

June 26, 1951

Dear Joe:

Your letter of June 6th, as Chairman of the Subcommittee on the Judiciary, inviting any comments which the Court might wish to offer on H. R. 486, restricting the appearances of Supreme Court Justices as character or opinion witnesses in Federal Court proceedings, was received subsequent to the adjournment of the Court for the Term.

I transmitted a copy of your letter, together with the content of the bill, to each of the Associate Justices, and am in position to advise that there is no desire to submit any comment relative thereto.

It appears to me that the subject matter of the proposed legislation is in the field of policy which addresses itself to the discretion and judgment of the Congress.

With the kindest of personal regards,

Sincerely,

(Signed) Fred M. Vinson

Honorable Joseph R. Bryson,
Chairman,
Subcommittee on the Judiciary,
House of Representatives,
Washington, D. C.

EIGHTY-SECOND CONGRESS

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 WILLIAM T. BYRNE, N. Y.
 JOSEPH R. BRYSON, S. C.
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 WILLIAM M. MCCULLOCH, OHIO
 J. CALEB BOGGS, DEL.
 ANGER L. GOODWIN, MASS.
 EDGAR A. JONAS, ILL.
 RUTH THOMPSON, MICH.
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HOUSE OF REPRESENTATIVES, U. S.
 COMMITTEE ON THE JUDICIARY
 WASHINGTON, D. C.

June 6, 1951

CHIEF CLERK: BESS EFFRAT DICK
 ASSISTANT CHIEF CLERK: VELMA SMEDLEY
 COMMITTEE COUNSEL:
 C. MURRAY BERNHARDT
 WILLIAM R. FOLEY
 L. JAMES HARRIS
 LEGISLATIVE ASSISTANTS:
 WALTER M. BESTERMAN
 WALTER R. LEE
 LAW REVISION COUNSEL: CHARLES J. ZINN

RECEIVED

JUN 7 11 36 AM '51

CHAMBERS OF THE
 CHIEF JUSTICE

Honorable Fred M. Vinson
 Chief Justice of the United States
 Supreme Court
 Washington, D. C.

My dear Mr. Chief Justice:

I take pleasure in bringing to your attention the enclosed bill, H. R. 486, which restricts the appearances of Supreme Court justices as character or opinion witnesses in Federal Court proceedings.

Subcommittee No. 3 of this Committee recently held hearings on the bill. At the hearings it was suggested that I, as Subcommittee Chairman, inform you of the pendency of the bill and invite any comments which the Court may wish to offer.

Accordingly, we should be happy to consider any views on the matter which the Court may deem appropriate or desirable.

With assurances of my high esteem, I am

Respectfully,

Joseph R. Bryson
 Joseph R. Bryson
 Subcommittee Chairman

l:vs
 Enc.

*6/9/51. Phoned Mr. Bryson's
 office that C. J. is out of
 town.*

82D CONGRESS
1ST SESSION

H. R. 486

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1951

Mr. KEATING introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit justices of the United States from testifying as to the character or reputation of any person or matters of opinion, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled.*

3 That the analysis of chapter 21 of title 28, United States
4 Code, immediately preceding section 451 of such title, is
5 amended by inserting immediately after and underneath
6 item 455 in such analysis, a new item as follows:

7 "455A. Justice as Witness."

8 SEC. 2. Chapter 21 of title 28, United States Code, is
9 hereby amended by inserting therein, immediately following

1 section 455, a new section, to be designated as section 455A,
2 reading as follows:

3 "No justice of the United States shall testify as to the
4 character or reputation of any person or as to any matter of
5 opinion in any action in any court of the United States."

6 SEC. 3. This Act shall become effective on July 1, 1951.

82d CONGRESS
1ST SESSION

H. R. 486

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JANUARY 3, 1951

Referred to the Committee on the Judiciary

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1ST SESSION

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By Mr. KEATING

JANUARY 3, 1951

Referred to the Committee on the Judiciary

WASHINGTON POST - Thursday, June 7, 195

Bill to Bar Justices As Witnesses Backed

Chief Justice Fred M. Vinson will be asked if the Supreme Court has any comment on a bill which would ban its members from appearing as character witnesses in the trial of any defendant.

That proposal came yesterday from a House Judiciary Subcommittee at a hearing which stems from the appearances of Justices Felix Frankfurter and Stanley F. Reed in the perjury trial of Alger Hiss in 1949.

Their presence at the first Hiss trial was the subject of extensive criticism. Hearings on a bill to prevent this kind of appearance were delayed pending final Supreme Court action on the Hiss appeal. Last March 12 the high court refused to review the Hiss conviction.

Representative Kenneth B. Keating (R., N. Y.), author of a bill to ban the testimony of Supreme Court justices as character witnesses, said he seeks to prevent the "undue and improper effect which such testimony has on court proceedings."

Representative J. Caleb Boggs (R., Del.) suggested that the Supreme Court be invited to give its views on the subject. Subcommittee Chairman Joseph R. Bryson (D., S. C.) said he will send an invitation for this to the Chief Justice. His comments, if any, presumably would be in writing.

Keating said juries "could not fail to be . . . excessively impressed with the importance and momentous nature of such an occasion," when high court justices testify.

His bill, said Keating, also would prevent embarrassment to justices urged to appear in such cases. He noted that Justice Reed was subpoenaed in the Hiss trial, while Justice Frankfurter appeared voluntarily.

Keating said he does not seek to prevent the justices from appearing in anything like an automobile case or other cases where they are witnesses as to facts.

Get
5 additional
copies of Bill
& mail one to
each Justice for
comment.

June 15, 1951

Dear Harold:

I am enclosing herewith copy of a letter which I have received from Honorable Joseph R. Bryson, Chairman of the Subcommittee on the Judiciary, relative to H. R. 486, which restricts the appearances of Supreme Court Justices as character or opinion witnesses in Federal Court proceedings.

The bill, in substance, provides as follows:

"No justice of the United States shall testify as to the character or reputation of any person or as to any matter of opinion in any action in any court of the United States."

My judgment was that there should be no comment, but, on reflection, it occurred to me that, since it apparently was aimed at the appearance of Justices Reed and Frankfurter as witnesses in the Hiss trial, they might have different views, and I had better circulate it.

I would like to get your views as soon as possible so that I may be guided in the matter.

With the kindest of personal regards,

Sincerely,

Honorable Harold H. Burton,
Associate Justice of the Supreme Court,
Washington, D. C.

June 15, 1951

Dear Tom:

I am enclosing herewith copy of a letter which I have received from Honorable Joseph R. Bryson, Chairman of the Subcommittee on the Judiciary, relative to H. R. 486, which restricts the appearances of Supreme Court Justices as character or opinion witnesses in Federal Court proceedings.

The bill, in substance, provides as follows:

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My judgment was that there should be no comment, but, on reflection, it occurred to me that, since it apparently was aimed at the appearance of Justices Reed and Frankfurter as witnesses in the Hiss trial, they might have different views, and I had better circulate it.

I would like to get your views as soon as possible so that I may be guided in the matter.

With the kindest of personal regards,

Sincerely,

Honorable Tom C. Clark,
2101 Connecticut Avenue, N. W.,
Washington, D. C.

June 15, 1951

Dear Bill:

I am enclosing herewith copy of a letter which I have received from Honorable Joseph R. Bryson, Chairman of the Subcommittee on the Judiciary, relative to H. R. 486, which restricts the appearances of Supreme Court Justices as character or opinion witnesses in Federal Court proceedings.

The bill, in substance, provides as follows:

"No justice of the United States shall testify as to the character or reputation of any person or as to any matter of opinion in any action in any court of the United States."

My judgment was that there should be no comment, but, on reflection, it occurred to me that, since it apparently was aimed at the appearance of Justices Reed and Frankfurter as witnesses in the Hiss trial, they might have different views, and I had better circulate it.

I would like to get your views as soon as possible so that I may be guided in the matter.

With the kindest of personal regards,

Sincerely,

Honorable William O. Douglas,
Associate Justice of the Supreme Court,
Box 116,
Lostine, Oregon.

June 15, 1951

Dear Felix:

I am enclosing herewith copy of letter which I have received from Honorable Joseph R. Bryson, Chairman of the Subcommittee on the Judiciary, relative to H. R. 486, which restricts the appearances of Supreme Court Justices as character or opinion witnesses in Federal Court proceedings.

The bill, in substance, provides as follows:

"No justice of the United States shall testify as to the character or reputation of any person or as to any matter of opinion in any action in any court of the United States. "

My judgment was that there should be no comment, but, on reflection, it occurred to me that, since it apparently was aimed at the appearance of Stanley and you as witnesses in the Hiss trial, that you might have different views, and I had better circulate it.

I would like to get your views as soon as possible so that I may be guided in the matter.

With the kindest of personal regards,

Sincerely,

Honorable Felix Frankfurter,
Associate Justice of the Supreme Court,
New Milford, Connecticut.

June 15, 1951

Dear Bob:

I am enclosing herewith copy of a letter which I have received from Honorable Joseph R. Bryson, Chairman of the Subcommittee on the Judiciary, relative to H. R. 486, which restricts the appearances of Supreme Court Justices as character or opinion witnesses in Federal Court proceedings.

The bill, in substance, provides as follows:

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My judgment was that there should be no comment, but, on reflection, it occurred to me that, since it apparently was aimed at the appearance of Justices Reed and Frankfurter as witnesses in the Hiss trial, they might have different views, and I had better circulate it.

I would like to get your views as soon as possible so that I may be guided in the matter.

With the kindest regards,

Sincerely,

Honorable Robert H. Jackson,
Associate Justice of the Supreme Court,
Washington, D. C.

June 15, 1951

Dear Shay:

I am enclosing herewith copy of a letter which I have received from Honorable Joseph R. Bryson, Chairman of the Subcommittee on the Judiciary, relative to H. R. 486, which restricts the appearances of Supreme Court Justices as character or opinion witnesses in Federal Court proceedings.

