

The Administrative Conference of the United States has also criticized existing procedures, and in its report to Congress in 1962 recommended legislation similar to that proposed in S. 2687. (Administrative Conference, final report, S. Doc. 24, 88th Cong., first sess. (1963), VII, pp. 10-11. (Recommendations 3, 4, and 5.))

Legislation of this type was also recommended in 1962 by the Special Advisory Committee on Interstate Commerce Commission Practice and Procedure, an advisory committee of practitioners established by the Commission, and by several sessions of the Judicial Conference of the United States.

In this regard, we are pleased to note that the Judicial Conference has, this year, specifically endorsed S. 2687.

The basic change in existing law made by S. 2687 would be to shift judicial review of the great majority of the Commission's cases from the district courts to the U.S. courts of appeals.

In place of existing law, which permits direct appeals from the district courts to the Supreme Court, review by that Court would be by the discretionary writ of certiorari.

In so doing, the draft bill would make orders of the Interstate Commerce Commission reviewable in the same general manner as the orders of all other major Federal regulatory agencies, such as FPC, CAB, FCC, SEC, FMC, FTC, and NLRB.

There are a number of advantages in providing for judicial review in the courts of appeals. Those courts are regularly engaged in the review of orders of various other Federal agencies, while most district judges rarely do so.

The courts of appeals have rules governing judicial review proceedings.

Before long, they will be applying uniform rules for all the courts of appeals, promulgated by the Supreme Court under the authority granted by Congress (28 U.S.C. 2072, Supp. II, 1967).

In contrast, there are no court rules governing judicial review proceedings in the three-judge courts, with the result that their procedures are on an ad hoc basis.

S. 2687 has been cast as an amendment to section 17 of the Interstate Commerce Act, designated as section 17(10), so that the statutory provisions for the review of the Commission's orders will appear in the same statute which gives the Commission authority to make such orders; thus following the general pattern with respect to many other statutes creating administrative agencies and providing for judicial review of their orders.

I would now like to turn to a brief description of the major features of S. 2687, as amended, and passed by the Senate. The Senate amended the proposal in two aspects, both of which will be discussed later in my statement.

As I will be comparing the provisions of this bill with existing judicial review provisions, the committee may find it helpful to refer to the comparative analysis set forth in the chart at the conclusion of my prepared remarks.

All of the changes made by S. 2687 are detailed in the chart; therefore, my remarks will be confined to a discussion of the more important ones.