
 10 Code, is amended—

11 (1) by striking out “at the rate allowed by State
 12 law” in the last sentence and inserting in lieu thereof
 13 the following: “at the rate established pursuant to sec-
 14 tion 6621 of the Internal Revenue Code of 1954 (26
 15 U.S.C. 6621) as of that date. The Director of the Ad-
 16 ministrative Office of the United States Courts shall
 17 distribute notice of that rate and any changes in it to
 18 all Federal judges”; and

19 (2) by inserting “(a)” at the beginning of the sec-
 20 tion and by adding the following new subsection at the
 21 end:

22 “(b)(1) Except as provided in paragraph (2) or unless
 23 otherwise required by law, in awarding damages to a party
 24 the court may add to the sum of actual damages awarded a

1 sum of interest computed over a period before the time of
2 judgment where the facts of the controversy and the manner
3 in which the case was litigated indicate that an award of such
4 prejudgment interest is appropriate to afford the prevailing
5 party complete relief. This prejudgment interest shall be
6 computed at the rate fixed under subsection (a) at the time of
7 judgment and measured from the time that the party against
8 whom damages have been awarded became aware of his po-
9 tential liability or from the time that he should have become
10 aware of such liability but, in any case, not to exceed a peri-
11 od of five years.

12 “(2) Interest under paragraph (1) shall not be awarded
13 on losses which will not be incurred until after judgment, nor
14 shall such interest be awarded where such an award would
15 be duplicative of some other sum awarded.

16 “(c)(1) In any judgment of any court rendered against
17 the United States, for any overpayment in respect of any
18 internal revenue tax, interest shall be allowed at an annual
19 rate established under section 6621 of the Internal Revenue
20 Code of 1954 upon the amount of overpayment, from the
21 date of the payment or collection thereof to a date preceding
22 the date of the refund check by not more than thirty days,
23 such date to be determined by the Commissioner of Internal
24 Revenue. The Commissioner is authorized to tender by check
25 payment of any such judgment, with interest as herein pro-

1 vided, at any time after such judgment becomes final,
 2 whether or not a claim for such payment has been duly filed,
 3 and such tender shall stop the running of interest, whether or
 4 not such refund check is accepted by the judgment creditor.

5 “(2) Except as otherwise provided in paragraph (1) of
 6 this subsection, interest shall be allowed on all final judg-
 7 ments against the United States (including judgments of the
 8 United States Claims Court) as provided in subsections (a)
 9 and (b).”

10 (b) Sections 2411 and 2516 of title 28, United States
 11 Code, and the items relating to sections 2411 and 2516 in
 12 the section analyses of chapter 161 and chapter 165 of such
 13 title, respectively, are repealed.

14 TITLE III—TRIAL AND APPELLATE STRUCTURE
 15 FOR GOVERNMENT CLAIMS, PATENTS, AND
 16 OTHER MATTERS

17 PART A—COURT OF APPEALS FOR THE FEDERAL
 18 CIRCUIT

19 COMPOSITION AND PLACEMENT OF CIRCUIT

20 SEC. 301. (a) Section 41 of title 28, United States
 21 Code, is amended by striking “eleven” from the first sen-
 22 tence and by adding at the end of the section the following:

“Federal..... All Federal judicial districts.”

23 (b)(1) Section 44(a) of title 28, United States Code, is
 24 amended by adding at the end of the subsection the following:

"Federal 12."

1 (2) Section 44(c) of title 28, United States Code, is
 2 amended by adding the following sentence at the end thereof:
 3 "While in active service, each circuit judge of the Federal
 4 judicial circuit shall reside within fifty miles of the District of
 5 Columbia."

6 (c)(1) The first paragraph of section 48 of title 28,
 7 United States Code, is amended by striking the first two sen-
 8 tences and inserting in lieu thereof the following:

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

12 (2) Section 48(a) of title 28, United States Code, is
 13 amended further by inserting at the end of the table of cir-
 14 cuits and places the following:

"Federal..... District of Columbia."

15 (3) Section 48(a) of title 28, United States Code, is
 16 amended further by striking the final paragraph and inserting
 17 in lieu thereof the following:

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

23 "(c) Any court of appeals may pretermit, with the con-
 24 sent of the Judicial Conference of the United States, any

1 regular session of court at any place for insufficient business
2 or other good cause.”.

3 ASSIGNMENT AND APPOINTMENT OF JUDGES

4 SEC. 302. (a) Notwithstanding the provisions of section
5 44 of title 28, United States Code, the judges of the United
6 States Court of Claims and of the United States Court of
7 Customs and Patent Appeals shall, on the effective date of
8 this Act, be assigned to the United States Court of Appeals
9 for the Federal Circuit. Thereafter, a vacancy on the court
10 shall be filled in accordance with the provisions of section 44
11 of title 28, United States Code.

12 (b) Notwithstanding the provisions of section 45 (a) and
13 (b) of title 28, United States Code, as amended by sections
14 101 and 111 of this Act, the first chief judge of the United
15 States Court of Appeals for the Federal Circuit shall be the
16 chief judge of the United States Court of Claims or the chief
17 judge of the United States Court of Customs and Patent Ap-
18 peals who has served longer as chief judge of his court. When
19 the person who first serves as chief judge of the United
20 States Court of Appeals for the Federal Circuit vacates that
21 position, the position shall be filled in accordance with the
22 provisions of section 45 of title 28, United States Code.

23 (c) Section 46(a) of title 28, United States Code, is
24 amended by striking out “divisions” and inserting in lieu
25 thereof “panels”.

1 (d) Section 46(b) of title 28, United States Code, is
 2 amended by striking out "divisions" each place it appears
 3 and inserting in lieu thereof "panels".

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

7 **PART B—ESTABLISHMENT OF UNITED STATES CLAIMS**
 8 **COURT**

9 **ORGANIZATION OF COURT**

10 **SEC. 311.** (a) Chapter 7 of title 28, United States Code,
 11 is amended to read as follows:

12 **"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.

13 **"§ 171. Appointment and number of judges; character of**
 14 **court; designation of chief judge**

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

20 "(b) The Claims Court shall at least biennially designate
 21 a judge to act as chief judge.

1 **“§ 172. Tenure and salaries of judges**

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

4 “(b) Each judge shall receive a salary at an annual rate
5 determined under section 225 of the Federal Salary Act of
6 1967 (2 U.S.C. 351–361), as adjusted by section 461 of this
7 title.

