

# Calendar No. 2178

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*2d Session* }

SENATE }

REPORT  
No. 2129

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## AUTHORIZING ABBREVIATED RECORDS IN REVIEWING ADMINISTRATIVE AGENCY PROCEEDINGS

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AUGUST 4, 1958.—Ordered to be printed

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Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

### REPORT

[To accompany H. R. 6788]

The Committee on the Judiciary, to which was referred the bill (H. R. 6788) to authorize the abbreviation of the record on the review or enforcement of orders of administrative agencies by the courts of appeals and the review or enforcement of such orders on the original papers and to make uniform the law relating to the record on review or enforcement of such orders, and for other purposes, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

### PURPOSE

The purpose of the proposed legislation is to save time and expense by permitting the several courts of appeals to adopt rules authorizing the abbreviation of the transcript and other parts of the record made before Federal administrative agencies when the orders of those agencies are to be reviewed by the courts of appeals. If review proceedings have been instituted in two or more courts with respect to the same order, the bill would require the Federal administrative agency involved to file the record in that court in which the proceeding was first instituted, but in the interest of justice and for the convenience of the parties, such court may thereafter transfer the proceedings to another court of appeals.

## STATEMENT

## 1. ORIGIN AND PRIOR CONSIDERATION

This proposal emanates from the Judicial Conference of the United States. It was submitted to the Congress after substantial consideration by the Committee on Revision of the Laws of the Judicial Conference and the Judicial Conference itself. After submission, it was the subject of a hearing before a subcommittee of the House Committee on the Judiciary on May 17, 1956, and subjected to agency comments. It was thereafter revised and reintroduced and again subjected to review by the administrative agencies. Following this, the Judiciary Committee after adopting several amendments, reported the bill to the House of Representatives, which later approved it.

The bill has been approved in principle by the American Bar Association, and it incorporates a recommendation of the President's Conference on Administrative Procedure. It likewise carries the approval of the Judicial Conference of the United States.

## 2. DISCUSSION AND SUMMARY

Most of the present statutes which provide for judicial review or enforcement by the courts of appeals of the orders of administrative agencies require that a transcript of the entire record of the proceedings before the agency be prepared by the agency and physically filed with the court. Such a requirement frequently operates to delay court proceedings and to impose upon the agency large and unnecessary expenditures of money and effort. In many types of cases the agency record involves persons other than the petitioner for review. The record may, therefore, be unnecessarily voluminous and much of it irrelevant to the review.

The object of the instant legislation is to eliminate the filing of the entire record except in those instances where it is required for an adequate determination or where the abbreviation of the record would prove more costly than the transmission of the entire record. This objective could have been accomplished by a general statute repealing all inconsistent provisions of the various acts providing for judicial review of agency action. Such a course, however, would have left a residuum of doubt as to whether specific provisions would have been repealed by implication. This legislation avoids that difficulty by direct amendment of the many existing statutes providing for judicial review of administrative determinations and orders.

The bill is not intended to apply to the review of decisions of the Tax Court, which is not an administrative agency within the contemplation of this measure, or to the review of such agency orders as are by law reviewable by the district courts, such as exclusion and deportation orders.

Many of the statutes providing for the enforcement or review of agency orders provide that the courts of appeals acquire jurisdiction upon the filing of the petition for review. Many others provide, however, that jurisdiction is not acquired by the courts until the filing of the transcript of the record. This latter provision has sometimes proved both illogical and unwise—illogical, since it places authority within the Federal agency to delay the acquisition of full jurisdic-

tion by a Federal appellate court; and unwise, since it raises a serious question concerning the extent of the court's authority to make orders relating to the filing of the record or other preliminary orders between the time of filing the petition for review and the time when the record is actually filed. Accordingly, this legislation proposes to amend various statutes to provide that in all cases the reviewing court shall acquire jurisdiction upon the filing of a petition on review. However, the bill further provides that although jurisdiction shall be immediately acquired by the court upon the filing of a petition for review, the existing jurisdiction of agencies, pending filing of the record, is preserved and until such filing the jurisdiction shall be concurrent and shall become exclusive in the appellate court only upon the filing of the record. This provision was added in order to make clear that up to the filing of the record or transcript, an agency may retain jurisdiction in order to permit that agency to entertain motions for additional processes before the administrative agency, such as the modification or setting aside of an order.

This legislation accomplishes its objective of permitting the filing of abbreviated records by adding a new section, section 2112, to title 28, of the United States Code, and amending the several statutes relating to appeals from administrative agencies to bring them into conformity with the provisions of this new section of title 28. The bill seeks to accomplish its purposes in the following ways:

(1) By giving the courts of appeals, with the approval of the Judicial Conference, authority to adopt rules on the subject, which are to be so far as practicable uniform in all courts.

(2) By providing for the abbreviation of the record to include only those materials which are relevant to the issues involved as determined by the rules or special orders of the court or by stipulation of the parties.

(3) By providing in appropriate cases which can be disposed of on the pleadings, such as consent decrees, that no record at all need be filed.