The bill, in substance, provides as follows:

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My judgment was that there should be no comment, but, on reflection, it occurred to me that, since it apparently was aimed at the appearance of Justices Reed and Frankfurter as witnesses in the Hiss trial, they might have different views, and I had better circulate it.

I would like to get your views as soon as possible so that I may be guided in the matter.

With the kindest of personal regards,

Sincerely,

Honorable Sherman Minton,
New Albany, Indiana.

June 15, 1951

Dear Hugo:

I am enclosing herewith copy of a letter which I have received from Honorable Joseph R. Bryson, Chairman of the Subcommittee on the Judiciary, relative to H. R. 486, which restricts the appearances of Supreme Court Justices as character or opinion witnesses in Federal Court proceedings.

The bill, in substance, provides as follows:

"No justice of the United States shall testify as to the character or reputation of any person or as to any matter of opinion in any action in any court of the United States."

My judgment was that there should be no comment, but, on reflection, it occurred to me that, since it apparently was aimed at the appearance of Justices Reed and Frankfurter as witnesses in the Hiss trial, they might have different views, and I had better circulate it.

I would like to get your views as soon as possible so that I may be guided in the matter.

With the kindest of personal regards,

Sincerely,

Honorable Hugo L. Black,
619 S. Lee Street,
Alexandria, Virginia.

CHAMBERS OF
THE CHIEF JUSTICE

Supreme Court of the United States
Washington 13, D. C.

June 15, 1951

Dear Stanley:

I am enclosing herewith copy of letter which I have received from Honorable Joseph R. Bryson, Chairman of the Subcommittee on the Judiciary, relative to H. R. 486 which restricts the appearances of Supreme Court Justices as character or opinion witnesses in Federal Court proceedings.

The bill, in substance, provides as follows:

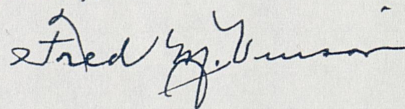
"No justice of the United States shall testify as to the character or reputation of any person or as to any matter of opinion in any action in any court of the United States."

My judgment was that there should be no comment, but, on reflection, it occurred to me that since it apparently was aimed at the appearance of Felix and you as witnesses in the Hiss trial, that you might have different views, and I had better circulate it.

I would like to get your views as soon as possible so that I may be guided in the matter.

With the kindest of personal regards,

Sincerely,



Honorable Stanley F. Reed,
The Mayflower,
Washington, D. C.

Original Filed in VIP Correspondence File

Supreme Court of the United States
Washington, D. C.

JUN 18 9 40 AM '51

CHAMBERS OF
JUSTICE FELIX FRANKFURTER

CHAMBERS OF THE
CHIEF JUSTICE

Dear Fred:

I have just received
your air-mail letter of yester-
day, enclosing that of Re-
presentative Byrd.

My guiding considera-
tion regarding requests by
Members of Congress for
the Courts' views on legis-
lation, precedents, expressed
or not, has been since I
have been on the Court, to give
me as little trouble as to
H. R. 486. It has been,
and is, my view that the
Court should abstain

Original Filed in VIP Correspondence File

Supreme Court of the United States
Washington 13, D. C.

CHAMBERS OF
JUSTICE SHERMAN MINTON

June 18/51

My dear Chief I would be in favor
of the bill S R 486. I do not think
justice should be subject to subpoena
& this law would save them embarrassment
as it would be the answer to all requests
& subpoenas -

I am getting a bit irked to say the least
about the Commie mail - Should we tax it?
I have been ditching it. Strange we get no
propaganda mail except when the Commies
are involved -

Best regards,
Moz

Original Filed in VIP Correspondence File

Supreme Court of the United States
Washington 13, D. C.

CHAMBERS OF
JUSTICE HUGO L. BLACK

June 19-51-

Dear Fred - In re H. R. 486, I am
inclined to believe the Court could well
refrain comment because the proposed
revises questions that would distract me
should the measure pass. I am by no
means sure that a defendant accused
of crime could be denied power for
testimony deemed material for his defense.
Without regard to this however, I would
vote to recommend the measure
unfavorably should the Court wish
to express views.

Best regards -
Sincerely -
H. L. Black
to the
Chief Justice

Supreme Court of the United States
Washington 13, D. C.

CHAMBERS OF
JUSTICE HAROLD H. BURTON

June 19, 1951

RECEIVED

JUN 20 4 51 PM '51

CHAMBERS OF THE
CHIEF JUSTICE

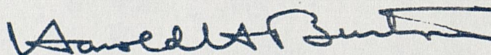
Dear Chief:

Replying to your note of June 15, I agree that it is best that there should be no comment, at least as far as I am concerned, on the proposed legislation. My personal view is that it would be just as well, and probably better, that there be no legislation on the subject of the appearances of Supreme Court Justices or others as witnesses.

Recently, I have been reading with interest some of Chief Justice Marshall's experiences in the Aaron Burr trial and he expressed the idea that, under some circumstances, it was appropriate to subpoena the President of the United States to produce a letter and indicated that it might be appropriate to subpoena him as a witness to give personal testimony.

So far as the proposed legislation is concerned, it seems to me that, in any event, the policy is a matter for Congress rather than for the Court to determine and that, if asked, we should say that the Justices prefer to leave the issue to the discretion of Congress.

Cordially yours,



The Chief Justice

Original Filed in VIP Correspondence File

Supreme Court of the United States.

Memorandum.

6/17, 1947

Full

Agree 7-10

Agree this

should be no

commentary as on

H.R. 486.

Agree

Wm O Davis

A 'DUTY' TO TESTIFY, SAYS FRANKFURTER

Holds Subpoena in Hiss Case
Defense Would Have Been
'Unnecessary Formality'

WASHINGTON, July 20 (AP)—Justice Felix Frankfurter of the United States Supreme Court said today he "deemed it an unnecessary formality to be formally served with a subpoena" to testify as a character witness at the recent trial in New York of Alger Hiss on perjury charges.

Mr. Frankfurter and a colleague, Justice Stanley F. Reed, testified as character witnesses for Mr. Hiss. Mrs. Reed said yesterday that her husband had been subpoenaed by defense lawyers.

The question of whether the justices appeared voluntarily was raised as the result of a move in Congress to exempt Supreme Court

members from any compulsion to testify in such circumstances. Reached at Heath, Mass., where he is vacationing, Mr. Frankfurter told The Associated Press by telephone:

"I appeared as a witness in the trial of Alger Hiss because his counsel deemed it their duty to put my testimony before the jury. They had a right to my testimony because, under the Constitution, every accused has the right to produce evidence relevant to determining his guilt or innocence. The reputation of an accused is such a relevant matter, especially under a charge of perjury. Since counsel felt they must draw on the testimony I was under duty to give, I deemed it an unnecessary formality to be formally served with a subpoena.

"Of course, no member of the Supreme Court should needlessly disqualify himself from participation in a case that may come before the court. But the circumstances that qualified me as a character witness at the trial would necessarily disqualify me from sitting in any case involving Alger Hiss, even if I had not been a witness in his case. As is patent from the public records, every year members of the court abstain from

participation in cases because of some past relation to a party litigant or any other interested party in a litigation."

Mr. Hiss, a former State Department official, was charged with perjury in connection with charges that Whittaker Chambers, one-time Communist courier, obtained secret Government documents from him. The jury failed to reach a verdict. The Government has said it would try Mr. Hiss again in the fall.

Justice Bill Opposed

WASHINGTON, July 20 (UP)—Senator Herbert R. O'Connor, Democrat, of Maryland, said today it was none of Congress' business whether Supreme Court justices appeared as character witnesses in criminal trials.

He criticized as "improper interference with the judiciary" a bill by Representative Kenneth B. Keating, Republican, of New York, to bar such testimony by members of the high tribunal.

Mr. Keating's move was prompted by House criticism of the appearance of Justices Felix Frankfurter and Stanley F. Reed as character witnesses for Alger Hiss.

Sub Ct

80TH CONGRESS
1ST SESSION

H. R. 517

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1947

Mr. KEFAUVER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To authorize the designation of retired Justices for service on the Supreme Court of the United States when necessary to obtain a quorum, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) section 215 of the Judicial Code (U. S. C., 1940
4 edition, title 28, sec. 321) is amended to read as follows:
5 "SEC. 215. The Supreme Court of the United States
6 shall consist of a Chief Justice of the United States and
7 eight Associate Justices, any six of whom shall constitute a
8 quorum: *Provided*, That whenever a quorum cannot be
9 obtained wholly or partly because the Chief Justice or one
10 or more of the Associate Justices declares himself, or them-

1 selves, disqualified for any reason, the Chief Justice shall
2 designate from among the retired Justices of the Court,
3 including retired Chief Justices, such number of Justices as
4 may be necessary to constitute a quorum. Retired Justices
5 shall be designated for such purpose in the reverse order
6 of their retirement, the Justice most recently retired being
7 first designated, but no such retired Justice shall be desig-
8 nated without his consent. Such designation shall be made
9 within sixty days after (1) the determination by the
10 Supreme Court that it does not otherwise possess a quorum
11 of Justices qualified to participate in the consideration of the
12 case on the merits, or (2) the date of enactment of this sen-
13 tence, with respect to any case pending before the Court
14 and as to which there has already been a determination that
15 there is not a quorum of Justices qualified to participate in
16 the consideration of the case on the merits.”

17 (b) The amendment made by subsection (a) of this
18 section to section 215 of the Judicial Code shall be applicable
19 to any case pending before the Supreme Court of the United
20 States on or after the date of enactment of this Act.

