

APPENDIX B.—COMPARATIVE SUMMARY OF PROVISIONS OF S. 2687
WITH EXISTING LAW

EXISTING LAW

S. 2687

Item 1—Jurisdiction

[p. 1, lines 1-10; p. 2, lines 1-14]¹

(a) All orders appealable to three-judge district courts with right of direct appeal to Supreme Court (28 U.S.C. § 2284, 2321-25, 1253), *except* orders involving 1) the payment of money damages and 2) the collection of fines, penalties, and forfeitures.

(b) Cases involving the payment of money or the collection of fines, etc., are initially heard by a single-judge district court. Appeals may be taken to courts of appeals and thence to the Supreme Court by a writ of certiorari 28 U.S.C. § 1331, 1336, 1398, 1254(1). Similar appellate procedure applies to cases referred to the Commission by the Court of Claims, 28 U.S.C. § 1398(b).

(c) Jurisdiction invoked upon the filing of an application for injunction or "other relief", 28 U.S.C. § 2284.

(a) Substitutes the court of appeals for all cases now heard by three-judge district courts. Appeal to Supreme Court by writ of certiorari.

(b) Makes no change in existing law with regard to 1) orders involving the payment of money; 2) cases prosecuted directly in court involving fines, penalties, etc., or 3) referrals from the Court of Claims.

(c) Jurisdiction invoked by the filing of a petition for review.

Item 2—Venue

[p. 2, lines 15-18]

(a) Provides that venue shall be in the district wherein the party filing petition for review either resides or has his principal office. 28 U.S.C. § 1398(a).

(b) Makes no provision for consolidation of multiple suits brought against the same order in different courts.

(a) Makes no change except to expand venue to entire judicial circuit.

(b) In addition, by virtue of paragraph (c) (ii) [p. 3, lines 19-20] of this bill, which incorporates by reference 28 U.S.C. § 2112, permits the consolidation of multiple suits.

Item 3—Practice and Procedure

[p. 2, lines 19-25; p. 3, lines 1-23]

(a) No specified requirements for application review.

(b) Requires that the Attorney General and Commission be notified five days in advance of hearing, 28 U.S.C. § 2284(2) and the copies of the complaint be served on all defendants. Federal Rules of Civ. Proc. 4, 28 U.S.C. Appendix, No fixed rules of procedure.

(c) Requires complaining party to submit record of Commission proceeding to clerk of the court.

(d) Present statutory law is silent as to the right of Commission to correct its own errors after appeal is filed.

(e) No counterpart in existing statutory law although permitted in practice.

(a) As set forth in paragraph (c) (i), requires that petition for review specify (1) nature of proceeding, (2) facts upon which venue is based, (3) grounds for seeking relief and (4) relief requested.

(b) Requires that copy of petition be served on Attorney General and Commission. All procedure subject to rules promulgated by the Supreme Court under 28 U.S.C. § 2072.

(c) Unless terminated on motion to dismiss, Commission must provide the record, as provided in 28 U.S.C. § 2112, to clerk of the court.

(d) Permits Commission to correct own errors until record is filed.

(e) Requires appeal to be determined on record unless, for cause, the parties request the right to adduce additional evidence.

¹ Refers to page and lines of S. 2687.