8 **“§ 173. Times and places of holding court**

9 “The United States Claims Court shall hold regular ses-
10 sions in the District of Columbia, but the Claims Court may
11 hold special sessions at such times and in such places as it
12 may fix by rule of court. The times and places of the sessions
13 of the Claims Court shall be prescribed with a view to secur-
14 ing reasonable opportunity to citizens to appear before the
15 Claims Court with as little inconvenience and expense to citi-
16 zens as is practicable.

17 **“§ 174. Assignment of judges; decisions**

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

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

1 **“§ 175. Official duty station; residence**

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

4 “(b) After appointment and while in active service, each
5 judge shall reside within fifty miles of the District of Colum-
6 bia.

7 **“§ 176. Removal from office**

8 “Removal of a judge of the United States Claims Court
9 during the term for which he is appointed shall be only for
10 incompetency, misconduct, neglect of duty, engaging in the
11 practice of law, or physical or mental disability. Removal
12 shall be by the judicial council of the Federal judicial circuit,
13 but removal may not occur unless a majority of all the judges
14 of such circuit council concur in the order of removal. Before
15 any order of removal may be entered, a full specification of
16 the charges shall be furnished to the judge, and he shall be
17 accorded an opportunity to be heard on the charges. Any
18 cause for removal of any judge coming to the knowledge of
19 the Director of the Administrative Office of the United States
20 Courts shall be reported by him to the chief judge of the
21 circuit, and a copy of the report shall at the same time be
22 transmitted to the circuit council and to the judge.

23 **“§ 177. Disbarment of removed judges**

24 “A judge of the United States Claims Court removed
25 from office in accordance with section 176 of this title shall

1 not be permitted at any time to practice before the Claims
2 Court.”.

3 (b) The item relating to chapter 7 in the chapter analy-
4 sis of part I of title 28, United States Code, is amended to
5 read as follows:

“7. United States Claims Court..... 171.”.

6 COURT OF CLAIMS COMMISSIONERS

7 SEC. 312. (a) Notwithstanding the provisions of section
8 171(a) of title 28, United States Code, as amended by section
9 311 of this Act, a commissioner of the United States Court of
10 Claims serving immediately prior to the effective date of this
11 Act shall become a judge of the United States Claims Court
12 on the effective date of this Act.

13 (b) Notwithstanding the provisions of section 172(a) of
14 title 28, United States Code, as amended by section 311 of
15 this Act, the initial term of office of a person who becomes a
16 judge of the United States Claims Court under subsection (a)
17 of this section shall expire on September 30, 1985.

18 (c) Notwithstanding the provisions of section 172(b) of
19 title 28, United States Code, as amended by section 311 of
20 this Act, until such time as a change in the salary rate of a
21 judge of the United States Claims Court occurs in accordance
22 with such section 172(b), the salary of such judge shall be
23 equal to the salary of the Commissioner of the Court of
24 Claims.

1 ABOLISHMENT OF COURT OF CUSTOMS AND PATENT

2 APPEALS

3 SEC. 313. Chapter 9 of title 28, United States Code,
4 and the item relating to chapter 9 in the chapter analysis of
5 part I of such title, are repealed.

6 INTERLOCUTORY APPEALS FROM CERTAIN ORDERS

7 SEC. 314. (a) Section 256(b) of title 28, United States
8 Code, is amended by striking out "section 1541(b)" and all
9 that follows through "in that section." and inserting in lieu
10 thereof the following: "section 1292(c)(3) of this title, and the
11 United States Court of Appeals for the Federal Circuit may,
12 in its discretion, consider the appeal."

13 (b) Section 291 of title 28, United States Code, is
14 amended by repealing subsection (b).

15 (c) Section 292(e) of title 28, United States Code, is
16 amended by striking out "the Court of Claims, the Court of
17 Customs and Patent Appeals or" and by striking out "in
18 which the need arises".

19 (d) Section 293 of title 28, United States Code, is
20 amended by repealing subsections (a), (c), and (d).

21 (e) Section 331 of title 28, United States Code, is
22 amended—

23 (1) in the first paragraph, by striking out "the
24 Chief Judge of the Court of Claims, the Chief Judge of
25 the Court of Customs and Patent Appeals,"; and

1 (2) in the third paragraph by striking out the sec-
2 ond sentence.

3 (f) Section 372 of title 28, United States Code, is
4 amended—

5 (1) in the third paragraph of subsection (a), by
6 striking out “Court of Claims, Court of Customs and
7 Patent Appeals, or”;

8 (2) in the fifth paragraph of subsection (a), by
9 striking out “Court of Claims, Court of Customs and
10 Patent Appeals, or”; and

11 (3) in subsection (b), by striking out “Court of
12 Claims, Court of Customs and Patent Appeals,” each
13 time it appears.

14 (g) Section 415 of title 28, United States Code, and the
15 item relating to section 415 in the section analysis of chapter
16 19 of such title, are repealed.

17 (h) Section 451 of title 28, United States Code, is
18 amended by striking out “the Court of Claims, the Court of
19 Customs and Patent Appeals,” in the first paragraph and
20 “Court of Claims, Court of Customs and Patent Appeals;” in
21 the third paragraph.

22 (i) Section 456 of title 28, United States Code, is
23 amended to read as follows:

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

3 "(a) The Director of the Administrative Office of the
4 United States Courts shall pay each justice or judge of the
5 United States and each retired justice or judge recalled or
6 designated and assigned to active duty, while attending court
7 or transacting official business at a place other than his offi-
8 cial duty station, upon his certificate all necessary transporta-
9 tion expenses and also a per diem allowance for travel at the
10 rate which the Director establishes not to exceed the maxi-
11 mum per diem allowance fixed by section 5702(a) of title 5,
12 United States Code, or in accordance with regulations which
13 the Director shall prescribe with the approval of the Judicial
14 Conference of the United States, reimbursement for his actu-
15 al and necessary expenses of subsistence not in excess of the
16 maximum amount fixed by section 5702 of title 5, United
17 States Code.

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

1 “(c) The official duty station of the judges of the United
2 States Customs Court shall be New York City.

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

8 “(e) The official duty station of a circuit judge shall be
9 that place where a circuit or district court holds regular ses-
10 sions at or near which the judge performs a substantial por-
11 tion of his judicial work, or that place where the Director
12 provides chambers to the judge where he performs a substan-
13 tial portion of his judicial work, which is nearest the place
14 where he maintains his actual abode in which he customarily
15 lives.

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

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

24 “(j)(1) Section 460 of title 28, United States Code, is
25 amended to read as follows:

1 **“§ 460. Application to other courts**

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

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

13 (2) The entry in the table of sections at the beginning of
14 chapter 21 of title 28, United States Code, for section 460 is
15 amended to read as follows:

“460. Application to other courts.”.