(4) By permitting the entire record to be filed in those cases where the parties find it will be less expensive and time consuming to do so than to select and copy portions of it for filing. The selection of the relevant portions of the record to be printed in the petitioner's appendix can sometimes better be done at the brief-writing stage.

(5) By providing that the courts may permit an agency to file in court merely a list of the materials in the record while retaining in its custody the materials themselves until any such materials are actually needed and sent for by the court.

(6) By authorizing the agency, if it finds it better to do so, to transmit original papers, rather than copies, as the record on review. These are, of course, to be returned to the agency upon the termination of the proceeding, or earlier if needed.

The bill would further accomplish its objectives by amending the various statutes now providing for the review and enforcement of agency orders so as to bring about uniformity in their provisions by—

(7) Providing that the record shall be filed in each case as provided in the new section 2112 of title 28;

(8) Providing that the jurisdiction of the court of appeals shall attach in all cases upon the filing of the petition for review or enforcement, while preserving the concurrent jurisdiction of the agency, in appropriate cases, until the record is filed; and

(9) Providing that in all cases it shall be the duty of the clerk of the court to transmit to the agency a copy of the petition for review which has been filed with the court.

In addition, the bill meets the problem which is presented when petitions by different aggrieved parties to review the same agency order are filed in different circuits. It does so by providing that the court of appeals in which the first petition is filed shall have exclusive jurisdiction of all the petitions but with power to transfer them all to another court of appeals if the convenience of the parties and the interests of justice so require. At present the agency, by selecting the court in which it files the record, determines which court shall have jurisdiction.

#### CONCLUSION

With the advent of an increasing number of bureaus and agencies within the Federal Government, the Congress has seen fit to authorize judicial review of the orders of such agencies and bureaus in order to afford maximum protection to the interests of the Government and the individual or corporate litigant. In many cases this review function has been placed upon the Federal courts of appeals, thereby increasing the workload of that part of the Federal court system. Part of that workload involves the perusal of records filed in connection with such appeals. These records are frequently voluminous and are not edited, so as to encompass only information relevant to the points at issue. The reduction of such a record to its pertinent parts, as proposed here, should in most cases serve as an aid to the expedition of appeals from orders of administrative agencies. Thus, adoption of this measure is expected to facilitate the work of the Federal appellate courts. Moreover, this legislation is likewise expected to occasion a saving in time and expense to the Federal Government in its role as litigant. The cost of preparing the transcript in nearly all cases rests with the agency and is, therefore, a charge upon the Federal Treasury. Consequently, any reduction in the size of the record which must be filed could result in reducing the cost of litigation to the Government.

In addition to these considerations, the authority conferred by the bill contains sufficient flexibility to permit an appellate court to adapt its procedures to the exigencies of cases presented to it. Thus, if a litigant, either an individual or an agency, determined that the cause of justice, or considerations of time or expense, require the submission of a full record, that may be done. The purpose of the proposal is expedition, but not expedition at the expense of justice.

The bill was the subject of thorough consideration in the Judicial Conference prior to its submission to the Congress, and since its submission has been reviewed in detail by the administrative agencies. It is also appropriate to note that the agency primarily concerned with litigation involving the Federal Government, the Department of Justice, considers the proposal "a laudable effort to eliminate un-

necessary expenditures in time and money in the review of agency orders by the courts of appeals." In short, the Department of Justice recommends enactment of the measure.

The acceptance and approval of this bill by the bench and the bar indicates that it may reasonably be calculated to accomplish the worthwhile objective which it is designed to accomplish. Consequently, the committee recommends favorable consideration of the legislation.

Attached to this report is the letter of transmittal of the Administrative Office of United States Court, dated April 5, 1957, and the report of the Department of Justice under date of June 10, 1957, to which reference was made earlier. The other agency reports on the bill are incorporated in House Report No. 842 of the 85th Congress, 1st session. In the interests of brevity they may be considered as having been incorporated by reference in this report.

#### VIEWS OF EXECUTIVE DEPARTMENTS

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,  
*Washington, D. C., April 5, 1957.*

HON. SAM RAYBURN,  
*Speaker of the House of Representatives,*  
*Washington, D. C.*

DEAR MR. SPEAKER: On behalf of the Judicial Conference of the United States, I transmit herewith for the consideration of the Congress a draft of a bill concerning the record on review or enforcement of orders of administrative agencies by the courts of appeals.

The purpose of the proposed legislation is to promote economy in and to facilitate the review by the courts of appeals of orders of administrative agencies subject to review by the courts of appeals. It would permit the agencies pursuant to rules adopted by the several courts of appeals, with the approval of the Judicial Conference of the United States, to send to the court an abbreviated record where the whole record is not necessary and authorize the use of the original papers in lieu of a transcript, the papers to be returned to the agency upon the completion of review proceedings and to permit the agency to file in the court a certified list of the materials comprising the record and retain or hold for the court all such materials transmitting the same or any part thereof to the court when and as required by the court.

The bill is the product of approximately 4 years' work by the Judicial Conference Committee on the Revision of the Laws, of which Circuit Judge Albert B. Maris of the third circuit is chairman, during the course of which affected agencies have been consulted and views of the judges through the country solicited and considered. The Judicial Conference of the United States has approved the proposed legislation upon consideration of the report and recommendation of its committee.