21 SEC. 2. (a) Section 2 of the Act entitled “An Act to
22 expedite the hearing and determination of suits in equity
23 pending or hereafter brought under the Act of July second,
24 eighteen hundred and ninety, entitled ‘An Act to protect
25 trade and commerce against unlawful restraints and monop-

1 lies', 'An Act to regulate commerce', approved February
2 fourth, eighteen hundred and eighty-seven, or any other Acts
3 having a like purpose that may be hereafter enacted", ap-
4 proved February 11, 1903, as amended (U. S. C., 1940
5 edition, title 49, sec. 45), is amended by inserting "(a)"
6 after "SEC. 2." and by adding at the end thereof the
7 following:

8 “(b) Upon any such appeal to the Supreme Court, if
9 it shall have been found (1) that a quorum for the considera-
10 tion of the case on the merits cannot be obtained wholly or
11 partly because the Chief Justice or one or more of the Asso-
12 ciate Justices declares himself, or themselves, disqualified
13 for any reason, and (2) that a quorum cannot be obtained
14 by the designation of retired Justices in the manner and within
15 the time provided in section 215 of the Judicial Code, as
16 amended, the case shall be immediately sent by the Supreme
17 Court to the circuit court of appeals for the circuit in
18 which is located the district in which the suit was brought.
19 Thereupon, it shall be the duty of the senior circuit judge
20 of such circuit and the two circuit judges next in order of
21 seniority to such senior circuit judge, who are available, to
22 hear and determine such case at the earliest practicable date.
23 The decision of the three circuit judges, or a majority of them,
24 shall be final and shall not be subject to review.

25 “(c) If, for any reason, three circuit judges of the

1 circuit in which is located the district in which the suit was
2 brought are not available to participate in the consideration
3 of the case, the senior circuit judge of such circuit shall fill
4 any vacancy or vacancies by designating, in the order of
5 seniority in the respective circuits, one or more circuit judges
6 from another circuit or circuits, but such designation shall
7 be made only with the consent of the senior circuit judge
8 of any such other circuit."

9 (b) The amendments made by subsection (a) of this
10 section to section 2 of such Act of February 11, 1903, as
11 amended, shall be applicable to any case pending before the
12 Supreme Court of the United States under the provisions
13 of such Act, as amended, on or after the date of enactment
14 of this Act.

80TH CONGRESS
1ST SESSION

H. R. 517

A BILL

To authorize the designation of retired Justices
for service on the Supreme Court of the
United States when necessary to obtain a
quorum, and for other purposes.

By Mr. KEFAUVER

JANUARY 6, 1947

Referred to the Committee on the Judiciary

80TH CONGRESS
1ST SESSION

H. J. RES. 105

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1947

Mr. SMITH of Wisconsin introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution relating to the terms of office of judges of the Supreme Court of the United States and inferior courts.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled (two-*
3 *thirds of each House concurring therein), That the following*
4 article is proposed as an amendment to the Constitution of
5 the United States, which shall be valid to all intents and
6 purposes as part of the Constitution when ratified by the
7 legislatures of three-fourths of the several States:

8 “ARTICLE III

9 “SECTION 1. The judicial power of the United States
10 shall be vested in one supreme court and in such inferior

1 courts as the Congress may from time to time ordain and
2 establish. The judges, both of the supreme and inferior
3 courts, shall be appointed for a term of ten years. The
4 judges shall at stated times receive for their services a com-
5 pensation which shall not be diminished during their con-
6 tinuance in office.

7 "SEC. 2. The term of each judge holding office on the
8 date of ratification of this article shall expire December 31,
9 1948, or ten years after the date of his taking the oath of
10 office, whichever date is the later.

11 "SEC. 3. Sections 1 and 2 of this article shall not
12 affect the term of any judge retired prior to the date of
13 ratification of this article.

14 "SEC. 4. Section 1 of this article shall be in lieu of
15 section 1 of article III.

16 "SEC. 5. This article shall be inoperative unless it shall
17 have been ratified as an amendment to the Constitution
18 by the legislatures of three-fourths of the several States
19 within seven years from the date of its submission."

80TH CONGRESS
1ST SESSION

H. J. RES. 105

JOINT RESOLUTION

Proposing an amendment to the Constitution
relating to the terms of office of judges of
the Supreme Court of the United States and
inferior courts.

By Mr. SMITH of Wisconsin

FEBRUARY 3, 1947

Referred to the Committee on the Judiciary

81ST CONGRESS
1ST SESSION

S. 1999

IN THE SENATE OF THE UNITED STATES

JUNE 6 (legislative day, JUNE 2), 1949

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

A BILL

Relating to the policing of the building and grounds of the Supreme Court of the United States.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Marshal of the Supreme Court of the United States,
4 under the general supervision and direction of the Chief
5 Justice of the United States, may designate employees of
6 the Supreme Court as special policemen, without additional
7 compensation, for duty in connection with the policing of the
8 Supreme Court Building and grounds and adjacent streets.
- 9 SEC. 2. Public travel in and occupancy of the Supreme
10 Court grounds is hereby restricted to the sidewalks and
11 other paved surfaces.

1 SEC. 3. It shall be unlawful to offer or expose any article
2 for sale in the Supreme Court Building or grounds; to dis-
3 play any sign, placard, or other form of advertisement
4 therein; or to solicit fares, alms, subscriptions, or contri-
5 butions therein.

6 SEC. 4. It shall be unlawful to step or climb upon,
7 remove, or in any way injure any statue, seat, wall, fountain,
8 or other erection or architectural feature, or any tree, shrub,
9 plant, or turf in the Supreme Court Building or grounds.

10 SEC. 5. It shall be unlawful to discharge any firearm,
11 firework or explosive, set fire to any combustible, make any
12 harangue or oration, or utter loud, threatening, or abusive
13 language in the Supreme Court Building or grounds.

14 SEC. 6. It shall be unlawful to parade, stand, or move in
15 processions or assemblies in the Supreme Court Building or
16 grounds, or to display therein any flag, banner, or device
17 designed or adapted to bring into public notice any party,
18 organization, or movement.

19 SEC. 7. (a) In addition to the restrictions and require-
20 ments specified in sections 2 to 6, inclusive, of this Act, the
21 Marshal of the Supreme Court may prescribe such regula-
22 tions, approved by the Chief Justice of the United States,
23 as may be deemed necessary for the adequate protection
24 of the Supreme Court Building and grounds and of persons
25 and property therein, and for the maintenance of suitable

1 order and decorum within the Supreme Court Building and
2 grounds.

3 (b) All regulations promulgated under the authority of
4 this section shall be printed in one or more of the daily news-
5 papers published in the District of Columbia, and shall not
6 become effective until the expiration of ten days after the
7 date of such publication.

8 SEC. 8. Whoever violates any provision of sections 2 to
9 6, inclusive, of this Act, or of any regulation prescribed under
10 section 7 of this Act, shall be fined not more than \$100 or
11 imprisoned not more than sixty days, or both, prosecution
12 for such offenses to be had in the municipal court for the
13 District of Columbia, upon information by the United States
14 attorney or any of his assistants: *Provided*, That in any case
15 where, in the commission of any such offense, public prop-
16 erty is damaged in an amount exceeding \$100, the period
17 of imprisonment for the offense may be not more than five
18 years.

19 SEC. 9. The special police provided for in section 1 of
20 this Act shall have the power, within the Supreme Court
21 Building and grounds and adjacent streets, to enforce and
22 make arrests for violations of any provision of sections 2 to 6,
23 inclusive, of this Act, of any regulation prescribed under
24 section 7 of this Act, or of any law of the United States or of
25 any State or any regulation promulgated pursuant thereto:

1 *Provided*, That the Metropolitan Police force of the District
2 of Columbia are hereby authorized to make arrests within
3 the Supreme Court Building and grounds for any violations
4 of any such laws or regulations, but such authority shall not
5 be construed as authorizing the Metropolitan Police force,
6 except with the consent or upon the request of the Marshal
7 of the Supreme Court or his assistants, to enter the Supreme
8 Court Building to make arrests in response to complaints or
9 to serve warrants or to patrol the Supreme Court Building
10 or grounds.

11 SEC. 10. In order to permit the observance of authorized
12 ceremonies within the Supreme Court Building and grounds,
13 the Marshal of the Supreme Court of the United States may
14 suspend for such occasions so much of the prohibitions con-
15 tained in sections 2 to 6, inclusive, of this Act as may be
16 necessary for the occasion, but only if responsible officers
17 shall have been appointed, and arrangements determined
18 which are adequate, in the judgment of the marshal, for the
19 maintenance of suitable order and decorum in the proceed-
20 ings, and for the protection of the Supreme Court Building
21 and grounds and of persons and property therein.

22 SEC. 11. For the purposes of this Act the Supreme Court
23 grounds shall be held to extend to the line of the face of the
24 east curb of First Street Northeast, between Maryland Ave-
25 nue Northeast, and East Capitol Street; to the line of the

1 face of the south curb of Maryland Avenue Northeast, be-
2 tween First Street Northeast, and Second Street Northeast;
3 to the line of the face of the west curb of Second Street
4 Northeast, between Maryland Avenue Northeast, and East
5 Capitol Street; and to the line of the face of the north curb
6 of East Capitol Street between First Street Northeast and
7 Second Street Northeast.

81st CONGRESS
1st Session

S. 1999

A BILL

Relating to the policing of the building and
grounds of the Supreme Court of the United
States.

By Mr. McCARRAN

JUNE 6 (legislative day, JUNE 2), 1949
Read twice and referred to the Committee on the
Judiciary

81st CONGRESS
1ST SESSION

H. R. 4948

IN THE HOUSE OF REPRESENTATIVES

JUNE 1, 1949

Mr. CELLER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

Relating to the policing of the building and grounds of the Supreme Court of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Marshal of the Supreme Court of the United States,
4 under the general supervision and direction of the Chief
5 Justice of the United States, may designate employees of
6 the Supreme Court as special policemen, without additional
7 compensation, for duty in connection with the policing of
8 the Supreme Court Building and grounds and adjacent
9 streets.

10 SEC. 2. Public travel in and occupancy of the Supreme
11 Court grounds is hereby restricted to the sidewalks and other
12 paved surfaces.

1 SEC. 3. It shall be unlawful to offer or expose any
2 article for sale in the Supreme Court Building or grounds;
3 to display any sign, placard, or other form of advertisement
4 therein; or to solicit fares, alms, subscriptions, or contributions
5 therein.