16 (k)(1) Chapter 21 of title 28, United States Code, is
17 amended by adding the following at the end thereof:

18 **“§ 462. Court accommodations**

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

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

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

12 “(d) The Director of the Administrative Office of the
13 United States Courts shall provide permanent accommoda-
14 tions for the United States Court of Appeals for the Federal
15 Circuit and for the United States Claims Court only at the
16 District of Columbia. However, each such court may hold
17 regular and special sessions at other places utilizing the ac-
18 commodatons which the Director provides to other courts.

19 “(e) The Director of the Administrative Office of the
20 United States Courts shall provide accommodations for pro-
21 bation officers, pretrial service officers, and Federal Public
22 Defender Organizations at such places as may be approved
23 by the judicial council of the appropriate circuit.

1 “(f) Upon the request of the Director, the Administrator
2 of General Services is authorized and instructed to provide
3 the accommodations the Director requests.”.

4 (2) The table of sections at the beginning of chapter 21
5 of title 28, United States Code, is amended by adding at the
6 end thereof the following:

“462. Court accommodations.”.

7 (3) Section 142 of title 28, United States Code, and the
8 item relating to section 142 in the section analysis of chapter
9 5 of title 28, United States Code, are repealed.

10 TECHNICAL AND CONFORMING AMENDMENTS RELATING TO
11 THE DEPARTMENT OF JUSTICE

12 SEC. 315. (a) Section 518(a) of title 28, United States
13 Code, is amended by striking out “Court of Claims” and in-
14 serting in lieu thereof “United States Claims Court or in the
15 United States Court of Appeals for the Federal Circuit.”

16 (b)(1) Section 520 of title 28, United States Code, is
17 amended—

18 (A) in subsection (a) by striking out “Court of
19 Claims” and inserting in lieu thereof “United States
20 Claims Court or in the United States Court of Appeals
21 for the Federal Circuit”; and

22 (B) by striking out “Court of Claims” in the sec-
23 tion heading and inserting in lieu thereof “United

1 States Claims Court or in United States Court of Ap-
2 peals for the Federal Circuit”.

3 (2) The item relating to section 520 in the section anal-
4 ysis of chapter 31 of title 28, United States Code, is amended
5 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.”.

6 TECHNICAL AND CONFORMING AMENDMENTS RELATING TO
7 COURT OFFICERS AND EMPLOYEES

8 SEC. 316. (a) Section 610 of title 28, United States
9 Code, is amended by striking out “the Court of Claims, the
10 Court of Customs and Patent Appeals,” and inserting in lieu
11 thereof “the United States Claims Court”.

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

14 “§ 713. Librarians

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

17 “(b) The librarian, with the approval of the court, may
18 appoint necessary library assistants in such numbers as the
19 Director of the Administrative Office of the United States
20 Courts may approve. The librarian may remove such library
21 assistants with the approval of the court.”.

22 (2) The item in the table of sections for chapter 47 for
23 section 713 is amended to read as follows:

"713. Librarians."

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

3 **"§ 714. Criers, messengers, and bailiffs**

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

6 "(b) The crier, with the approval of the court, may ap-
7 point necessary messengers in such number as the Director
8 of the Administrative Office of the United States Courts may
9 approve. The crier may remove such messengers with the
10 approval of the court. The crier shall also perform the duties
11 of bailiff and messenger.

12 "(c) The United States Marshal of the district in which a
13 court of appeals is sitting or in which a circuit judge is pres-
14 ent in chambers, may, with the approval of the court or
15 judge, employ necessary bailiffs in such number as the Direc-
16 tor of the Administrative Office of the United States Courts
17 may approve. Such bailiffs shall attend the court, preserve
18 order, and perform such other necessary duties as the court,
19 judge, or marshal may direct. They shall receive the same
20 compensation as bailiffs employed for the district courts.

21 **"§ 715. Staff attorneys and technical assistants**

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

1 “(b) The senior staff attorney, with the approval of the
2 court, may appoint necessary staff attorneys and secretarial
3 and clerical employees in such numbers as the Director of the
4 Administrative Office of the United States Courts may ap-
5 prove, but in no event may the number of staff attorneys in
6 any circuit exceed the number of circuit judges authorized for
7 such circuit in section 44 of this title. The senior staff attor-
8 ney may remove such staff attorneys and secretarial and
9 clerical employees with the approval of the court.

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

14 “(d) The senior technical assistant, with the approval of
15 the court, may appoint necessary technical assistants in such
16 number as the Director of the Administrative Office of the
17 United States Courts may approve, but in no event may the
18 number of technical assistants in the Court of Appeals for the
19 Federal Circuit exceed the number of circuit judges in regu-
20 lar active service within such circuit. The senior technical
21 assistant may remove such technical assistants with the ap-
22 proval of the court.”.

23 (2) The table of sections for such chapter is amended by
24 adding at the end thereof the following new items:

“714. Criers, messengers and bailiffs.

“715. Staff attorneys and technical assistants.”.

1 RETIREMENT SYSTEM OF JUDGES OF UNITED STATES

2 CLAIMS COURT

3 SEC. 317. (a) Section 8339(o) of title 5, United States
4 Code, is amended—

5 (1) by inserting “(1)” before “The annuity”; and

6 (2) by adding at the end thereof the following new
7 paragraph:

8 “(2) The annuity of a judge of the United States Claims
9 Court retiring under this subchapter is computed under sub-
10 section (a) of this section, except that his annuity is computed
11 with respect to his service as a judge of the United States
12 Claims Court, and his military service not exceeding five
13 years, by multiplying 2½ per centum of his average pay by
14 the years of that service.”.

15 (b) Section 8331 of title 5, United States Code, is
16 amended—

17 (1) by striking out “and” at the end of paragraph
18 (21);

19 (2) by striking out the period at the end of para-
20 graph (22) and inserting “; and”; and

21 (3) by adding at the end thereof the following new
22 paragraph:

23 “(23) ‘judge of the United States Claims Court’
24 means an individual appointed as a judge of the United
25 States Claims Court under section 171 of title 28.”.

1 PART C—COURT OFFICERS AND EMPLOYEES OF THE
2 UNITED STATES CLAIMS COURT

3 APPOINTMENT, REMOVAL, AND CONTRACT AUTHORITY

4 SEC. 321. (a) Section 791(a) of title 28, United States
5 Code, is amended to read as follows:

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

13 (b) Section 792 of title 28, United States Code, and the
14 item relating to section 792 in the section analysis of chapter
15 51 of such title, are repealed.

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

18 **“§794. Law clerks and secretaries**

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

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

“794. Law clerks and secretaries.”.