The bill would add to chapter 133 of title 28 of the United States Code dealing with miscellaneous provisions concerning judicial review, a new section, 2112, dealing with the record on review and enforcement by the courts of appeals of orders of administrative

agencies. Among the principal provisions of the new section are the following:

Power would be given to the several courts of appeals to adopt, with the approval of the Judicial Conference of the United States, rules governing the time, manner of filing, and the contents of the record in all proceedings instituted in the courts of appeals to review or enforce orders of administrative agencies in which the applicable statute does not specifically prescribe these matters. The rules could authorize the agency to file in the court a certified list of the materials comprising the record and retain or hold for the court the materials transmitting all or parts thereof to the court as required. It would provide that if proceedings have been instituted in two or more courts of appeals with respect to the same order, the agency concerned shall file the record in that one of those courts "in which in its judgment the proceedings may be carried on with the greatest convenience to all the parties involved."

The bill would provide that the record to be filed in the court of appeals should consist of the order in question, the findings or report upon which it was based, and pleadings, evidence, and proceedings before the agency concerned, or such portions thereof as the rules of the court of appeals might require to be included, the agency or any party to the case might consistently with the rules of the court designate, or the court upon motion of a party, or, after a prehearing conference, upon its own motion might by order designate to be included. It might be provided in an appropriate case by stipulation or order that no record need be filed in the court of appeals. If, however, the correctness of a finding of fact was questioned, all of the evidence should be included except such as by stipulation filed with the agency or in the court the parties concerned might agree to omit as immaterial to the questioned finding. The agency involved might at its option, if the rules of the court of appeals in which the proceeding was pending did not require the printing of the entire record, file in the court the entire record without abbreviation.

This is in accordance with the pattern of a late congressional enactment on the subject, the act of December 29, 1950, relating to the review of orders of the Federal Communications Commission, and takes it out of the power of administrative agencies which they have under some present provisions to retard the gaining of full jurisdiction by the court of appeals by delaying the filing of the record. Various other perfecting amendments of existing statutes are included in the bill.

It is believed that the bill if enacted will simplify the procedure for the review or enforcement by the courts of appeals of orders of administrative agencies, will be conducive to economy and expedition in the proceedings and in their determination and will therefore be in the interest of the litigants and the public. It is accordingly hoped that the bill may be favorably considered by the Congress and in due course be enacted.

Sincerely yours,

ELMER WHITEHURST,  
*Acting Director.*

JUNE 10, 1957.

HON. EMANUEL CELLER,

*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 6788) to authorize the abbreviation of the record on the review or enforcement of orders of administrative agencies by the courts of appeals and the review or enforcement of such orders on the original papers and to make uniform the law relating to the record on review or enforcement of such orders and for other purposes.

This bill would authorize the several courts of appeals to adopt, with the approval of the Judicial Conference, rules prescribing the time and manner of filing and the contents of the record in all proceedings instituted in the courts of appeals to review or enforce orders of administrative agencies, boards, commissions and officers, in which the applicable statute does not specifically prescribe such time or manner of filing or contents of the record. It would also provide for abbreviation of such records pursuant to rules of court, stipulation of the parties, or court order. The bill would permit an agency which issued an order to file the original papers in lieu of a transcript and to regain possession of them upon completion of the proceedings in the court of appeals. It would also incorporate the foregoing provisions in a number of existing statutes dealing with review of administrative orders by courts of appeals.

The Department of Justice considers the proposal a laudable effort to eliminate unnecessary expenditures in time and money in the review of agency orders by the courts of appeals. Accordingly, it recommends enactment of the measure. It is noted that at its annual meeting in September 1956, the Judicial Conference reaffirmed its previously expressed approval of this legislation with a minor amendment.

Some concern has been expressed that the broad language of the proposed section 2112 (a) may possibly be construed to apply to certain proceedings not intended to be covered, for example, decisions of the Tax Court and administrative orders for the exclusion and deportation of aliens entered under the provisions of the Immigration and Nationality Act of 1952 (66 Stat. 1166, 8 U. S. C. A. (1101 et seq.)). As you know, Tax Court decisions are presently subject to review by the courts of appeals pursuant to section 7482 of the Internal Revenue Code of 1954 (26 U. S. C. 7482); exclusion and deportation orders, to the extent that judicial review is permissible, are uniformly reviewable in the first instance in the district courts. The apprehension arises because of the broad language of section 2112 (a) that it shall apply to "all proceedings instituted in the courts of appeals to \* \* \* review \* \* \* orders of administrative agencies, boards, commissions, and officers \* \* \*." In this connection it might be both desirable and appropriate to incorporate in the committee reports express language that the bill is not intended to apply to decisions of the Tax Court or to exclusion and deportation orders. Although there would appear to be little basis for believing that the bill in its present form could reasonably be construed to extend to

such proceedings, it may nevertheless be wise to dispel any possible ambiguity in this regard.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,  
*Deputy Attorney General.*

### CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

## TITLE 28. UNITED STATES CODE

### CHAPTER 133. REVIEW—MISCELLANEOUS PROVISIONS

\* \* \* \* \*  
2112. Record on review and enforcement of agency orders.  
\* \* \* \* \*

§ 2112. Record on review and enforcement of agency orders.