6 SEC. 4. It shall be unlawful to step or climb upon,
7 remove, or in any way injure any statue, seat, wall, foun-
8 tain, or other erection or architectural feature, or any tree,
9 shrub, plant, or turf in the Supreme Court Building or
10 grounds.

11 SEC. 5. It shall be unlawful to discharge any firearm,
12 firework or explosive, set fire to any combustible, make any
13 harangue or oration, or utter loud, threatening, or abusive
14 language in the Supreme Court Building or grounds.

15 SEC. 6. It shall be unlawful to parade, stand, or move in
16 processions or assemblages in the Supreme Court Building or
17 grounds, or to display therein any flag, banner, or device
18 designed or adapted to bring into public notice any party,
19 organization, or movement.

20 SEC. 7. (a) In addition to the restrictions and require-
21 ments specified in sections 2 to 6, inclusive, of this Act, the
22 Marshal of the Supreme Court may prescribe such regulations,
23 approved by the Chief Justice of the United States, as may be
24 deemed necessary for the adequate protection of the Supreme
25 Court Building and grounds and of persons and property

1 therein, and for the maintenance of suitable order and deco-
2 rum within the Supreme Court Building and grounds.

3 (b) All regulations promulgated under the authority of
4 this section shall be printed in one or more of the daily news-
5 papers published in the District of Columbia, and shall not
6 become effective until the expiration of ten days after the
7 date of such publication.

8 SEC. 8. Whoever violates any provision of sections 2
9 to 6, inclusive, of this Act, or of any regulation prescribed
10 under section 7 of this Act, shall be fined not more than
11 \$100 or imprisoned not more than sixty days, or both,
12 prosecution for such offenses to be had in the municipal
13 court for the District of Columbia, upon information by the
14 United States Attorney or any of his assistants: *Provided*,
15 That in any case where, in the commission of any such
16 offense, public property is damaged in an amount exceeding
17 \$100, the period of imprisonment for the offense may be
18 not more than five years.

19 SEC. 9. The special police provided for in section 1 of
20 this Act shall have the power, within the Supreme Court
21 Building and grounds and adjacent streets, to enforce and
22 make arrests for violations of any provision of sections 2
23 to 6, inclusive, of this Act, of any regulation prescribed
24 under section 7 of this Act, or of any law of the United
25 States or of any State or any regulation promulgated pur-

1 suant thereto: *Provided*, That the Metropolitan Police force
2 of the District of Columbia are hereby authorized to make
3 arrests within the Supreme Court Building and grounds for
4 any violations of any such laws or regulations, but such
5 authority shall not be construed as authorizing the Metro-
6 politan Police force, except with the consent or upon the
7 request of the Marshal of the Supreme Court or his assist-
8 ants, to enter the Supreme Court Building to make arrests in
9 response to complaints or to serve warrants or to patrol
10 the Supreme Court Building or grounds.

11 SEC. 10. In order to permit the observance of authorized
12 ceremonies within the Supreme Court Building and grounds,
13 the Marshal of the Supreme Court of the United States may
14 suspend for such occasions so much of the prohibitions con-
15 tained in sections 2 to 6, inclusive, of this Act as may be
16 necessary for the occasion, but only if responsible officers
17 shall have been appointed, and arrangements determined
18 which are adequate, in the judgment of the Marshal, for the
19 maintenance of suitable order and decorum in the proceed-
20 ings, and for the protection of the Supreme Court Building
21 and grounds and of persons and property therein.

22 SEC. 11. For the purposes of this Act the Supreme Court
23 grounds shall be held to extend to the line of the face of
24 the east curb of First Street Northeast, between Maryland
25 Avenue Northeast and East Capitol Street; to the line of the

1 face of the south curb of Maryland Avenue Northeast, be-
2 tween First Street Northeast and Second Street Northeast;
3 to the line of the face of the west curb of Second Street
4 Northeast, between Maryland Avenue Northeast and East
5 Capitol Street; and to the line of the face of the north curb
6 of East Capitol Street between First Street Northeast and
7 Second Street Northeast.

81st CONGRESS
1st Session

H. R. 4948

A BILL

Relating to the policing of the building and
grounds of the Supreme Court of the United
States.

By Mr. CELLER

JUNE 1, 1949

Referred to the Committee on the Judiciary

CHET HOLIFIELD
19TH DISTRICT, CALIFORNIA

COMMITTEES:
EXPENDITURES IN THE EXECUTIVE DEPARTMENTS
CHAIRMAN, SUBCOMMITTEE ON EXECUTIVE AND LEGISLATIVE REORGANIZATION
JOINT COMMITTEE ON ATOMIC ENERGY

WASHINGTON OFFICE:
1006 HOUSE OFFICE BUILDING

Congress of the United States
House of Representatives
Washington, D. C.

February 21, 1950

Chief Justice Fred M. Vinson
Supreme Court of the United States,
Washington 25, D. C.

Dear Mr. Chief Justice:

I wish to call to your personal attention the enclosed Resolution which I introduced in the House of Representatives on February 20, 1950.

I do this because the Resolution designates you, in your capacity as President of the Senate, to appoint one of the seven members of the Commission, which the Resolution seeks to create.

As a former Member of the House Military Affairs Committee, and as a Member of the Joint Committee on Atomic Energy for the past four years, I am deeply concerned with defense matters. This particular Resolution, which I introduced, concerns one of the key factors in our national defense, i.e., the continuity of operations in the vital departments of government now concentrated in Washington.

As a Federal Representative, I would feel remiss in my duties if I did not in all seriousness seek to guard against the paralysis of government operations, which would insue in the case of a successful atomic attack on our Capitol.

I know that you share with me this grave concern, and I trust that you will approve of the purpose of my Resolution.

Should my Resolution be enacted into law, I wish to express my personal confidence in the appointment you will make of one of the Supreme Court Justices to serve on the Commission.

Sincerely yours,

Chet Holifield

CHET HOLIFIELD, M. C.

CH:f
Enclosure/1 H.J.Res.149

HAROLD W. LANE
FIELD REPRESENTATIVE
FLORENCE M. ODEMAR
SECRETARY
5180 WHITTIER BOULEVARD
LOS ANGELES 22, CALIFORNIA
PHONE: ANGULUS 24850

WASHINGTON OFFICE:
BETTY H. FELDMANN

RECEIVED
FEB 23 10 07 AM '50
CHAMBERS OF THE
CHIEF JUSTICE

*5 sec. Acc
1-(3)*

81ST CONGRESS
2D SESSION

H. J. RES. 419

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 20, 1950

Mr. HOLIFIELD introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Creating a commission to investigate the measures which can be taken to ensure the continuous operation of the Government of the United States in the event of attack by a foreign power.

Whereas the development of atomic weapons has reached the point where large cities and their inhabitants can be destroyed by a single explosion; and

Whereas an atomic explosion in or near the city of Washington could paralyze the functioning of the executive, legislative, and judicial branches of the Government of the United States; and

Whereas it is appropriate that timely measures be taken to protect the people of the United States and to ensure the continuity of their Government in the event of atomic attack by a foreign power: Now, therefore, be it

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That there is hereby created a commission to be composed
4 of seven members as follows:

5 (1) One appointed from the Senate by the Presi-
6 dent of the Senate;

7 (2) One appointed from the House of Representa-
8 tives by the Speaker of the House;

9 (3) One appointed from the Supreme Court of
10 the United States by the Chief Justice of the United
11 States;

12 (4) Three appointed by the President of the United
13 States, one from the National Security Council, one
14 from the National Security Resources Board, and one
15 from the Atomic Energy Commission; and

16 (5) The Secretary of Defense, who shall serve as
17 chairman of the commission.

18 ~~SEC. 2. (a)~~ The commission shall investigate and study
19 the feasibility of establishing an alternate seat for the Gov-
20 ernment of the United States, to be used in the event of
21 attack by a foreign power. The commission shall consider
22 particularly (1) possible sites for such alternate seat of
23 government which would be secure against attack by a
24 foreign power, (2) the buildings which would have to
25 be constructed on or under any such site, and the facilities

1 which would be required in connection therewith, to ensure
2 the efficient and continuous operation of the Government,
3 and (3) the extent to which duplicate copies of documents
4 and records would have to be made available at any such
5 site to ensure the efficient and continuous operation of the
6 Government.

7 (b) The commission shall also investigate and study
8 the various procedures which might be followed in select-
9 ing the successor of any President, Vice President, or Mem-
10 ber of Congress who becomes unable to perform his duties
11 as the result of attack by a foreign power.

12 SEC. 3. The commission shall report its findings and
13 recommendations to the President and to the Congress, to-
14 gether with such proposals for amendments to the Constitu-
15 tion of the United States as may be required by such find-
16 ings and recommendations, on or before January 31, 1951.

17 SEC. 4. The commission, or any member designated by
18 the commission, may, in carrying out the purposes of this
19 resolution, hold such hearings and sit and act at such times
20 and places, and take such testimony, as the commission or
21 such member may deem advisable. Any member of the
22 commission may administer oaths or affirmations to witnesses
23 appearing before the commission or before such member.