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

6 **“§ 795. Bailiffs and messengers**

7 “The chief judge of United States Claims Court may
8 appoint, with the approval of the court, necessary bailiffs and
9 messengers, in such numbers as the Director of the Adminis-
10 trative Office of the United States Courts may approve, each
11 of whom shall be subject to removal by the Chief Judge, with
12 the approval of the court.”.

13 (2) The item relating to section 795 in the section anal-
14 ysis of chapter 51 of title 28, United States Code, is amended
15 to read as follows:

“795. Bailiffs and messengers.”.

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

20 (f) Section 797 of title 28, United States Code, and the
21 item relating to section 797 in the section analysis of chapter
22 51 of such title, are repealed.

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

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

9 ABOLISHMENT OF UNITED STATES COURT OF CUSTOMS
10 AND PATENT APPEALS

11 SEC. 322. (a) Chapter 53 of title 28, United States
12 Code, and the item relating to chapter 53 in the chapter
13 analysis of part III of such title are repealed.

14 (b) Section 957 of title 28, United States Code, is
15 amended by striking the subsection designation "(a)" and re-
16 pealing subsection (b).

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

19 SEC. 323. (a) Sections 1255 and 1256 of title 28,
20 United States Code, and the items relating to sections 1255
21 and 1256 in the section analysis of chapter 81 of such title,
22 are repealed.

23 (b) Subsection (b) of section 1336 of title 28, United
24 States Code, is amended by striking out "Court of Claims"
25 and inserting in lieu thereof "United States Claims Court".

1 JURISDICTION OF THE UNITED STATES COURTS OF
2 APPEALS

3 SEC. 324. (a) Section 1291 of title 28, United States
4 Code, is amended by striking out "The courts of appeals"
5 and inserting in lieu thereof "Except as specifically provided
6 in sections 1295 and 1296, the courts of appeals".

7 (b) Section 1294 of title 28, United States Code, is
8 amended by striking out "Appeals" and inserting in lieu
9 thereof: "Except as specifically provided in sections 1295
10 and 1296, appeals".

11 INTERLOCUTORY DECISIONS

12 SEC. 325. (a) Section 1292(a) of title 28, United States
13 Code, is amended—

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

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

20 (3) by striking out paragraph (4).

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

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

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

5 “(2) of an appeal from a judgment in a civil action
6 for patent infringement which would otherwise be ap-
7 pealable to the United States Court of Appeals for the
8 Federal Circuit and is final except for an accounting;

9 “(3) when the chief judge of the United States
10 Customs Court issues an order under the provisions of
11 section 256(b) of this title; or when any judge of the
12 Customs Court, in issuing any other interlocutory
13 order, includes in the order a statement that a control-
14 ling question of law is involved with respect to which
15 there is a substantial ground for difference of opinion
16 and that an immediate appeal from its order may mate-
17 rially advance the ultimate termination of the litigation,
18 the United States Court of Appeals for the Federal
19 Circuit may, in its discretion, permit an appeal to be
20 taken from such order, if application is made to that
21 Court within ten days after the entry of such order.
22 Neither the application for nor the granting of an ap-
23 peal under this paragraph shall stay proceedings in the
24 Customs Court unless a stay is ordered by a judge of
25 the Customs Court or by the United States Court of

1 Appeals for the Federal Circuit or a judge of that
2 court; and

3 “(4) when any judge of the United States Claims
4 Court, in issuing an interlocutory order, includes in the
5 order a statement that a controlling question of law is
6 involved with respect to which there is a substantial
7 ground for difference of opinion and that an immediate
8 appeal from its order may materially advance the ulti-
9 mate termination of the litigation, the United States
10 Court of Appeals for the Federal Circuit may, in its
11 discretion, permit an appeal to be taken from such
12 order, if application is made to that Court within ten
13 days after the entry of such order. Neither the applica-
14 tion for nor the granting of an appeal under this para-
15 graph shall stay proceedings in the Claims Court un-
16 less a stay is ordered by a judge of the Claims Court
17 or by the United States Court of Appeals for the Fed-
18 eral Circuit or a judge of that court.”.

19 JURISDICTION OF THE UNITED STATES COURT OF

20 APPEALS FOR THE FEDERAL CIRCUIT

21 SEC. 326. (a) Chapter 83 of title 28, United States
22 Code, is amended by adding at the end thereof the following
23 new section:

1 **“§ 1295. Jurisdiction of the United States Court of Appeals**
2 **for the Federal Circuit**

3 “The United States Court of Appeals for the Federal
4 Circuit shall have exclusive jurisdiction—

5 “(1) of an appeal from a final decision of a district
6 court of the United States, the United States District
7 Court for the District of the Canal Zone, the District
8 Court of Guam, the District Court of the Virgin Is-
9 lands, or the District Court for the Northern Mariana
10 Islands, if the jurisdiction of that court was based, in
11 whole or in part, on section 1338 of this title, except
12 that a case involving a copyright or trademark and no
13 other claim under section 1338(a) shall be governed by
14 sections 1291, 1292, and 1294 of this title;

15 “(2) of an appeal from a final decision of a district
16 court of the United States, the United States District
17 Court for the District of the Canal Zone, the District
18 Court of Guam, the District Court of the Virgin Is-
19 lands, or the District Court for the Northern Mariana
20 Islands, if the jurisdiction of that court was based, in
21 whole or in part, on section 1346 of this title, except
22 that jurisdiction of an appeal in a case brought in a
23 district court under section 1346(a)(1), 1346(b), or
24 1346(e) of this title or under section 1346(a)(2) when
25 the claim is founded upon an Act of Congress or a reg-

1 ulation of an executive department providing for inter-
2 nal revenue shall be governed by sections 1291, 1292,
3 and 1294 of this title;

4 “(3) of an appeal from a final decision of the
5 United States Claims Court, except that jurisdiction of
6 an appeal involving an action founded upon an Act of
7 Congress or a regulation of an executive department
8 providing for internal revenue shall be governed by
9 section 1296 of this title;

10 “(4) of an appeal from a decision of—

11 “(A) the Board of Appeals or the Board of
12 Patent Interferences of the Patent and Trademark
13 Office with respect to patent applications and in-
14 terferences, at the instance of an applicant for a
15 patent or any party to a patent interference, and
16 any such appeal shall waive the right of such ap-
17 plicant or party to proceed under section 145 or
18 146 of title 35;

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

1 “(C) a district court to which a case was di-
2 rected pursuant to section 145 or 146 of title 35;

3 “(5) of an appeal from a final decision or order of
4 the United States Customs Court;

5 “(6) to review, by appeal on questions of law
6 only, the findings of the United States International
7 Trade Commission as to unfair practices in import
8 trade, made under section 337 of the Tariff Act of
9 1930 (19 U.S.C. 1337);

10 “(7) to review, by appeal on questions of law
11 only, findings of the Secretary of Commerce under
12 headnote 6 to schedule 8, part 4, of the Tariff Sched-
13 ules of the United States (relating to importation of
14 instruments or apparatus);

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

17 “(9) of an appeal from a final order or final deci-
18 sion of the Merit Systems Protection Board, pursuant
19 to sections 7703(b)(1) and 7703(d) of title 5; and

20 “(10) of an appeal from a final decision of an
21 agency board of contract appeals pursuant to section
22 8(g)(1) of the Contract Disputes Act of 1978.