(a) *The several courts of appeals shall have power to adopt, with the approval of the Judicial Conference of the United States, rules, which so far as practicable shall be uniform in all such courts prescribing the time and manner of filing and the contents of the record in all proceedings instituted in the courts of appeals to enjoin, set aside, suspend, modify, or otherwise review or enforce orders of administrative agencies, boards, commissions, and officers, to the extent that the applicable statute does not specifically prescribe such time or manner of filing or contents of the record. Such rules may authorize the agency, board, commission, or officer to file in the court a certified list of the materials comprising the record and retain and hold for the court all such materials and transmit the same or any part thereof to the court, when and as required by it, at any time prior to the final determination of the proceeding, and such filing of such certified list of the materials comprising the record and such subsequent transmittal of any such materials when and as required shall be deemed full compliance with any provision of law requiring the filing of the record in the court. The record in such proceedings shall be certified and filed in or held for and transmitted to the court of appeals by the agency, board, commission, or officer concerned within the time and in the manner prescribed by such rules. If proceedings have been instituted in two or more courts of appeals with respect to the same order the agency, board, commission or officer concerned shall file the record in that one of such courts in which a proceeding with respect to such order was first instituted. The other courts in which such proceedings are pending shall thereupon transfer them to the court of appeals in which the record has been filed. For the convenience of the parties in the interest of justice such court may thereafter transfer all the proceedings with respect to such order to any other court of appeals.*

(b) *The record to be filed in the court of appeals in such a proceeding shall consist of the order sought to be reviewed or enforced, the findings or report upon which it is based, and the pleadings, evidence, and proceedings before the agency, board, commission, or officer concerned, or such portions thereof (1) as the said rules of the court of appeals may require to be included therein, or (2) as the agency, board, commission, or officer concerned, the petitioner for review or respondent in enforcement, as the case may be, and any intervenor in the court proceeding by written stipulation filed with the agency, board, commission, or officer concerned or in the court in any such proceeding may consistently with the rules of such court designate to be included, therein or (3) as the court upon motion of a party or, after a prehearing conference, upon its own motion may by order in any such proceeding designate to be included therein. Such a stipulation or order may provide in an appropriate case that no record need be filed in the court of appeals. If, however, the correctness of a finding of fact by the agency, board, commission, or officer is in question all of the evidence before the agency, board, commission, or officer shall be included in the record except such as the agency, board, commission, or officer concerned, the petitioner for review or respondent in enforcement, as the case may be, and any intervenor in the court proceeding by written stipulation filed with the agency, board, commission, or officer concerned or in the court agree to omit as wholly immaterial to the questioned finding. If there is omitted from the record any portion of the proceedings before the agency, board, commission, or officer which the court subsequently determines to be proper for it to consider to enable it to review or enforce the order in question the court may direct that such additional portion of the proceedings be filed as a supplemental to the record. The agency, board, commission, or officer concerned may, at its option and without regard to the foregoing provisions of this subsection, and if so requested by the petitioner for review or respondent in enforcement shall, file in the court the entire record of the proceedings before it without abbreviation.*

(c) *The agency, board, commission, or officer concerned may transmit to the court of appeals the original papers comprising the whole or any part of the record or any supplemental record, otherwise true copies of such papers certified by an authorized officer or deputy of the agency, board, commission, or officer concerned shall be transmitted. Any original papers thus transmitted to the court of appeals shall be returned to the agency, board, commission, or officer concerned upon the final determination of the review or enforcement proceeding. Pending such final determination any such papers may be returned by the court temporarily to the custody of the agency, board, commission, or officer concerned if needed for the transaction of the public business. Certified copies of any papers included in the record or any supplemental record may also be returned to the agency, board, commission, or officer concerned upon the final determination of review or enforcement proceedings.*

(d) *The provisions of this section are not applicable to proceedings to review decisions of the Tax Court of the United States or to proceedings to review or enforce those orders of administrative agencies, boards, commissions, or officers which are by law reviewable or enforceable by the district court.*

SEC. 3. (a) The sixth sentence of subsection (b) of section 5 of the Federal Trade Commission Act, as amended (52 Stat. 112): "Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until [the transcript of] the record in the proceeding has been filed in a court of appeals of the United States, as hereinafter provided, the Commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section."

(b) The second and third sentences of subsection (c) of section 5 of the Federal Trade Commission Act, as amended (52 Stat. 112-113): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to the Commission, and thereupon the Commission [forthwith] shall [certify and] file in the court [a transcript of] the [entire] record in the proceeding, [including all the evidence taken and the report and order of the Commission] as provided in section 2112 of title 28, United States Code.* Upon such filing of the petition [and transcript] the court shall have jurisdiction of the proceeding and of the question determined therein *concurrently with the Commission until the filing of the record* and shall have power to make and enter [upon the pleadings, evidence, and proceedings set forth in such transcript] a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors *pendente lite.*"

(c) Subsection (d) of section 5 of the Federal Trade Commission Act, as amended (52 Stat. 113):

"(d) [The] *Upon the filing of the record with it the jurisdiction of the court of appeals of the United States to affirm, enforce, modify or set aside orders of the Commission shall be exclusive*" (15 U. S. C., § 45, Federal Trade Commission).