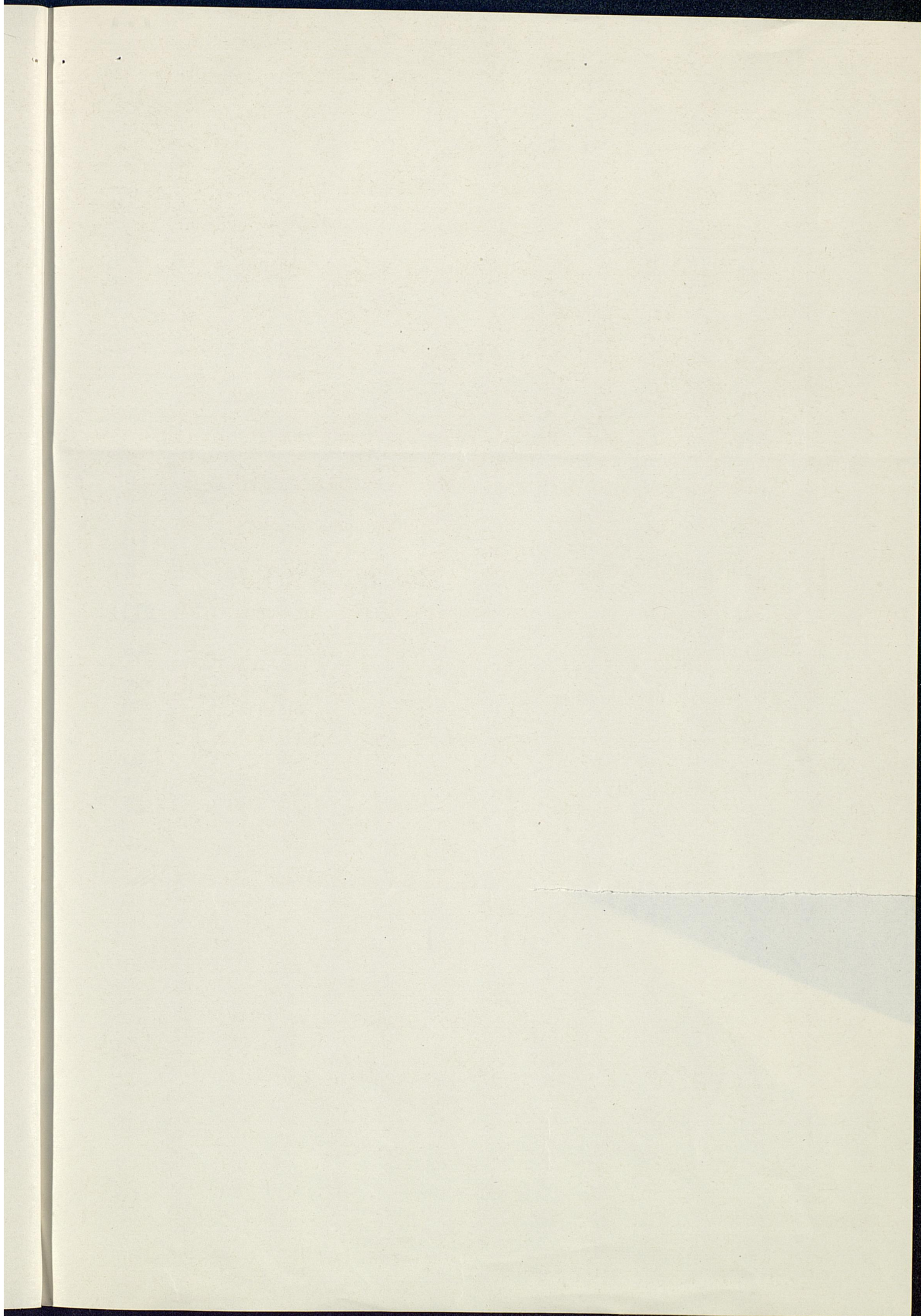
24 SEC. 5. The commission may, without regard to the
25 civil-service laws or the Classification Act of 1949, appoint

1 and fix the compensation of such experts, consultants, tech-
 2 nicians, and clerical and stenographic assistance as it deems
 3 necessary to carry out the purposes of this resolution.

4 SEC. 6. Each department and agency of the United
 5 States shall, upon request made by the chairman of the
 6 commission, furnish to the commission such services, infor-
 7 mation, facilities, and personnel as may be necessary to carry
 8 out the purposes of this resolution.

9 SEC. 7. Each member of the commission shall be reim-
 10 bursed for travel, subsistence, and other necessary expenses
 11 incurred by him in carrying out the functions of the
 12 commission.

13 SEC. 8. There are hereby authorized to be appropriated
 14 such sums as may be necessary to carry out the purposes of
 15 this resolution.



81st CONGRESS
2d Session

H. J. RES. 419

JOINT RESOLUTION

Creating a commission to investigate the measures which can be taken to ensure the continuous operation of the Government of the United States in the event of attack by a foreign power.

By Mr. HOLIFIELD

FEBRUARY 20, 1950

Referred to the Committee on the Judiciary

March 2, 1950

Honorable Chet Holifield,
Member of Congress,
Washington, D.C.

Dear Mr. Congressman:

I beg to acknowledge receipt of your letter of
February 21st, with which you transmitted copy of
H.J. Res. 419, which you introduced in the House of Rep-
resentatives on February 20th.

With kind regards,

Sincerely,

(Signed) Fred M. Vinson

5-12
JWH

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

SUPREME COURT BUILDING
WASHINGTON 13, D. C.

HENRY P. CHANDLER
DIRECTOR

ELMORE WHITEHURST
ASSISTANT DIRECTOR

March 13, 1951

Dear Mr. Chief Justice:

I have received inquiries from Congressman Celler, Chairman of the Committee on the Judiciary of the House, concerning two more bills which relate entirely to the Supreme Court and so are outside of my province. These are a bill to amend Title 28 of the United States Code so as to authorize the Chief Justice to "assign circuit judges to sit upon the Supreme Court in the place of any Justice who is unable to serve" (H.R. 2393), and a bill to require that cases in which the Supreme Court has original jurisdiction be decided by the affirmative vote of at least five members of the Court (H.R. 2424). I enclose copies of both bills.

I am writing to Congressman Celler in reference to each bill that inasmuch as it pertains to the Supreme Court it is outside of my province, but that I am bringing it to your attention for such consideration as may be deemed advisable.

In the case of the first bill (H.R. 2393) I have received a letter from Congressman Bryson, Chairman of Subcommittee No. 3 of the Committee on the Judiciary to which the bill has been referred, saying that Wednesday, April 4, 1951, has been set for a public hearing on the measure. Representative Bryson adds that "I of course hope that your office will provide a witness for

-2-

hearing." I am writing him also that inasmuch as the measure pertains to the Supreme Court it is outside my province but that I am bringing the bill and the coming hearing to your notice. I am saying that on account of the subject matter the Administrative Office cannot well participate in the hearing.

Sincerely yours,

Henry B. Chandler

Honorable Fred M. Vinson,
Chief Justice of the United States,
Washington, D. C.

Enc.

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

SUPREME COURT BUILDING
WASHINGTON 13, D. C.

HENRY P. CHANDLER
DIRECTOR

ELMORE WHITEHURST
ASSISTANT DIRECTOR

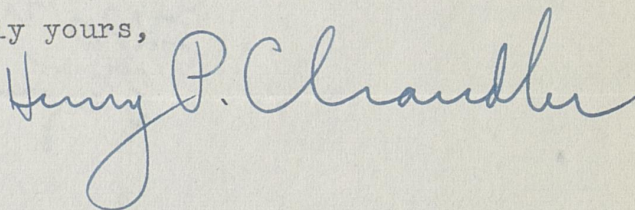
March 29, 1951

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MAR 30 3 13 PM '51
CHAMBERS OF THE
CHIEF JUSTICE

Dear Mr. Chief Justice:

Since I wrote you on March 13th calling attention to two bills, one of which (H.R. 2424) would provide that in any case in which the Supreme Court has original jurisdiction no order should be entered (other than an order dismissing the case) unless approved by five members of the Supreme Court, another bill prescribing the requisites for a quorum of the Court and providing under specified conditions for the designation by the Chief Justice of circuit judges to sit temporarily on the Supreme Court has been introduced (H.R. 3251), and I enclose a copy for your information.

Sincerely yours,

File


Honorable Fred M. Vinson,
Chief Justice of the United States,
Washington, D. C.

Enc.

Supreme Court of the United States
Washington 13, D. C.

CHAMBERS OF
THE CHIEF JUSTICE

April 27, 1953

Honorable Chauncey W. Reed,
Chairman,
Committee on the Judiciary,
House of Representatives,
Washington, D. C.

Dear Mr. Reed:

I am replying to your letter of April 17th in which you ask for an expression of opinion on H. R. 1067 - "A Bill to authorize the Supreme Court of the United States to make and publish rules for procedure on review of decisions of The Tax Court of the United States."

The Court considered this bill in its last weekly conference.

Section 2071 of the Judicial Code now provides each Court of Appeals with the power to promulgate ~~its own~~ rules of procedure governing review of cases pending in the court. ~~*In an effort to insure uniformity and the wisest possible use of this rule-making power, Any proposed changes in the rules of procedure of any court of appeals dealing with the review of decisions of federal tribunals, such as the Tax Court, are now submitted to the Judicial Conference of the United States.~~

The Judicial Conference, established by § 331 of the Judicial Code, is especially designed to consider matters of this nature and initiate action in this field. The Judicial Conference provides the means whereby the experience and views of all the courts of appeals may be brought to bear on particular problems of procedure common to those courts, and it provides the means whereby all the courts of appeals may act jointly to establish uniform practices in the conduct of their business.

The Court is of the opinion that the rule-making power now invested in the courts of appeals, when used in conjunction with the Judicial Conference of the United States, is adequate to establish procedures governing review, in the courts of appeals, of decisions of the Tax Court of the United States. The Court feels that it should not be called upon to act in this rule-making field because these existing procedures provide a method better

(not inconsistent with Acts of Congress or Rules prescribed by this Court)

Significant note

82D CONGRESS
1ST SESSION

H. R. 2393

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 1951

Mr. CELLER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28 of the United States Code to authorize the Chief Justice of the United States to assign circuit judges to sit upon the Supreme Court in the place of any Justice who is unable to serve.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That section 291 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

“(d) The Chief Justice of the United States may designate and assign temporarily any circuit judge to sit upon the Supreme Court in the place of any Justice of the United States who has disqualified himself or is otherwise unable to serve.”

1 SEC. 2. Section 296 of title 28 of the United States Code
2 is amended to read as follows:

3 “§ 296. Powers upon designation and assignment

4 “A justice or judge shall discharge, during the period
5 of his designation and assignment, all judicial duties for which
6 he is designated and assigned. He may be required to per-
7 form any duty which might be required of a justice or judge
8 of the court or district or circuit to which he is designated and
9 assigned.

