

This change was requested by the Commission in its testimony before the Senate Subcommittee on Surface Transportation and is required to reflect the fact that the last cited section, section 3 of the Elkins Act, is not part of the Interstate Commerce Act although its provisions are enforced by the Commission.

As shown in item 8, section 2 of S. 2687 repeals those parts of existing law which contain the present procedure for review of the Commission's order in three-judge district courts.

All of these provisions are superseded by the provisions of section 1 of this bill and thus would be rendered obsolete unless repealed.

No change is made in other sections of existing law which also deal with the review and enforcement of the Commission's orders since they will still be applicable to cases involving reparations, fines, penalties, and forfeitures which are not transferred to the courts of appeals by this bill.

In order to insure an orderly transition from the present mode of review in the district courts to the courts of appeals, this bill provides for a 60-day transitional period and that cases pending in the district courts on the effective date of this act will be processed to conclusion in such courts with the right of direct appeal to the Supreme Court as under the present law.

This concludes my prepared comments, Mr. Chairman.

I would be delighted to attempt to answer any questions you may have.

The CHAIRMAN. At this point in our record, we will place appendixes A and B to Mr. Tierney's statement.

(The documents referred to follow:)

APPENDIX A.—GENERAL SUMMARY OF EXISTING LAW AND S. 2687 DEALING WITH JUDICIAL REVIEW AND ENFORCEMENT OF MATTERS ARISING UNDER THE INTERSTATE COMMERCE ACT AND RELATED STATUTES

I. SINGLE-JUDGE UNITED STATES DISTRICT COURTS

1. All cases arising under the Interstate Commerce Act involving fines, penalties or civil forfeitures not arising out of an order of the Commission and cases involving reparations or other final orders for the payment of money, 28 U.S.C. § 1336, 1398. Appeals in these cases are heard by the United States courts of appeal whose decisions are reviewable in the Supreme Court by a writ of certiorari. 28 U.S.C. § 1254(1).

II. THREE-JUDGE UNITED STATES DISTRICT COURTS

1. Appeals from all final judgments and orders of the Commission arising under section 17(9) of the Interstate Commerce Act. Appeals in these cases go directly to the Supreme Court, 28 U.S.C. § 2284, § 2321-25.

NOTE.—This procedure would be changed upon the enactment S. 2687, since, as shown in Appendix B, it would repeal the present provisions for review by a three-judge court and substitute in lieu thereof review by the courts of appeal with appeal to the Supreme Court by a writ of certiorari. (Section 1 of S. 2687.)

III. COURT OF CLAIMS

1. Suits by carriers against the United States for reparations or other matters involving damages under the Interstate Commerce Act. The Commission does not participate in these cases unless the matter is referred to the Commission by the court under 28 U.S.C. § 1398(b). In those cases where an appeal is permitted, appeal is direct to the Supreme Court.