SEC. 4. (a) The sixth sentence of the second paragraph of section 11 of the Act of October 15, 1914, as amended (64 Stat. 1127): "Until [a transcript of] the record in such hearing shall have been filed in a United States court of appeals, as hereinafter provided, the Commission or Board may at any time, upon such notice, and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section."

(b) The first and second sentences of the third paragraph of section 11 of the Act of October 15, 1914, as amended (64 Stat. 1127):

"If such person fails or neglects to obey such order of the Commission or Board while the same is in effect the Commission or Board may apply to the United States court of appeals, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall [certify and] file [with its application a transcript of] the [entire] record in the proceeding, [including all the testimony taken and the report and order of the Commission or Board] *as provided in section 2112 of title 28, United States Code.* Upon such filing of the application [and transcript] the court shall cause notice thereof to be served upon such person, and thereupon shall

have jurisdiction of the proceeding and of the question determined therein, *concurrently with the Commission or Board until the filing of the record* and shall have power to make and enter [upon the pleadings, testimony, and proceedings set forth in such transcript] a decree affirming, modifying, or setting aside the order of the Commission or Board."

(c) The second and third sentences of the fourth paragraph of section 11 of the Act of October 15, 1914, as amended (64 Stat. 1128) : "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to the Commission or Board and thereupon the Commission or Board [forthwith] shall [certify and] file in the court [a transcript of] the record in the proceeding, as [hereinbefore] provided in section 2112 of title 28, United States Code.* Upon the filing of [the transcript] *such petition* the court shall have the same jurisdiction to affirm, set aside, or modify the order of the Commission or Board as in the case of an application by the Commission or Board for the enforcement of its order, and the findings of the Commission or Board as to the facts, if supported by substantial evidence, *determined as provided in section 10 (e) of the Administrative Procedure Act, shall in like manner be conclusive.*"

(d) The fifth paragraph of section 11 of the Act of October 15, 1914, as amended (64 Stat. 1128) :

"[The] *Upon the filing of the record with it the jurisdiction of the United States court of appeals to enforce, set aside, or modify orders of the Commission or Board shall be exclusive*" (15 U. S. C., sec. 21, Interstate Commerce Commission, Federal Communications Commission, Civil Aeronautics Board, Board of Governors of the Federal Reserve System).

SEC. 5. The fourth and fifth sentences of the first paragraph of section 2 of the Act of July 28, 1916 (39 Stat. 425) : "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to the Post Office Department and thereupon the said department [forthwith] shall [certify and] file in the court [a transcript of] the record [and testimony], as provided in section 2112 of title 28, United States Code.* Upon the filing of such [transcript] *petition* the court shall have jurisdiction to affirm, set aside, or modify the order of the department" (39 U. S. C., sec. 576, Postmaster General (District of Columbia Circuit only)).

SEC. 6 (a) Subsection (c) of section 203 of the Packers and Stockyards Act, 1921 (42 Stat. 162) :

"(c) Until [a transcript of] the record in such hearing has been filed in a court of appeals of the United States, as provided in section 204, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the packer to be heard, may amend or set aside the report or order, in whole or in part" (7 U. S. C., sec. 193, Secretary of Agriculture).

(b) Subsections (b), (c) and (d) of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162) :

"(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall [forthwith prepare, certify, and] *thereupon* file in the court [a full and accurate transcript of] the record in such proceedings, [including the complaint, the evidence, and the report and order] *as provided in*

*section 2112 of title 28, United States Code.* If before such **[transcript]** record is filed, the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

“(c) At any time after such **[transcript]** petition is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the packer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.”

“(d) The evidence so taken or admitted **[duly certified]** and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.” (7 U. S. C., sec. 194, Secretary of Agriculture.)

(e) The first sentence of subsection (h) of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162):

“(h) The court of appeals shall have **[exclusive]** jurisdiction, *which upon the finding of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section **[240 of the Judicial Code]** 1254 of title 28, if such writ is duly applied for within sixty days after entry of the decree*” (7 U. S. C., sec. 194, Secretary of Agriculture.)

SEC. 7. (a) The third and fourth sentences of paragraph (a) of section 6 of the Commodity Exchange Act (42 Stat. 1001): “The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Secretary of Agriculture, Chairman of said Commission, or any member thereof, and the said Commission shall **[forthwith prepare, certify, and]** *thereupon file in the court [a full and accurate transcript of] the record in such proceedings [including the notice to the board of trade, a copy of the charges, the evidence, and the report and order], as provided in section 2112 of title 28, United States Code.* The testimony and evidence taken or submitted before the said Commission, duly **[certified and]** filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case.” (7 U. S. C., sec. 8, Contract Market Commission.)

