

85<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 7866

[Report No. 2349]

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IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 1957

Mr. CELLER introduced the following bill; which was referred to the Committee on the Judiciary

AUGUST 1, 1958

Reported with amendments, referred to the House Calendar, and ordered to be printed

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## A BILL

To amend title 28, United States Code, relating to the Court of Customs and Patent Appeals.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That section 211 of title 28 of the United States Code is  
4       amended by inserting after the first sentence thereof a new  
5       sentence as follows: "Such court is hereby declared to be a  
6       court established under article III of the Constitution of the  
7       United States."

8       SEC. 2. Section 291 of title 28 of the United States  
9       Code, as amended, is amended to read as follows:

10      "§ 291. Circuit judges

11      "(a) The Chief Justice of the United States may desig-

1   nate and assign temporarily any circuit judge to act as circuit  
2   judge in another circuit upon presentation of a certificate of  
3   necessity by the chief judge or circuit justice of the circuit  
4   where the need arises.

5       “(b) The Chief Justice of the United States may desig-  
6   nate and assign temporarily any circuit judge to serve as a  
7   judge of the Court of Claims or the Court of Customs and  
8   Patent Appeals upon presentation to him of a certificate of  
9   necessity by the chief judge of the court in which the need  
10  arises.

11       “(c) The chief judge of a circuit or the circuit justice  
12  may, in the public interest, designate and assign temporarily  
13  any circuit judge within the circuit, including a judge des-  
14  ignated and assigned to temporary duty therein, to hold a  
15  district court in any district within the circuit.”

16       SEC. 3. Section 292 of title 28 of the United States  
17  Code, as amended, is amended to read as follows:

18  “§ 292. District judges

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

25       “(b) The chief judge of a circuit may, in the public

1 interest, designate and assign temporarily any district judge  
2 of the circuit to hold a district court in any district within  
3 the circuit.

4 “(c) The Chief Justice of the United States may desig-  
5 nate and assign temporarily a district judge of one circuit  
6 for service in another circuit, either in a district court or  
7 court of appeals, upon presentation of a certificate of neces-  
8 sity by the chief judge or circuit justice of the circuit  
9 wherein the need arises.

10 “(d) The Chief Justice of the United States may desig-  
11 nate and assign temporarily any district judge to serve as  
12 a judge of the Court of Claims, the Court of Customs and  
13 Patent Appeals or the Customs Court upon presentation to  
14 him of a certificate of necessity by the chief judge of the  
15 court in which the need arises.”

16 SEC. 4. Section 293 of title 28 of the United States  
17 Code, as amended, is amended to read as follows:

18 “§ 293. Judges of other courts

19 “(a) The Chief Justice of the United States may  
20 designate and assign temporarily any judge of the Court of  
21 Claims or the Court of Customs and Patent Appeals to  
22 *serve, respectively, as a judge of the Court of Customs and*  
23 *Patent Appeals or the Court of Claims upon presentation*  
24 *of a certificate of necessity by the chief judge of the court*  
25 *wherein the need arises, or to perform judicial duties in*

1 any circuit, either in a court of appeals or district court,  
2 upon presentation of a certificate of necessity by the chief  
3 judge or circuit justice of the circuit wherein the need  
4 arises.

5 “(b) The Chief Justice of the United States may  
6 designate and assign temporarily any judge of the Customs  
7 Court to perform judicial duties in a district court in any  
8 circuit upon presentation of a certificate of necessity by the  
9 chief judge or circuit justice of the circuit wherein the need  
10 arises.

11 “(c) The chief judge of the Court of Customs and  
12 Patent Appeals may, upon presentation to him by the chief  
13 judge of the Customs Court of a certificate of necessity,  
14 designate and assign temporarily any judge of the Court of  
15 Customs and Patent Appeals to serve as a judge of the  
16 Customs Court.

17 “(d) The chief judge of the Customs Court may, upon  
18 presentation to him by the chief judge of the Court of Customs  
19 and Patent Appeals of a certificate of necessity, designate  
20 and assign temporarily any judge of the Customs Court  
21 to serve as a judge of the Court of Customs and Patent  
22 Appeals.”

23 SEC. 5. Section 294 of title 28 of the United States  
24 Code, as amended, is amended to read as follows:

1 “§ 294. Assignment of retired Justices or judges to active  
2 duty

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

8 “(b) Any retired circuit or district judge may be des-  
9 ignated and assigned to perform such judicial duties in any  
10 circuit as he is willing to undertake. Designation and assign-  
11 ment of such judge for service within his circuit shall be  
12 made by the chief judge or judicial council of the circuit.  
13 Designation and assignment for service elsewhere shall be  
14 made by the Chief Justice of the United States.

15 “(c) Any retired judge of the Court of Claims, the Court  
16 of Customs and Patent Appeals, or the Customs Court may  
17 be designated and assigned by the chief judge of such court  
18 to perform such judicial duties therein as he is willing to  
19 undertake or may be designated and assigned by the Chief  
20 Justice of the United States to perform such judicial duties  
21 in any circuit as he is willing to undertake.

22 “(d) *The Chief Justice of the United States shall main-*  
23 *tain a roster of judges who have retired from regular active*  
24 *service but who are willing and able to undertake special judi-*

1 *cial duties from time to time, which roster shall be known*  
2 *as the Roster of Senior Judges. Any judge of the United*  
3 *States who has retired from regular active service under sec-*  
4 *tion 371 (b) or 372 (a) of this title but is willing and able*  
5 *to undertake special judicial duties from time to time either*  
6 *in a particular court or courts specified by him or generally*  
7 *in any court may so indicate by requesting the Chief Justice*  
8 *of the United States to place his name upon the Roster of*  
9 *Senior Judges as available for such duty. The Chief Jus-*  
10 *tice shall remove from the Roster of Senior Judges the name*  
11 *of any such judge who is no longer willing or able to perform*  
12 *any judicial duties. Any retired judge whose name appears*  
13 *upon the Roster of Senior Judges shall be known as a senior*  
14 *judge, and may be designated and assigned by the Chief*  
15 *Justice of the United States to perform such judicial duties*  
16 *as he is willing to undertake in any court of the United States*  
17 *other than the Supreme Court, upon presentation of a cer-*  
18 *tificate of necessity by the chief judge of such court."*

19       "~~(d)~~ (e) No retired Justice or judge shall perform judi-  
20 cial duties except when designated and assigned."

21       SEC. 6. The first paragraph of section 295 of title 28  
22 of the United States Code, as amended, is amended to read  
23 as follows:

24       "No designation and assignment of a circuit or district  
25 judge in active service shall be made without the consent

1 of the chief judge or judicial council of the circuit from which  
2 the judge is to be designated and assigned. No designation  
3 and assignment of a judge of any other court of the United  
4 States in active service shall be made without the consent  
5 of the chief judge of such court.”

6 SEC. 7. Item 293 in the analysis of chapter 13 of title  
7 28 of the United States Code, immediately preceding section  
8 291 of such title, is amended to read as follows:

“293. Judges of other courts.”

House Calendar No. 274

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