23 “The head of any executive department or agency may,
24 with the approval of the Attorney General, refer to the Court
25 of Appeals for the Federal Circuit for judicial review any

1 final decision rendered by a board of contract appeals pursu-
2 ant to the terms of any contract with the United States
3 awarded by that department or agency which such head of
4 such department or agency has concluded is not entitled to
5 finality pursuant to the review standards specified in section
6 10(b) of the Contract Disputes Act of 1978 (41 U.S.C.
7 609(b)). The head of each executive department or agency
8 shall make any referral under this section within one hundred
9 and twenty days of the receipt of a copy of the final appeal
10 decision.

11 "The Court of Appeals for the Federal Circuit shall re-
12 view the matter referred in accordance with the standards
13 specified in section 10(b) of the Contract Disputes Act of
14 1978. The Court shall proceed with judicial review on the
15 administrative record made before the board of contract ap-
16 peals on matters so referred as in other cases pending in such
17 court, shall determine the issue of finality of the appeal deci-
18 sion, and shall, if appropriate, render judgment thereon, or
19 remand the matter to any administrative or executive body or
20 official with such direction as it may deem proper and just."

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

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

1 REEVIEW OF TAX DECISIONS OF UNITED STATES CLAIMS
2 COURT

3 SEC. 327. (a) Chapter 83 of title 28, United States
4 Code, is amended by adding at the end thereof the following
5 new section:

6 "§ 1296. Review of tax decisions of United States Claims
7 Court

8 "(a) JURISDICTION.—The courts of appeals (other than
9 the United States Court of Appeals for the Federal Circuit)
10 shall have exclusive jurisdiction to review the decisions of the
11 United States Claims Court involving an action founded upon
12 an Act of Congress or a regulation of an executive depart-
13 ment providing for internal revenue, in the same manner and
14 to the same extent as decisions of the district courts in civil
15 actions tried without a jury.

16 "(b) VENUE.—Such decisions may be reviewed by the
17 court of appeals for the circuit in which is located—

18 "(1) in the case of a petitioner other than a corpo-
19 ration seeking recovery of any amount under an Act of
20 Congress providing for internal revenue, the legal resi-
21 dence of the petitioner,

22 "(2) in the case of a corporation seeking recovery
23 of any amount under an Act of Congress providing for
24 internal revenue, the principal place of business or
25 principal office or agency of the corporation, or, if it

1 has no principal place of business or principal office or
2 agency in any judicial circuit, then the office to which
3 was made the return of the tax in respect of which the
4 liability arises,

5 “(3) in the case of a person bringing an action
6 under section 6110 of the Internal Revenue Code of
7 1954, the legal residence of such person if such person
8 is not a corporation, or the principal place of business,
9 or principal office or agency of such person if such per-
10 son is a corporation, or

11 “(4) in the case of an organization seeking a de-
12 claratory decision under section 7428 of the Internal
13 Revenue Code of 1954, the principal office or agency
14 of the organization.

15 If for any reason no subparagraph of the preceding sentence
16 applies, then such decisions may be reviewed by the Court of
17 Appeals for the District of Columbia. For purposes of this
18 paragraph, the legal residence, principal place of business, or
19 principal office or agency referred to herein shall be deter-
20 mined as of the time the petition was filed with the United
21 States Claims Court.”.

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

“1296. Review of tax decisions of United States Claims Court.”.

1 PART D—UNITED STATES AS DEFENDANT
2 INTERSTATE COMMERCE COMMISSION ORDERS;
3 JURISDICTION

4 SEC. 330. Section 1336(b) of title 28, United States
5 Code, is amended by striking out “Court of Claims” and in-
6 serting in lieu thereof “United States Claims Court”.

7 UNITED STATES AS DEFENDANT; JURISDICTION

8 SEC. 331. Section 1346(a) of title 28, United States
9 Code, is amended by striking out “Court of Claims” and in-
10 serting in lieu thereof “United States Claims Court”.

11 RELATED TECHNICAL AND CONFORMING AMENDMENTS

12 SEC. 332. (a) Section 1398 of title 28, United States
13 Code, is amended by striking out “Court of Claims” and in-
14 serting in lieu thereof “Claims Court”.

15 (b) Section 1402(a) of title 28, United States Code, is
16 amended by inserting “in a district court” after “civil ac-
17 tion”.

18 (c) Section 1406(c) of title 28, United States Code, is
19 amended by striking out “Court of Claims” each place it ap-
20 pears and inserting in lieu thereof “Claims Court”.

21 PART E—UNITED STATES CLAIMS COURT; JURISDICTION
22 AND VENUE

23 JURISDICTION AND VENUE

24 SEC. 341. (a) Section 1491 of title 28, United States
25 Code, is amended to read as follows:

1 "§1491. Claims against United States generally; actions
2 involving Tennessee Valley Authority

3 "(a)(1) The United States Claims Court shall have juris-
4 diction to render judgment upon any claim against the United
5 States founded either upon the Constitution, or any Act of
6 Congress or any regulation of an executive department, or
7 upon any express or implied contract with the United States,
8 or for liquidated or unliquidated damages in cases not sound-
9 ing in tort. For the purpose of this paragraph, an express or
10 implied contract with the Army and Air Force Exchange
11 Service, Navy Exchanges, Marine Corps Exchanges, Coast
12 Guard Exchanges, or Exchange Councils of the National
13 Aeronautics and Space Administration shall be considered an
14 express or implied contract with the United States.

