Calendar No. 2369

83D CONGRESS
2D SESSION

S. 3131

[Report No. 2353]

IN THE SENATE OF THE UNITED STATES

MARCH 15 (legislative day, MARCH 1), 1954

Mr. LANGER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

AUGUST 7 (legislative day, AUGUST 5), 1954

Reported by Mr. MCCARRAN, with an amendment

[Omit the part struck through and insert the part printed in italic]

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 211 of title 28, United States Code, is amended by adding at the end thereof the following paragraph:

"Such court is hereby declared to be a court established under article III of the Constitution of the United States."

~~SEC. 2. Section 291 (b) of title 28, United States Code, is amended to read as follows:~~

~~"(b) Upon request of the chief judge of any circuit, the Chief Justice of the United States may designate and assign temporarily any judge of the Court of Customs and Patent~~

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Appeals to serve as a circuit judge of such circuit to perform such duties as a judge of that circuit as he is willing to undertake. Upon request of the chief judge of the District Court for the District of Columbia, the Chief Justice of the United States may designate and assign temporarily any judge of the Court of Customs and Patent Appeals to serve as a judge of the District Court for the District of Columbia to perform such duties as a judge of that court as he is willing to undertake."

SEC. 3. Section 293 of title 28, United States Code, is amended to read as follows:

"§ 293. Circuit judges to Court of Customs and Patent Appeals

"The Chief Justice of the United States, upon presentation to him by the chief judge of the Court of Customs and Patent Appeals of a certificate of necessity, may designate and assign temporarily any circuit judge to perform such duties as a judge of that court as he is willing to undertake."

SEC. 4. Section 294 of title 28, United States Code, is amended by changing present subsection (d) to (f), and inserting after subsection (c) the following new subsections:

"(d) Upon request of the chief judge of any circuit, the Chief Justice of the United States may designate and assign temporarily any retired judge of the Court of Customs and Patent Appeals to perform such duties as a circuit judge

~~of that circuit as he is willing to undertake. Upon request of the chief judge of the District Court for the District of Columbia, the Chief Justice of the United States may designate and assign temporarily any retired judge of the Court of Customs and Patent Appeals to perform such duties as a judge of the District Court for the District of Columbia as he is willing to undertake.~~

~~"(c) The Chief Justice of the United States, upon presentation to him by the chief judge of the Court of Customs and Patent Appeals of a certificate of necessity, may designate and assign temporarily any retired circuit judge to perform such duties as a judge of that court as he is willing to undertake."~~

SEC. 2. (a) Subsection (b) of section 291 of title 28, United States Code, is amended to read as follows:

"(b) The Chief Justice of the United States may upon presentation to him by the chief judge of the Court of Customs and Patent Appeals of a certificate of necessity, designate and assign temporarily any circuit judge to serve as a judge of the Court of Customs and Patent Appeals."

(b) Section 292 of title 28, United States Code, is amended by inserting immediately after subsection (d) a new subsection reading as follows:

"(e) The Chief Justice of the United States may upon presentation to him by the chief judge of the Court of Cus-

toms and Patent Appeals of a certificate of necessity, designate and assign temporarily any district judge to serve as a judge of the Court of Customs and Patent Appeals."

SEC. 3. (a) Item 293 in the analysis of chapter 13 of title 28, United States Code, immediately preceding section 291 of such title, is amended to read as follows:

"293. Judges of Court of Customs and Patent Appeals."

(b) Section 293 of title 28, United States Code, is amended to read as follows:

"§ 293. Judges of Court of Customs and Patent Appeals.

"The Chief Justice of the United States may designate and assign temporarily a judge of the Court of Customs and Patent Appeals to perform judicial duties in any circuit, either in a court of appeals or district court, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises."

SEC. 4. (a) Subsection (b) of section 294 of title 28, United States Code, is amended to read as follows:

"(b) Any retired circuit or district judge may be designated and assigned to perform such judicial duties in any circuit or in the Court of Customs and Patent Appeals as he is willing to undertake. Designation and assignment of such judge for service within his circuit shall be made by the chief judge or judicial council of the circuit. Designation and assignment for service in another circuit or in the

Court of Customs and Patent Appeals shall be made by the Chief Justice of the United States."

(b) Subsection (d) of section 294 of title 28, United States Code, is redesignated (e) and such section is amended by inserting immediately after subsection (c) a new subsection reading as follows:

"(d) Any retired judge of the Court of Customs and Patent Appeals may be designated and assigned by the Chief Justice of the United States to perform such judicial duties in any circuit as he is willing to undertake."

(c) The first paragraph of section 295 of title 28, United States Code, is amended to read as follows:

"No designation and assignment of a circuit or district judge in active service shall be made without the consent of the chief judge or judicial council of the circuit from which such judge is to be designated and assigned. No designation and assignment of a judge of the Court of Customs and Patent Appeals in active service shall be made without the consent of the chief judge of such court."

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