(b) The seventh and eighth sentences of paragraph (b) of section 6 of the Commodity Exchange Act (42 Stat. 1002), as amended: “A copy of such petition shall be forthwith **[served upon]** *transmitted by the clerk of the court to the Secretary of Agriculture [by delivering such copy to him]* and thereupon the Secretary of Agriculture shall **[forthwith certify and]** file in the court **[a transcript of]** the record theretofore made, **[including evidence received]** *as provided in section 2112 of title 28, United States Code.* Upon the filing of the **[transcript]** petition the court shall have jurisdiction to affirm, to set aside, or modify the order of the Secretary of Agriculture, and the findings of the Secretary of Agriculture as to the facts, if supported by the weight of evidence, shall in like manner be conclusive” (7 U. S. C., sec. 9, Secretary of Agriculture.)

SEC. 8. The third and fourth sentences of the second paragraph of subsection (b) of section 641 of the Tariff Act of 1930, as amended

(49 Stat. 865): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to the Secretary of the Treasury, or [upon] any officer designated by him for that purpose, and thereupon the Secretary of the Treasury shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.* Upon the filing of such [transcript] *petition* such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part" (19 U. S. C., sec. 1641, Secretary of the Treasury).

SEC. 9. The second sentence of subsection (a) of section 9 of the Securities Act of 1933 (48 Stat. 80): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to the Commission, and thereupon the Commission shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code*" (15 U. S. C., sec. 77i, Securities and Exchange Commission).

SEC. 10. The second and third sentences of subsection (a) of section 25 of the Securities Exchange Act of 1934 (48 Stat. 901): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to any member of the Commission, and thereupon the Commission shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.* Upon the filing of such [transcript] *petition* such court shall have [exclusive] jurisdiction, *which upon the filing of the record shall be exclusive, to affirm, modify, and enforce or set aside such order, in whole or in part.*" (15 U. S. C. sec. 78y, Securities and Exchange Commission.)

SEC. 11. The third sentence of subsection (c) of section 18 of the Act of June 18, 1934 (48 Stat. 1002): "The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Board and it shall [forthwith prepare, certify, and] *thereupon* file in the court [a full and accurate transcript of] the record in the proceedings held before it under this section, [the charges, the evidence, and the order revoking the grant] *as provided in section 2112 of title 28 United States Code*" (19 U. S. C., sec. 81r, Foreign Trade Zone Board).

SEC. 12. The second sentence of subsection (d) of section 402 of the Communications Act of 1934, as amended (66 Stat. 719): "Within thirty days after the filing of an appeal, the Commission shall file with the court [a copy of the order complained of, a full statement in writing of the facts and grounds relied upon by it in support of the order involved upon said appeal, and the originals or certified copies of all papers and evidence presented to and considered by it in entering said order] *the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code* (47 U. S. C., sec. 402, Federal Communications Commission (District of Columbia Circuit only)).

SEC. 13. (a) (Subsection (d) of section 10 of the National Labor Relations Act, as amended (61 Stat. 147):

"(d) Until [a transcript of] the record in a case shall have been filed in a court, as hereinafter provided, the Board may at any time,

upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it."

(b) The first, second, fifth, and seventh sentences of subsection (e) of section 10 of the National Labor Relations Act, as amended (61 Stat. 147) :

"(e) The Board shall have power to petition any court of appeals of the United States [(including the United States Court of Appeals for the District of Columbia)], or if all the courts of appeals to which application may be made are in vacation, any district court of the United States [(Including the District Court of the United States for the District of Columbia)], within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall [certify and] file in the court [a transcript of] the [entire] record in the proceedings [including the pleadings and testimony upon which such order was entered and the findings and order of the Board], as provided in section 2112 of title 28, United States Code. Upon [such] the filing of such petition, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter [upon the pleadings, testimony, and proceedings set forth in such transcript] a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board. \* \* \* If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its member, agent, or agency, the court may order such additional evidence to be taken before the Board, its [members] member, agent, or agency, and to be made a part of the [transcript] record. \* \* \* [The] Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in [sections 239 and 240 of the Judicial Code, as amended [(U. S. C., title 28, secs. 346 and 347)] section 1254 of title 28."

(c) The second and third sentences of subsection (f) of section 10 of the National Labor Relations Act, as amended (61 Stat. 148) : "A copy of such petition shall be forthwith [served upon] transmitted by the clerk of the court to the Board, and thereupon the aggrieved party shall file in the court [a transcript of] the [entire] record in the proceeding, certified by the Board [including the pleading and testimony upon which the order complained of was entered, and the findings and order of the Board], as provided in section 2112 of title 28, United States Code. Upon [such] the filing of such petition, the court shall proceed in the same manner as in the case of an application by the Board under subsection (e) of this section, and shall have the same

**[exclusive]** jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board; the findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive" (29 U. S. C., sec. 160, National Labor Relations Board).

SEC. 14. The third and fourth sentences of subsection (h) of section 4 of the Federal Alcohol Administration Act (49 Stat. 980), as amended: "A copy of such petition shall be forthwith **[served upon]** *transmitted by the clerk of the court to the Secretary, or [upon] any officer designated by him for that purpose, and thereupon the Secretary shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such [transcript] petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part*" (27 U. S. C., sec. 204, Secretary of the Treasury).