15 "(2) To afford complete relief in controversies within its
16 jurisdiction, the court may grant declaratory judgments and
17 such equitable and extraordinary relief as it deems proper,
18 including, but not limited to, injunctive relief; and the court
19 may, to complete the relief afforded by a judgment, issue
20 orders directing restoration to office or position, placement in
21 appropriate duty or retirement status, and correction of appli-
22 cable records; and any such orders issued pursuant to a grant
23 of equitable or extraordinary relief or issued to complete re-
24 lief may be issued to any appropriate official of the United
25 States. In any case within its jurisdiction, the court shall

1 have the power to remand appropriate matters to any admin-
2 istrative or executive body or official with such direction as it
3 may deem proper and just. The Claims Court shall have ju-
4 risdiction to render judgment upon any claim by a contractor
5 arising under section 10(a)(1) of the Contract Disputes Act of
6 1978.

7 “(b) Nothing in this section shall be construed to give
8 the United States Claims Court jurisdiction in actions
9 against, or founded on conduct of, the Tennessee Valley Au-
10 thority, nor to amend or modify the provisions of the Tennes-
11 see Valley Authority Act of 1933 with respect to actions by
12 or against the Authority.”.

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

17 (c)(1) Sections 1494, 1495, 1496, and 1497 of title 28,
18 United States Code, are amended by striking out “Court of
19 Claims” and inserting in lieu thereof “United States Claims
20 Court”.

21 (2) The section heading of section 1497 of title 28,
22 United States Code, is amended by striking out “growers,”
23 and inserting in lieu thereof “growers’ ”.

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

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

4 (2) in subsections (b) and (d), by striking out
5 "Court of Claims" and inserting in lieu thereof
6 "Claims Court".

7 (e) Sections 1499, 1500, 1501, 1502, and 1503 of title
8 28, United States Code, are amended by striking out "Court
9 of Claims" and inserting in lieu thereof "United States
10 Claims Court".

11 (f) Section 1504 of title 28, United States Code, and the
12 item relating to section 1504 in the section analysis of chap-
13 ter 91 of such title, are repealed.

14 (g) Section 1505 of title 28, United States Code, is
15 amended by striking out "Court of Claims" the first place it
16 appears and inserting in lieu thereof "United States Claims
17 Court" and by striking out "Court of Claims" the second
18 place it appears and inserting in lieu thereof "Claims Court".

19 (h) Section 1506 of title 28, United States Code, is
20 amended by striking out "Court of Claims" the first place it
21 appears and inserting in lieu thereof "United States Claims
22 Court" and by striking out "Court of Claims" the second
23 place it appears and inserting in lieu thereof "Claims Court".

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

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

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

12 (3) The item relating to section 1499 in the section
13 analysis of chapter 91, United States Code, is amended to
14 read as follows:

"1499. Liquidated damages withheld from contractors under Contract Work Hours
Standards Act."

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

17 SEC. 342. Chapter 93 of title 28, United States Code,
18 and the item relating to chapter 93 in the chapter analysis of
19 part IV of such title, are repealed.

20 REPEAL; FEES AND COSTS

21 SEC. 343. Section 1926 of title 28, United States Code,
22 and the item relating to section 1926 in the section analysis
23 of chapter 123 of such title, are repealed.

1 REPEAL; TIME FOR APPEAL

2 SEC. 344. Section 2110 of title 28, United States Code,
3 and the item relating to section 2110 in the section analysis
4 of chapter 133 of such title, are repealed.

5 COURT OF APPEALS JURISDICTION

6 SEC. 345. Section 2342 of title 28, United States Code,
7 is amended by inserting "(other than the United States Court
8 of Appeals for the Federal Circuit)" after "court of appeals"
9 and by striking "; and (6) all final orders of the Merit Sys-
10 tems Protection Board except as provided for in section
11 7703(b) of title 5." and inserting a period at the end of clause
12 (5).".

13 PLANT VARIETY PROTECTION OFFICE DECISIONS

14 SEC. 346. Section 2353 of title 28, United States Code,
15 and the item relating to section 2353 in the section analysis
16 of chapter 158 of such title, are repealed.

17 PART F—UNITED STATES CLAIMS COURT PROCEDURE

18 AMENDMENT TO TITLE 28

19 SEC. 351. (a) Sections 2501 and 2502(a) of title 28,
20 United States Code, are amended by striking out "Court of
21 Claims" and inserting in lieu thereof "United States Claims
22 Court".

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

1 "§ 2503. Proceedings generally

2 "Parties to any suit in the United States Claims Court
3 may appear before a judge of that court in person or by attor-
4 ney, produce evidence, and examine witnesses. The proceed-
5 ings of the Claims Court shall be in accordance with the
6 Rules of Evidence for United States Courts and Magistrates.
7 The judges shall fix times for trials, administer oaths or affir-
8 mations, examine witnesses, receive evidence, and enter dis-
9 positive judgments."

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

13 (c) Section 2504 of title 28, United States Code, and the
14 item relating to section 2504 in the section analysis of chap-
15 ter 165 of such title, are repealed.

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

18 (1) by striking out "Court of Claims" and insert-
19 ing in lieu thereof "United States Claims Court"; and

20 (2) by striking out "report findings" and inserting
21 in lieu thereof "enter judgment".

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

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

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

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

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

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

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

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

22 (A) in subsections (b), (c), (d), and (f), by striking
23 out “trial commissioner” and inserting in lieu thereof
24 “hearing officer”;

1 (B) in subsections (b), (c), and (e), by striking out
2 "chief commissioner" and inserting in lieu thereof
3 "chief judge";

4 (C) in subsections (b), (f), and (g), by striking out
5 "Court of Claims" and inserting in lieu thereof
6 "Claims Court";

7 (D) in subsection (d), by striking out "of
8 commissioners";

9 (E) in subsection (g), by striking out "commission-
10 ers" the first place it appears and inserting in lieu
11 thereof "judges"; and

12 (F) in subsection (g), by striking out "trial com-
13 missioners" and inserting in lieu thereof "hearing
14 officers".

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

17 **"§ 2510. Referral of cases by Comptroller General**

18 "The Comptroller General may transmit to the United
19 States Claims Court for trial and adjudication any claim or
20 matter of which the Claims Court might take jurisdiction on
21 the voluntary action of the claimant, together with all vouch-
22 ers, papers, documents, and proofs pertaining thereto.

23 "The Claims Court shall proceed with the claims or
24 matters so referred as in other cases pending in such court
25 and shall render judgment thereon."

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

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

4 (j) Sections 2511, 2512, 2513(c), 2514, and 2515(a) are
5 amended by striking out “Court of Claims” and inserting in
6 lieu thereof “United States Claims Court”.

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

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

12 (2) in subsection (b), by striking out the comma at
13 the end thereof and inserting in lieu thereof a period.