10 “Such justice or judge shall have all the powers of a justice
11 or judge of the court, circuit or district to which he is desig-
12 nated and assigned, except the power to appoint any person
13 to a statutory position or to designate permanently a deposi-
14 tory of funds or a newspaper for publication of legal notices.

15 “A justice or judge who has sat by designation and
16 assignment in another district or circuit, or upon the Supreme
17 Court, may, notwithstanding his absence from such district
18 or circuit or the expiration of the period of his designation
19 and assignment, decide or join in the decision and final dis-
20 position of all matters submitted to him during such period
21 and in the consideration and disposition of applications for
22 rehearing or further proceedings in such matters.”

82^d CONGRESS
1ST SESSION

H. R. 2393

A BILL

To amend title 28 of the United States Code to authorize the Chief Justice of the United States to assign circuit judges to sit upon the Supreme Court in the place of any Justice who is unable to serve.

By Mr. CELLER

FEBRUARY 5, 1951

Referred to the Committee on the Judiciary

82D CONGRESS
1ST SESSION

H. R. 2424

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 1951

Mr. WILSON of Texas introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To require that cases in which the Supreme Court has original jurisdiction be decided by the affirmative vote of at least five members of the Court.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 1 of title 28 of the United States Code is hereby
4 amended to read as follows:

5 “§ 1. Number of Justices; quorum.

6 “The Supreme Court of the United States shall consist
7 of a Chief Justice of the United States and eight Associate
8 Justices. Any six members of the Supreme Court shall
9 constitute a quorum, except that in any case in which the
10 Supreme Court has original jurisdiction no order (other than

- 1 an order dismissing the case) shall be entered unless ap-
 2 proved by at least five members of the Supreme Court."

82ND CONGRESS
 1ST SESSION

H. R. 2424

A BILL

To require that cases in which the Supreme Court has original jurisdiction be decided by the affirmative vote of at least five members of the Court.

By Mr. WILSON of Texas

FEBRUARY 6, 1951

Referred to the Committee on the Judiciary

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CHAMBERS OF THE
 CHIEF JUSTICE

82D CONGRESS
1ST SESSION

H. R. 3251

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 1951

Mr. ROGERS of Texas introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To amend title 28 of the United States Code to require that all decisions of the Supreme Court shall be participated in by the full Court, and that any vacancies or absences in the membership of the Court shall be temporarily filled by circuit judges.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 1 of title 28 of the United States Code is
4 amended to read as follows:

5 “§ 1. Number of Justices; quorum

6 “The Supreme Court of the United States shall consist
7 of a Chief Justice of the United States and eight Associate
8 Justices.

1 “For the purposes of each stage in the decision of a
2 case or controversy before the Supreme Court of the United
3 States, a quorum of the Court shall consist of the Justices
4 of the United States who are able to participate and a circuit
5 judge for each Justice of the United States who is unable to
6 participate and for each vacancy on the Court. Six Justices
7 of the United States shall constitute a quorum for the pur-
8 poses of any other action by the Court.”

9 SEC. 2. Section 291 of title 28 of the United States
10 Code is amended by adding at the end thereof the following
11 new subsection:

12 “(d) Where fewer than nine Justices of the United
13 States are able to participate in any stage of the decision of
14 a case or controversy before the Supreme Court, the Chief
15 Justice of the United States shall, with the approval of a
16 majority of the Associate Justices who are able to partici-
17 pate, designate and assign temporarily a sufficient number
18 of circuit judges to sit upon the Supreme Court to secure
19 a quorum for that Court.”

20 SEC. 3. Section 296 of title 28 of the United States
21 Code is amended to read as follows:

22 “§ 296. Powers upon designation and assignment

23 “A justice or judge shall discharge, during the period
24 of his designation and assignment, all judicial duties for
25 which he is designated and assigned. He may be required

1 to perform any duty which might be required of a justice
2 or judge of the court or district or circuit to which he is
3 designated and assigned.

4 "Such justice or judge shall have all the powers of a
5 justice or judge of the court, circuit or district to which he
6 is designated and assigned, except the power to appoint any
7 person to a statutory position or to designate permanently
8 a depository of funds or a newspaper for publication of legal
9 notices.

10 "A justice or judge who has sat by designation and
11 assignment in another district or circuit, or upon the Supreme
12 Court, may, notwithstanding his absence from such district
13 or circuit or the expiration of the period of his designation
14 and assignment, decide or join in the decision and final
15 disposition of all matters submitted to him during such period
16 and in the consideration and disposition of applications for
17 rehearing or further proceedings in such matters."

18 SEC. 4. Section 2109 of title 28 of the United States
19 Code is repealed.

82ND CONGRESS
1ST SESSION

H. R. 3251

A BILL

To amend title 28 of the United States Code to require that all decisions of the Supreme Court shall be participated in by the full Court, and that any vacancies or absences in the membership of the Court shall be temporarily filled by circuit judges.

By Mr. ROGERS of Texas

MARCH 15, 1951

Referred to the Committee on the Judiciary

- 2 -

adapted to determine the needs, based upon experience, of the various courts of appeals, as well as a method designed to insure uniformity in their rules.

Sincerely yours,

26 USC

Decisions —

2071

Emergency Ct of Appeals Act

~~This~~
* In addition to this general rule making power, the Courts of Appeals are specifically authorized, by 26 U.S.C. § 1191(c)(2) to ^{adopt} ~~make~~ rules for the filing of petitions ^{and} records and for the conduct of proceedings to review decisions of the Tax Court. Thus ~~it is the normal practice~~ Pursuant to these ~~grants~~ ^{have traditionally} Courts of Appeals ~~to review~~ promulgated ^{of procedure,} the ^{before} rules governing review ~~of~~ cases ~~is~~ ^{the} ~~there~~ ^{proceedings to review decisions of} them, ^{and cases coming from the Tax} ~~counts,~~ ^{to this practice,} Court constitute no exceptions ~~to this~~ ~~practice.~~

It might be noted
~~Although~~^{Although}
~~that~~^{that} Moreover the Courts of appeals ~~are~~
~~authorized to~~^{now} regularly adopted rules of procedure
governing review of the cases coming from

~~after~~ Federal administrative tribunals,
it may be of interest to note that,
The United States Code, 5 U.S.C. § 1041,
specifically ^{several} provides that the Courts of appeals
with authority to promulgate rules
governing the practice and procedure
in proceedings to review cases coming
from certain named agencies ^{and executive departments} (The
Federal Communications Commission, ^{the Secretary of Agriculture} the
Maritime Commission, the Maritime Board and
the Maritime Administration) and provides
further that these rules must be

"approved" by the Judicial Conference of the United States.

This Court is of the opinion that the rule-making power now invested in the courts of appeals is adequate to establish procedures governing review of decisions of the Tax Court.

The Court feels that it should not be called upon to act in this rule making field which has ^{regularly} traditionally been left to the courts of appeals; ^{for} and these courts are better adapted to ^{upon the basis of actual experience} better determine ^{which} ~~which can be more easily~~ the ~~problems~~ ^{particular procedural problems} based ^{actual} upon experience, in this field, and to fashion rules designed to ~~fit those needs~~ meet those problems.

am replying
I ~~have the honor to reply~~ to your letter of April 17th in which you ask for an expression of opinion on H.R. 1067, "A Bill to Authorize the Supreme Court of the United States to make and publish Rules for Procedure on review of decisions of The Tax Court of the United States."

The Court ~~has~~ considered this bill in its ^{last} ~~weekly~~ conference.

Section 2071 of the Judicial Code now provides each Court of Appeals with the power to promulgate its own rules of procedure governing review of cases pending in the court. In an effort to insure uniformity and the wisest possible ^{use} ~~exercise~~ of this rule-making power, ^{all} ~~any~~ proposed changes in the rules of procedure of ^{the} ~~a~~ Court of Appeals are now submitted to the Judicial Conference of the United States.

dealing with the review of decisions of federal courts
The Judicial Conference, is established by § 331 of the Judicial Code, ^{and is especially designed} ~~and~~ ^{and initiate action in this field.} ~~is~~ designed to consider matters of this nature. ^{It provides the means} ~~whereby~~ the experience and views of all the Courts of Appeals may be brought to bear on particular problems of procedure ^{common to these courts} ~~in the Courts of~~ Appeals, and it provides the means whereby all the Courts of Appeals may act jointly to establish uniform practices in the conduct of their business.

The Court is of the opinion that the rule making power now invested in the Courts of Appeals, ~~where~~ used in conjunction with the Judicial Conference of the United States, is adequate to establish procedures governing review, in the Courts of Appeals, of decisions of the Tax Court of the United States. The Court feels that it should not be called upon to act in this rule making field because these existing procedures provide a method better adapted to determine the needs, based upon experience, of the various Courts of Appeals, as well as a method designed to insure uniformity among ~~the circuits~~ ^{in their rules.}

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

SUPREME COURT BUILDING
WASHINGTON 13, D. C.

HENRY P. CHANDLER
DIRECTOR

ELMORE WHITEHURST
ASSISTANT DIRECTOR

July 3, 1952

File
TS
July 5th -
C.J. noted - Indicated
Mr. Chandler's proposed
letter to Cong. Celler
OK--Informed Mr. Chandler
July 8th -

Dear Mr. Chief Justice:

K-

On July 2, 1952 Congressman Celler for the House Committee on the Judiciary sent to me a request in the usual form for an expression of my views on a bill "to authorize the Supreme Court of the United States to make and publish rules for procedure on review of decisions of The Tax Court of the United States" (H.R. 7870). He sent a similar request concerning a bill which appears to be identical, H.R. 7948. Copies of both bills are attached. It seems to me that inasmuch as the bills relate to the rule-making power of the Supreme Court, the appropriate course for me would be to refer the request to you. If it meets your approval I will do so and answer Congressman Celler in reference to each bill as shown by the attached copy of a letter which I have drafted in relation to H.R. 7870. I shall appreciate your advice on this matter.