SEC. 15. The second and third sentences of subsection (a) of section 24 of the Public Utility Holding Company Act of 1935 (49 Stat. 834): "A copy of such petition shall be forthwith **[served upon]** *transmitted by the clerk of the court to any member of the Commission, or [upon] any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such [transcript] petition such court shall have [exclusive] jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, or set aside such order, in whole or in part* (15 U. S. C., sec. 79x, Securities and Exchange Commission).

SEC. 16. (a) Subsection (a) of section 313 of the Federal Power Act, as amended, (49 Stat. 860), last sentence: "*Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at anytime, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this Act.*"

(b) The second and third sentences of subsection (b) of section 313 of the Federal Power Act, as amended (49 Stat. 860): "A copy of such petition shall forthwith be **[served upon]** *transmitted by the clerk of the court to any member of the Commission and thereupon the Commission shall [certify and] file with the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such [transcript] petition such court shall have [exclusive] jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part*" (16 U. S. C. sec. 825 l, Federal Power Commission).

SEC. 17. The second and third sentences of subsection (b) of section 611 of the Merchant Marine Act, 1936, as amended (52 Stat. 961): "A copy of such petition shall be forthwith **[served upon]** *transmit-*

ted by the clerk of the court to any member of the [Board] Commission, or [upon] any officer thereof designated by the [Board] Commission for that purpose, and thereupon the [Board] Commission shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such [transcript] petition such court shall have exclusive jurisdiction to determine whether such cancellation or default was without just cause, and to affirm or set aside such order." (46 U. S. C., sec. 1181 (b), Federal Maritime Board (District of Columbia Circuit only)).

SEC. 18. Subsection (c) of section 1006 of the Civil Aeronautics Act of 1938 (52 Stat. 1024) :

"(c) A copy of the petition shall, upon filing, be forthwith transmitted to the Board by the clerk of the court; and the Board shall thereupon [certify and] file in the court [a transcript of] the record, if any, upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code" (49 U. S. C., sec. 646, Civil Aeronautics Board).

SEC. 19. (a) Subsection (a) of section 19 of the Natural Gas Act (52 Stat. 831), last sentence: "Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this Act."

(b) The second and third sentences of subsection (b) of section 19 of the Natural Gas Act (52 Stat. 831) : "A copy of such petition shall forthwith be [served upon] transmitted by the clerk of the court to any member of the Commission and thereupon the Commission shall [certify and] file with the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition [transcript] such court shall have [exclusive] jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part" (15 U. S. C., sec. 717r, Federal Power Commission).

SEC. 20. (a) The first and second sentences of paragraph (2) of subsection (i) of section 408 of the Federal Food, Drug, and Cosmetic Act, as added by the Act of July 22, 1954 (ch. 559, 68 Stat. 515) :

"(2) In the case of a petition with respect to an order under subsection (d) (5) or (e), a copy of the petition shall be forthwith [served upon] transmitted by the clerk of the court to the Secretary, or [upon] any officer designated by him for that purpose, and thereupon the Secretary shall [certify and] file in the court [a transcript] the record of the proceedings [and the record] on which he based his order, as provided in section 2112 of title 28, United States Code. Upon [such] the filing of such petition, the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part."

(b) The first and second sentences of paragraph (3) of subsection (i) of section 408 of the Federal Food, Drug, and Cosmetic Act, as added by the Act of July 22, 1954 (ch. 559, 68 Stat. 515) :

“(3) In the case of a petition with respect to an order such subsection (1), a copy of the petition shall be forthwith [served upon] *transmitted by the clerk of the court to the Secretary of Agriculture, or [upon] any officer designated by him for that purpose, and thereupon the Secretary shall [certify and] file in the court [a transcript] the record of the proceedings [and the record] on which he based his order, as provided in section 2112 of title 28, United States Code.* Upon [such] *the filing of such petition,* the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part” (21 U. S. C., sec 346a, Secretary of Health, Education, and Welfare, Secretary of Agriculture).

SEC. 21. (a) The second and third sentences of paragraph (1) of subsection (f) of section 701 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1055), as amended: *A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. [The summons and petition may be served at any place in the United States.] The Secretary [promptly upon service of the summons and petition] thereupon shall [certify and] file in the court the [transcript] record of the proceedings [and the record] on which the Secretary based his order, as provided in section 2112 of title 28, United States Code.”*

(b) The first sentence of paragraph 3 of subsection (f) of section 701 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1055), as amended: *“Upon the filing of the petition referred to in paragraph (1) of this subsection, the [The] court shall have jurisdiction to affirm the order, or to set it aside in whole or in part, temporarily or permanently.”* (21 U. S. C., sec. 371, Secretary of Health, Education, and Welfare.)

SEC. 22. The second and third sentences of subsection (a) of section 10 of the Fair Labor Standards Act of 1938 (52 Stat. 1065), as amended: *“A copy of such petition shall forthwith be [served upon] transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall [certify and] file in the court [a transcript of] the record of the industry committee upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.* Upon the filing of such [transcript] petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part, so far as it is applicable to the petitioner.” (29 U. S. C., sec. 210, Secretary of Labor.)