14 (l) Section 2518 of title 28, United States Code, is
15 amended—

16 (1) by striking out “Court of Claims” and insert-
17 ing in lieu thereof “United States Claims Court”; and

18 (2) by inserting immediately before the period at
19 the end thereof the following: “or of the United States
20 Court of Appeals for the Federal Circuit”.

21 (m) Sections 2519 and 2520(a) of title 28, United States
22 Code, are amended by striking out “Court of Claims” and
23 inserting in lieu thereof “United States Claims Court”.

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

“165. United States Claims Court Procedure 2501”.

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

8 (o)(1) Section 1926 of title 28, United States Code,
 9 (having been repealed by section 343 of this Act) is added to
 10 read as follows:

11 **“§ 1926. Claims Court**

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

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

18 (2) The item relating to section 1926 in the table of
 19 sections of chapter 123 is amended to read as follows:

“1926. Claims Court.”.

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

1 "§ 2522. Notice of Appeal

2 "Review of a decision of the United States Claims
3 Court shall be obtained by filing a notice of appeal with the
4 clerk of the Claims Court within the time and in the manner
5 prescribed for appeals to United States courts of appeals from
6 the United States district courts."

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

"2522. Notice of Appeal."

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

12 SEC. 352. Chapter 167 of title 28, United States Code,
13 and the item relating to chapter 167 in the chapter analysis
14 of part VI of such title, are repealed.

15 FINALITY OF DECISIONS

16 SEC. 353. Section 2638(b) of title 28, United States
17 Code, is amended to read as follows:

18 "(b) The decision of the judge is final and conclusive,
19 unless a retrial or rehearing is granted pursuant to section
20 2639 of this title or an appeal is made to the United States
21 Court of Appeals for the Federal Circuit within sixty days
22 after entry of the judgment or order."

1 FEDERAL RULES OF EVIDENCE

2 SEC. 354. Rule 1101(a) of the Federal Rules of Evi-
3 dence is amended by striking out "Court of Claims" and
4 inserting in lieu thereof "Claims Court".

5 TITLE IV—TECHNICAL AND CONFORMING
6 AMENDMENTS OUTSIDE OF TITLE 28 RELAT-
7 ING TO THE UNITED STATES COURT OF AP-
8 PEALS FOR THE FEDERAL CIRCUIT

9 TITLE 2

10 SEC. 401. Section 225(f)(C) of the Federal Salary Act of
11 1967 (2 U.S.C. 356(C)), is amended by inserting "and the
12 judges of the United States Claims Court" immediately be-
13 fore the semicolon at the end thereof.

14 TITLE 5

15 SEC. 402. Section 7703 of title 5, United States Code,
16 is amended—

17 (1) in subsection (b)(1), by striking out "Court of
18 Claims or a United States Court of Appeals as pro-
19 vided in chapter 91 and 158, respectively, of title 28"
20 and inserting in lieu thereof "United States Court of
21 Appeals for the Federal Circuit";

22 (2) in subsection (c), by striking out "Court of
23 Claims or a United States court of appeals" and insert-
24 ing in lieu thereof "Court of Appeals for the Federal
25 Circuit"; and

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

4 PLANT VARIETY PROTECTION ACT

5 SEC. 403. The second sentence of section 71 of the
6 Plant Variety Protection Act (7 U.S.C. 2461) is amended to
7 read as follows: "The United States Court of Appeals for the
8 Federal Circuit shall have jurisdiction."

9 FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974

10 SEC. 404. Section 11(d) of the Federal Fire Prevention
11 and Control Act of 1974 (15 U.S.C. 2210(d)) is amended by
12 striking out "Court of Claims of the United States" and in-
13 serting in lieu thereof "United States Claims Court".

14 TITLE 18

15 SEC. 405. Section 204 of title 18, United States Code,
16 is amended by striking out "Court of Claims" and inserting
17 in lieu thereof "United States Claims Court, or the United
18 States Court of Appeals for the Federal Circuit".

19 INDIAN CLAIMS COMMISSION

20 SEC. 406. (a) Section 29 of the Act entitled "An Act to
21 create an Indian Claims Commission, to provide for the pow-
22 ers, duties, and functions thereof, and for other purposes",
23 approved August 13, 1946 (25 U.S.C. 70v-3), is amended
24 by striking out "Court of Claims" each place it appears and
25 inserting in lieu thereof "Claims Court".

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

2

INDIAN LANDS

3 SEC. 407. Section 2 of the Act of May 18, 1928 (25
4 U.S.C. 652) is amended by striking out "Court of Claims"
5 and inserting in lieu thereof "United States Claims Court"
6 and by striking out "Court of Claims of the United States"
7 and inserting in lieu thereof "United States Claims Court".

8

INTERNAL REVENUE CODE OF 1954

9 SEC. 408. (a) Section 7422(e) of the Internal Revenue
10 Code of 1954 is amended by striking out "Court of Claims"
11 each place it appears and inserting in lieu thereof "Claims
12 Court."

13 (b) Section 7428 of the Internal Revenue Code of 1954
14 is amended by striking out "Court of Claims" each place it
15 appears and inserting in lieu thereof "Claims Court".

16 (c) The second sentence of section 7456(c) of the Inter-
17 nal Revenue Code of 1954 is amended to read as follows:
18 "Each commissioner shall receive pay at an annual rate de-
19 termined under section 225 of the Federal Salary Act of
20 1967 (2 U.S.C. 351-361), as adjusted by section 461 of title
21 28, United States Code, and also necessary travel and sub-
22 sistence expenses in accordance with chapter 57 of title 5,
23 United States Code, while traveling on official business and
24 away from Washington, District of Columbia."

1 (d) Section 6110(i)(1) of the Internal Revenue Code of
2 1954 is amended by striking out "Court of Claims" and in-
3 serting in lieu thereof "United States Claims Court".

4 (e) Section 7482(a) of the Internal Revenue Code of
5 1954 is amended by inserting "(other than the United States
6 Court of Appeals for the Federal Circuit)" after "United
7 States Court of Appeals".

8 TITLE 44

9 SEC. 409. (a) Section 713 of title 44, United States
10 Code, is amended—

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

14 (2) by inserting "and" after "Superintendent of
15 Documents"; and

16 (3) by striking out "to the Court of Claims, two
17 copies; and".

18 (b) Section 1103 of title 44, United States Code, is
19 amended by striking out "the Court of Claims" each place
20 that it appears and by inserting in lieu thereof "the United
21 States Claims Court".

22 MISCELLANEOUS AMENDMENTS

23 SEC. 410. (a) The following provisions of law are
24 amended by striking out "Court of Claims" each place it ap-

1 pears and inserting in lieu thereof "United States Claims
2 Court":

3 (1) Sections 1 and 2 of the Act of October 19,
4 1973 (87 Stat. 466).

