

The major change made by S. 2687 is the shifting of judicial review of the Commission's orders from district courts of three judges to the several courts of appeals.

This change, summarized as item 1 on the chart, is set forth as paragraph (a). With certain specified exceptions, S. 2687 covers judicial review of all final orders of the Commission issued under any of the four parts of the Interstate Commerce Act.

Specifically exempted from this paragraph are:

1. Final orders involving reparations or other orders for the payment of money.
2. Final orders made pursuant to a referral from a district court or the Court of Claims.

The purpose of these two specific exemptions is to preserve existing practices wherein cases in these two categories are initially heard in either single-judge district courts or the Court of Claims, as the case may be. Because claims for reparations and other actions for money damages are essentially private actions and analogous to other types of civil damage actions, it seems desirable to retain jurisdiction in the district courts for these cases.

In addition, I should also point out that nothing in S. 2687 changes the present jurisdiction of the district courts over criminal or civil cases involving only fines, penalties, or civil forfeitures for violations of the Interstate Commerce Act.

The jurisdiction of a court of appeals would be invoked by the filing of a petition for review.

The venue for filing a petition is set forth in paragraph (b) of S. 2687, summarized as item 2 of the chart. This provision is derived from existing law and provides that venue for a petition shall be in the judicial circuit wherein the party filing the petition for review either resides or has his principal office (28 U.S.C. 1398(a)).

Paragraphs (c) and (d) summarized in item 3 of the chart make a number of important changes in existing law and practice. Together, these two provisions specify the initial and subsequent procedural steps to be followed in a proceeding involving a Commission order.

First, any party aggrieved by an order of the Commission will be required to file a petition for judicial review with the appropriate court of appeals within 60 days of the service of the order complained. This cures an omission in the existing law which, except for the uncertain and rarely applied doctrine of laches, imposes no statute of limitations for judicial review of the Commission's orders.

The 60-day limitation is found in most modern judicial review provisions. While still providing a reasonable opportunity for an appeal to be taken, such a provision is both desirable and useful in protecting the security of transactions authorized by the Commission and providing assurance to parties affected by a Commission order that it will not be challenged by a belated appeal.

The first of the amendments to S. 2687 as passed by the Senate would apply here. The amendment would authorize the courts of appeals, for good cause shown, to extend the time for filing a review petition for an additional period not to exceed 60 days.

This amendment to page 2, line 23, would strike the period after the word "order" and insert in lieu thereof the following:

*"Provided, That upon the filing of a petition within 60 days of*