Sincerely yours,

Honorable Fred M. Vinson
Chief Justice of the United States
Washington, D. C.

Encs.

82D CONGRESS
2D SESSION

H. R. 7870

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 1952

Mr. REED of Illinois introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To authorize the Supreme Court of the United States to make and publish rules for procedure on review of decisions of The Tax Court of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That chapter 131 of title 28 of the United States Code be
4 amended by adding at the end thereof a new section, as
5 follows:

6 “§ 2074. Rules for review of decisions of The Tax Court
7 of the United States.

8 “The Supreme Court may prescribe, and from time
9 to time amend, uniform rules for filing petitions, prepara-
10 tion of records, and the practice, forms, and procedure in

1 the United States Court of Appeals in proceedings
2 for review of decisions of The Tax Court of the United
3 States.

4 "Such rules shall neither abridge nor enlarge the sub-
5 stantive rights of any litigant.

6 "Such rules shall not take effect until they have been
7 reported to Congress by the Chief Justice at the beginning
8 of a regular session thereof but not later than the first day
9 of May, and until the expiration of ninety days after they
10 have been thus reported."

11 SEC. 2. The chapter analysis of chapter 131 of title
12 28 of the United States Code immediately preceding section
13 2071 is amended by adding at the end thereof the following:

"2074. Rules for review of decisions of The Tax Court of the United
States."

82d CONGRESS
2d SESSION

H. R. 7870

A BILL

To authorize the Supreme Court of the United States to make and publish rules for procedure on review of decisions of The Tax Court of the United States.

By Mr. REED of Illinois

MAY 15, 1952

Referred to the Committee on the Judiciary

H. R. 7948

MAY 22, 1952

A BILL

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That chapter 131 of title 28 of the United States Code be
4 amended by adding at the end thereof a new section, as
5 follows:

8 “The Supreme Court may prescribe, and from time
9 to time amend, uniform rules for filing petitions, prepara-
10 tion of records, and the practice, forms, and procedure in

1 the United States Court of Appeals in proceedings for
2 review of decisions of The Tax Court of the United States.

3 "Such rules shall neither abridge nor enlarge the sub-
4 stantive rights of any litigant.

5 "Such rules shall not take effect until they have been
6 reported to Congress by the Chief Justice at the beginning
7 of a regular session thereof but not later than the first day
8 of May, and until the expiration of ninety days after they
9 have been thus reported."

10 SEC. 2. The chapter analysis of chapter 131 of title
11 28 of the United States Code immediately preceding section
12 2071 is amended by adding at the end thereof the following:

"2074. Rules for review of decisions of The Tax Court of the United
States."

82^D CONGRESS
2^D SESSION

H. R. 7948

A BILL

To authorize the Supreme Court of the United States to make and publish rules for procedure on review of decisions of The Tax Court of the United States.

By Mr. BRYSON

MAY 22, 1952

Referred to the Committee on the Judiciary

July 3, 1952

Dear Congressman Celler:

I have received your request of July 2, 1952 for an expression of my views concerning a bill "to authorize the Supreme Court of the United States to make and publish rules for procedure on review of decisions of The Tax Court of the United States." Inasmuch as the bill relates to the rule-making power of the Supreme Court and the Judicial Conference of the United States has kept out of that field, I am referring your request to the Chief Justice.

With kind regards, I am,

Sincerely yours,

Honorable Emanuel Celler
Chairman, Committee on the Judiciary
House of Representatives
Washington, D. C.

HPC:cl

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

SUPREME COURT BUILDING
WASHINGTON 13, D. C.

HENRY P. CHANDLER
DIRECTOR

ELMORE WHITEHURST
ASSISTANT DIRECTOR

July 10, 1952

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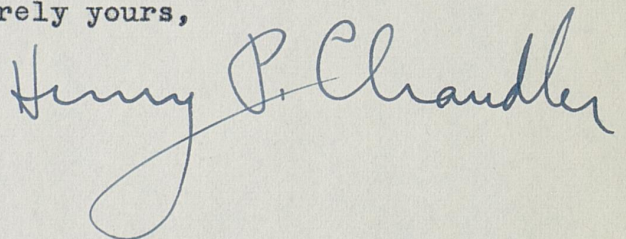
JUL 14 12 11 PM '52

CHAMBERS OF THE
CHIEF JUSTICE

Dear Mr. Chief Justice:

In accordance with information given to my office during my absence yesterday and the day before at the judicial conference of the Third Circuit in Atlantic City, that you approved the form of letter which I suggested sending to Congressman Celler in answer to a letter written by him to me requesting an expression of my views concerning two bills "to authorize the Supreme Court of the United States to make and publish rules for procedure on review of decisions of The Tax Court of the United States" (H.R. 7870 and 7948), I am transmitting to him today the original of that letter. In it I am saying that I am referring his request to you. Copies of the bills were given you with my letter of July 3rd.

Sincerely yours,



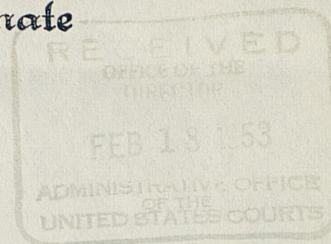
Honorable Fred M. Vinson
Chief Justice of the United States
Washington, D. C.

WILLIAM LANGER, N. DAK., CHAIRMAN
ALEXANDER WILEY, WIS.
WILLIAM E. JENNER, IND.
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WILLIS SMITH, N. C.
OLIN D. JOHNSTON, S. C.
THOMAS C. HENNINGS, JR., MO.

United States Senate

COMMITTEE ON THE JUDICIARY

February 13, 1953



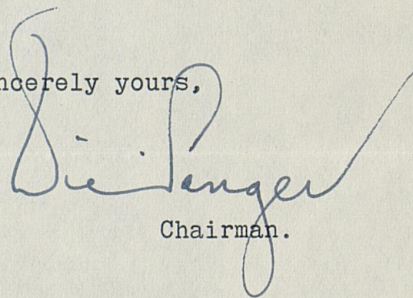
Honorable Henry P. Chandler
Director
Administrative Office of the United States Courts
Supreme Court Building
Washington, D. C.

My dear Mr. Chandler:

The Judiciary Committee is herewith transmitting
S. 856 for your study and report thereon
in triplicate.

To facilitate the work of the Committee, it is
urgently requested that your report be submitted
within 20 days. The Committee should be formally
advised in writing if any delay beyond this time
period is necessary.

Sincerely yours,


Chairman.

Enclosures

83rd CONGRESS
1ST SESSION

S. 856

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 1953

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

A BILL

To authorize the Supreme Court of the United States to make and publish rules for procedure on review of decisions of the Tax Court of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That chapter 131 of title 28 of the United States Code be
4 amended by adding at the end thereof a new section, as
5 follows:

6 “§ 2074. Rules for review of decisions of the Tax Court of
7 the United States

8 “The Supreme Court may prescribe, and from time to
9 time amend, uniform rules for filing petitions, preparation
10 of records, and the practice, forms, and procedure in the

1 United States Court of Appeals in proceedings for review
2 of decisions of the Tax Court of the United States.

3 "Such rules shall neither abridge nor enlarge the sub-
4 stantive rights of any litigant.

5 "Such rules shall not take effect until they have been
6 reported to Congress by the Chief Justice at the beginning
7 of a regular session thereof but not later than the first day
8 of May, and until the expiration of ninety days after they
9 have been thus reported."

10 SEC. 2. The chapter analysis of chapter 131 of title 28
11 of the United States Code immediately preceding section
12 2071 is amended by adding at the end thereof the following:

"2074. Rules for review of decisions of the Tax Court of the United
States."

2 822

A BILL

83d CONGRESS
1st Session

S. 856

A BILL

To authorize the Supreme Court of the United States to make and publish rules for procedure on review of decisions of the Tax Court of the United States.

By Mr. Langer

FEBRUARY 10, 1953

Read twice and referred to the Committee on the
Judiciary

- 2 -

procedure in criminal cases corresponding with the provisions cited above concerning rules in civil cases and in admiralty cases.

I am not in a position to express an opinion in regard to the pending bill inasmuch as it pertains to the rule-making power of the Supreme Court. Matters of that court do not come within the province of this office and the Judicial Conference of the United States under which I act does not deal with such matters. You may wish to inquire of the Chief Justice in reference to the position of the Supreme Court.

Sincerely yours,

Honorable William Langer
Chairman, Committee on the Judiciary
United States Senate
Washington, D. C.

HPG:cl

March 2, 1953

Dear Senator Langer:

The bill about which you inquired of me on February 13th (S. 856) would add to Chapter 131 of Title 28 of the United States Code which confers upon the Supreme Court by Section 2072 the power to prescribe civil rules for the district courts of the United States and by Section 2073 the power to prescribe rules for the district courts in admiralty and maritime cases, a new section to be numbered 2074 which would give to the Supreme Court a like power to prescribe rules of procedure for the review of decisions of the Tax Court by United States courts of appeals. The bill provides that the rules should neither abridge nor enlarge the substantive rights of any litigant. It further provides like the present provisions of the statute in reference to the rules of civil procedure and admiralty rules for the district courts that rules prescribed by the Supreme Court for review of decisions of the Tax Court of the United States should not take effect until they were reported to Congress by the Chief Justice at or after the beginning of a regular session but not later than the first day of May and until the expiration of ninety days after being thus reported.

Sections 3771 and 3772 of Title 18 of the United States Code give to the Supreme Court a power to prescribe rules of

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UNITED STATES COURTS

SUPREME COURT BUILDING
WASHINGTON 13, D. C.

HENRY P. CHANDLER
DIRECTOR

ELMORE WHITEHURST
ASSISTANT DIRECTOR

March 2, 1953

Dear Mr. Chief Justice:

I hand you with this a letter received from Senator Langer about a bill introduced in the Senate (S. 856) to authorize the Supreme Court to prescribe rules for procedure on review of decisions of the Tax Court of the United States and a copy of an answer which I have prepared. I shall be obliged if you will let me know if the answer is agreeable to you before I send it.