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

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

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

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

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

13 (7) Section 1 of the Act entitled "An Act provid-
14 ing for the allotment and distribution of Indian tribal
15 funds", approved March 2, 1907 (25 U.S.C. 119).

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

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

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

22 (11) Section 1302 of the Act of July 27, 1956
23 (31 U.S.C. 724a).

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

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

3 (14) Sections 13(b)(2) and 14 of the Contract Set-
4 tlement Act of 1944 (41 U.S.C. 113(b) and 114).

5 (15) Sections 10 (a)(1) and (d) of the Contract
6 Disputes Act of 1978.

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

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

11 (18) Sections 103(f), 103(i), 105, 106(a)(6), 108,
12 108A, and 114(5) of the Renegotiation Act of 1951
13 (50 U.S.C. App. 1213(f), 1213(i), 1215, 1216(a)(6),
14 1218, 1218a, and 1224(5)).

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

17 (b) The section heading of section 108A of the Renego-
18 tiation Act of 1951 (50 U.S.C. App. 1218a) is amended by
19 striking out "COURT OF CLAIMS" and inserting in lieu
20 thereof "UNITED STATES CLAIMS COURT".

21 SEC. 411. The following provisions of law are amended
22 by striking out "Court of Claims" each place it appears and
23 inserting in lieu thereof "Claims Court":

24 (1) Section 4(c) of the Commodity Credit Corpora-
25 tion Charter Act (15 U.S.C. 714b(c)).

1 (2) Section 20 of the Tennessee Valley Authority
2 Act of 1933 (16 U.S.C. 831s).

3 (3) Section 403 of the International Claims Set-
4 tlement Act of 1949 (22 U.S.C. 1642b).

5 (4) Section 2(a) of the Act of May 15, 1978 (92
6 Stat. 244).

7 (5) Section 311(i) of the Federal Water Pollution
8 Control Act (33 U.S.C. 1321(i)).

9 (6) Section 10(b) of the Intervention on the High
10 Seas Act (33 U.S.C. 1479(b)).

11 (7) Section 282 of title 35, United States Code.

12 (8) Section 5261 of the Revised Statutes (45
13 U.S.C. 87).

14 (9) Section 41(a) of the Trading with the Enemy
15 Act (50 U.S.C. App. 42(a)).

16 SEC. 412. The following provisions of law are amended
17 by striking out "United States Court of Customs and Patent
18 Appeals" and "Court of Customs and Patent Appeals" each
19 place they appear and inserting in lieu thereof "United States
20 Court of Appeals for the Federal Circuit":

21 (1) Section 21 of the Trademark Act of 1946 (15
22 U.S.C. 1071).

23 (2) Section 152 of the Atomic Energy Act of
24 1954 (42 U.S.C. 2182).

1 (3) Section 305(d) of the National Aeronautics
2 and Space Act of 1958 (42 U.S.C. 2457(d)).

3 SEC. 413. (a) The following provisions of law are
4 amended by striking out "Court of Customs and Patent Ap-
5 peals" each place it appears and inserting in lieu thereof
6 "Court of Appeals for the Federal Circuit":

7 (1) Subsections (e) and (g) of section 516 of the
8 Tariff Act of 1930 (19 U.S.C. 1516 (e) and (g)).

9 (2) Section 528 of the Tariff Act of 1930 (19
10 U.S.C. 1528).

11 (3) Section 337(c) of the Tariff Act of 1930 (19
12 U.S.C. 1337(c)).

13 (4) Sections 141 through 146 of title 35, United
14 States Code.

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

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

24 SEC. 414. The following provisions of law are amended
25 by striking out "the United States Court of Claims, the

1 United States Court of Customs and Patent Appeals” each
2 place it appears and inserting in lieu thereof “the United
3 States Claims Court”:

4 (1) Section 6001(4) of title 18, United States
5 Code.

6 (2) Section 906 of title 44, United States Code.

7 SEC. 415. Section 8(g)(1) of the Contract Disputes Act
8 of 1978 is amended—

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

12 (2) in subparagraph (B), by striking out “United
13 States Court of Claims for judicial review, under sec-
14 tion 2510 of title 28, United States Code, as amended
15 herein,” and inserting in lieu thereof “Court of Ap-
16 peals for the Federal Circuit for judicial review under
17 section 1295 of title 28, United States Code.”.

18 TITLE V—MISCELLANEOUS PROVISIONS

19 EFFECTIVE DATE

20 SEC. 501. The provisions of this Act, other than the
21 provisions of title I, parts A and D, shall take effect two
22 years after the date of enactment of this Act.

23 EFFECT ON PENDING CASES

24 SEC. 502. Any matter pending before a commissioner of
25 the United States Court of Claims on the effective date of

1 this Act shall be transferred to the United States Claims
2 Court. Any appeal which has been taken from a district court
3 of the United States prior to the effective date shall be de-
4 cided by the court of appeals in which it has been filed. Any
5 matter pending before the United States Court of Customs
6 and Patent Appeals or awaiting disposition by the United
7 States Court of Claims on the effective date shall be trans-
8 ferred to the United States Court of Appeals for the Federal
9 Circuit.

10 MAKING FEDERAL AGENCIES MORE RESPONSIVE TO THE
11 WILL OF THE PEOPLE AS EXPRESSED BY THEIR
12 ELECTED REPRESENTATIVES IN CONGRESS

13 SEC. 503. The portion of Public Law 89-554 (80 Stat.
14 393), now codified as section 706 of title 5, United States
15 Code, is amended by striking out the first sentence thereof
16 and substituting therefor the following: "To the extent neces-
17 sary to decision and when presented, the reviewing court
18 shall decide all relevant questions of law, interpret constitu-
19 tional and statutory provisions, and determine the meaning or
20 applicability of the terms of the agency action. There shall be
21 no presumption that any rule or regulation of any agency is
22 valid, and whenever the validity of any such rule or regula-
23 tion is drawn in question in any court of the United States or
24 of any State, the court shall not uphold the validity of such
25 challenged rule or regulation unless such validity is estab-

1 lished by a preponderance of the evidence shown: *Provided,*
2 *however,* That if any rule or regulation is set up as a defense
3 to any criminal prosecution or action for civil penalty, such
4 rule or regulation shall be presumed valid until the party ini-
5 tiating the criminal prosecution action for civil penalty shall
6 have sustained the burden of proof normally applicable in
7 such actions.”.

Passed the Senate October 30 (legislative day, October
15), 1979.

Attest:

J. S. KIMMITT,

Secretary.