Sincerely yours,

Henry P. Chandler

*3/5/53. Informed Mr. Chandler
letter to Sen. Langer is okay with
C.J.*

Honorable Fred M. Vinson
Chief Justice of the United States
Washington, D. C.

Encs.

*noted
CG
7-3-53*

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

SUPREME COURT BUILDING
WASHINGTON 13, D. C.

HENRY P. CHANDLER
DIRECTOR

ELMORE WHITEHURST
ASSISTANT DIRECTOR

July 1, 1953

Dear Mr. Chief Justice:

I bring to your notice in case you have not seen it the enclosed bill which was introduced in the House of Representatives on June 19, 1953 which would amend Section 2101(f) of Title 28 of the United States Code (H.R. 5859). This would change the present provision that a stay of execution of a judgment in order to enable the aggrieved party to obtain a writ of certiorari from the Supreme Court, may be granted by a judge of the court rendering the judgment, or by a Justice of the Supreme Court by attaching a proviso that when the stay relates to a sentence of death it may be granted by the judge of the court rendering the judgment or by the concurrent action of three or more Justices of the Supreme Court, and that such concurrent action shall also be required in proceedings under Section 1651 of Title 28 when the stay relates to a sentence of death.

Sincerely yours,

Henry P. Chandler

Honorable Fred M. Vinson
Chief Justice of the United States
Washington, D. C.

Enc.

83^D CONGRESS
1ST SESSION

H. R. 5859

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 1953

Mr. CURTIS of Massachusetts introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend section 2101 (f), title 28, United States Code, so as to limit the power of Justices of the Supreme Court in granting stays of execution relating to sentences of death.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2101 (f), title 28, United States Code, is
4 amended by striking out the period at the end of the second
5 sentence and adding the following proviso: “: *Provided,*
6 That when the stay relates to a sentence of death such stay
7 may be granted by the judge of the court rendering the
8 judgment or by the concurrent action of three or more Jus-
9 tices of the Supreme Court and that such concurrent action
10 shall also be required in proceedings under section 1651 of
11 this title when the stay relates to a sentence of death”.

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CHAMBERS OF THE
CHIEF JUSTICE

83d CONGRESS
1st Session

H. R. 5859

A BILL

To amend section 2101 (f), title 28, United States Code, so as to limit the power of Justices of the Supreme Court in granting stays of execution relating to sentences of death.

By Mr. CURTIS of Massachusetts

JUNE 19, 1953

Referred to the Committee on the Judiciary

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

SUPREME COURT BUILDING
WASHINGTON 13, D. C.

HENRY P. CHANDLER
DIRECTOR

ELMORE WHITEHURST
ASSISTANT DIRECTOR

July 3, 1953

Dear Mr. Chief Justice:

I send you with this another bill to change the present provisions in reference to the issuance of writs by judges and by Justices of your Court (H.R. 5910). This you will see has been introduced by Congressman Chelf of your state.

Sincerely yours,

Henry P. Chandler

Honorable Fred M. Vinson
Chief Justice of the United States
Washington, D. C.

Enc.

83^D CONGRESS
1ST SESSION

H. R. 5910

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 1953

Mr. CHELF introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend sections 1651 (b) and 2101 (f) of title 28, United States Code.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That title 28, section 1651 (b), United States Code, is
4 amended to read as follows:

5 “(b) An alternative writ or rule nisi may be issued by
6 a justice or judge of any court which has jurisdiction, except
7 that where a matter has previously been before the Supreme
8 Court, the Chief Justice shall determine whether an appli-
9 cation for further action shall be considered by the full Court
10 or by at least three Members thereof.”

11 SEC. 2. The second sentence of section 2101 (f) of title

1 28, United States Code, is amended to read as follows: "The
2 stay may be granted by a judge of the court rendering the
3 judgment or decree or, except as provided in section 1651
4 (b) of this title, by a Justice of the Supreme Court, and may
5 be conditioned on the giving of security, approved by such
6 Judge or Justice, that if the aggrieved party fails to make
7 application for such writ within the period allotted therefor,
8 or fails to obtain an order granting his application, or fails
9 to make his plea good in the Supreme Court, he shall answer
10 for all damages and costs which the other party may sustain
11 by reason of the stay."

83^d CONGRESS
1ST SESSION

H. R. 5910

A BILL

To amend sections 1651 (b) and 2101 (f) of
title 28, United States Code.

By Mr. CHELF

JUNE 24, 1953

Referred to the Committee on the Judiciary

July 21, 1953

Dear Senator Langer:

The bill about which you have inquired of me on July 15, 1953 (S. 2373) would add a new section numbered 2256 to Title 28 of the United States Code concerning the stay of execution or sentence.

In reference to a conviction of a person affirmed by the highest court of a state it would provide in paragraph (a) that a stay in connection with any habeas corpus proceeding or other proceeding collaterally attacking the conviction should be granted only by the concurrent action of a majority of the circuit judges of the circuit concerned who are in active service, or by the concurrent action of a majority of the justices of the United States who are in active service. In reference to the conviction of a person obtained in a district court of the United States and affirmed by the Supreme Court or with respect to which the Supreme Court has denied certiorari it would provide in paragraph (b) that a stay in connection with a habeas corpus proceeding or other collateral proceeding attacking the proceeding should be granted only by the judge who presided at the trial in which the conviction was obtained, the concurrent action of a majority of the circuit judges of the circuit concerned who are in active service, or the concurrent action of a majority of the justices

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CHIEF JUSTICE
CHAMBERS OF THE

of the United States who are in active service. Paragraph (c) of the bill provides that nothing contained in the section shall limit the power of a justice of the United States or any circuit or district judge to stay the execution of a sentence of death in connection with any habeas corpus proceeding if it appears that the sentence will be carried out before the proceeding can be disposed of, and that such a stay is essential to a proper disposition of the proceeding.

The proposed conditions upon the grant of a stay by a circuit judge or a district judge have not been considered by the Judicial Conference of the United States and I am not therefore in a position to express an opinion concerning them. In so far as the bill relates to the grant of a stay by justices of the Supreme Court you might wish to inquire of the Chief Justice concerning his view of the matter.

Sincerely yours,

Honorable William Langer
Chairman, Committee on the Judiciary
United States Senate
Washington, D. C.

stay -
ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

Phoned Miss Cooper 7/21/53.
SUPREME COURT BUILDING
WASHINGTON 13, D. C.

HENRY P. CHANDLER
DIRECTOR

ELMORE WHITEHURST
ASSISTANT DIRECTOR

July 21, 1953

Dear Mr. Chief Justice:

I have received from Senator Langer, Chairman of the Senate Committee on the Judiciary, an inquiry concerning a bill introduced by Senator McCarran, a copy of which is attached (S. 2373). The bill prescribes certain conditions for the grant of a stay of execution or sentence in connection with a habeas corpus proceeding or other proceeding collaterally attacking the conviction of a person in a state court which has been affirmed by the highest court of the state, or the conviction of a person obtained in a district court of the United States, and affirmed by the Supreme Court or with respect to which the Supreme Court has denied certiorari.

I enclose a copy of a letter which I have drafted in answer to the inquiry but on which I should be glad to have your advice before I send it. You will notice that I say in substance that in so far as the bill relates to grants of stays by a district judge or circuit judge the matter has not been considered by the Judicial Conference and I am therefore not in a position to express an opinion in regard to it; that in so far as the bill relates to stays by justices of your Court, Senator Langer might wish to inquire of you concerning your opinion on the subject.

Sincerely yours,

Honorable Fred M. Vinson
Chief Justice of the United States
Washington, D. C.

Henry P. Chandler

Enc.

83^d CONGRESS
1ST SESSION

S. 2373

IN THE SENATE OF THE UNITED STATES

JULY 13 (legislative day, JULY 6), 1953

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

A BILL

To limit in certain cases the power of a single Justice or Judge of the United States to grant a stay of execution or sentence in connection with a habeas corpus proceeding or other proceeding collaterally attacking the conviction of any person.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the analysis of chapter 153 of title 28, United States
4 Code, is amended by inserting immediately after item 2255
5 the following new item:

"2256. Stay of execution or sentence."

6 SEC. 2. Title 28, United State Code, is further amended
7 by inserting immediately following section 2255 of such title
8 a new section as follows:

1 "§ 2256. Stay of execution or sentence

2 " (a) A stay of execution or sentence in connection with
3 any habeas corpus proceeding or other proceeding collaterally
4 attacking any conviction of a person which has been af-
5 firmed by the highest court of any State shall be granted
6 only by (1) the concurrent action of a majority of the
7 circuit judges of a circuit who are in active service, or (2)
8 the concurrent action of a majority of the justices of the
9 United States who are in active service.

10 " (b) A stay of execution or sentence in connection
11 with any habeas corpus proceeding or other proceeding
12 collaterally attacking any conviction of a person obtained in
13 a district court and affirmed by the Supreme Court, or with
14 respect to which the Supreme Court has denied certiorari,
15 shall be granted only by (1) the judge who presided at
16 the trial in which the conviction was obtained, or (2) the
17 concurrent action of a majority of the circuit judges of a
18 circuit who are in active service, or (3) the concurrent
19 action of a majority of the justices of the United States who
20 are in active service.

21 " (c) Nothing contained in this section shall limit the
22 power of any justice of the United States, or any circuit or

1 district judge, to stay the execution of a sentence of death
2 in connection with any habeas corpus proceeding if it appears
3 that such sentence will be carried out before such proceed-
4 ing can be disposed of, and that such stay is essential to a
5 proper disposition of such proceedings.”

83d CONGRESS
1st Session

S. 2373

A BILL

To limit in certain cases the power of a single Justice or Judge of the United States to grant a stay of execution or sentence in connection with a habeas corpus proceeding or other proceeding collaterally attacking the conviction of any person.

By Mr. McCARRAN

JULY 13 (legislative day, JULY 6), 1953

Read twice and referred to the Committee on the
Judiciary