SEC. 23. The fourth, fifth, sixth, and eighth sentences of subsection (f) of section 5 of the Railroad Unemployment Insurance Act, as amended (52 Stat. 1100): *“Within fifteen days after receipt of service, or within such additional time as the court may allow, the Board shall [certify and] file with the court in which such petition has been filed [a transcript of] the record upon which the findings and decision complained of are based, as provided in section 2112 of title 28, United States Code.* Upon [such] *the filing of such petition* the court shall have exclusive jurisdiction of the proceeding and of the question determined therein, and shall give precedence in the adjudication thereof over all over civil cases not otherwise entitled by law to precedence. It shall have power to enter [upon the pleadings and transcript of the record,] a decree affirming, modifying, or reversing the decision of the Board, with or without remanding the cause for

rehearing. \* \* \* No additional evidence shall be received by the court, but the court may order additional evidence to be taken before the Board, and the Board may, after hearing such additional evidence, modify its findings of fact and conclusions and file such additional or modified findings and conclusions with the court, and the Board shall file with the court [a transcript of] the additional record" (45 U. S. C., sec. 355, Railroad Retirement Board).

SEC. 24. (a) Subsection (c) of section 409 of the Federal Seed Act (53 Stat. 1287):

"(c) Until [a transcript of] the record in such hearing has been filed in a court of appeals as provided in section 410, the Secretary of Agriculture at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the person to be heard, may amend or set aside the report or order, in whole or in part" (7 U. S. C., sec. 1599, Secretary of Agriculture).

(b) The second, third, and fourth paragraphs of section 410 of the Federal Seed Act (53 Stat. 1288):

"The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall [forthwith prepare, certify, and] *thereupon* file in the court [a full and accurate transcript of] the record in such proceedings, [including the complaint, the evidence, and the report and order] *as provided in section 2112 of title 28, United States Code*. If before such [transcript] record is filed, the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

"At any time after such [transcript] petition is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the person and his officers, directors, agents, and employees from violating any of the provisions of the order pending the final determination of the appeal.

"The evidence so taken or admitted [duly certified] and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way." (7 U. S. C., sec. 1600, Secretary of Agriculture.)

(c) The first and second sentences of section 411 of the Federal Seed Act (53 Stat. 1288):

"SEC. 411. If any person against whom an order is issued under section 409 fails to obey the order, the Secretary of Agriculture, or the United States, by its Attorney General, may apply to the court of appeals of the United States, within the circuit where the person against whom the order was issued resides or has his principal place of business, for the enforcement of the order, and shall [certify and] file [with its application a full and accurate transcript of] the record in such proceedings, [including the complaint, the evidence, the report, and the order] *as provided in section 2112 of title 28, United States Code*. Upon such filing of the application [and transcript] the court shall cause notice thereof to be served upon the person against whom the order was issued" (7 U. S. C., sec. 1601, Secretary of Agriculture).

SEC. 25. The second and third sentences of subsection (a) of section 43 of the Investment Company Act of 1940, as amended (54 Stat. 844): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to any member of the Commission or [upon] any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.* Upon the filing of such [transcript] *petition* such court shall have [exclusive] jurisdiction, *which upon the filing of the record shall be exclusive,* to affirm, modify, or set aside such order, in whole or in part" (15 U. S. C., sec. 80a-42, Securities and Exchange Commission).

SEC. 26. The second and third sentences of subsection (a) of section 213 of the Investment Advisers Act of 1940, as amended (54 Stat. 855): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to any member of the Commission, or [upon] any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.* Upon the filing of such [transcript] *petition* such court shall have [exclusive] jurisdiction, *which upon the filing of the record shall be exclusive,* to affirm, modify, or set aside such order, in whole or in part" (15 U. S. C., sec. 80b-13, Securities and Exchange Commission).

SEC. 27. (a) Paragraph (1) of subsection (b) of section 632 of the Act of July 1, 1944, as added by the Hospital Survey and Construction Act (60 Stat. 1048) :

"(b) (1) If the Surgeon General refuses to approve any application under section 625 or section 654, the State agency through which the application was submitted, or if any State is dissatisfied with the Surgeon General's action under subsection (a) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located [the summons and notice of appeal may be served at any place in the United States] *by filing with such court a notice of appeal. The jurisdiction of the court shall attach upon the filing of such notice. A copy of the notice of appeal shall be forthwith transmitted by the clerk of the court to the Surgeon General, or any officer designated by him for that purpose. The Surgeon General shall [forthwith certify and] thereupon file in the court the [transcript] record of the proceedings [and the record] on which he based his action, as provided in section 2112 of title 28, United States Code.*

(b) The first sentence of paragraph (2) of subsection (b) of section 632 of the Act of July 1, 1944, as added by the Hospital Survey and Construction Act (60 Stat. 1048) :

"(2) The findings of fact by the Surgeon General, unless substantially contrary to the weight of the evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Surgeon General to take further evidence, and the Surgeon General may thereupon make new or modified findings of fact and may modify his previous action, shall [certify to] *file in the court the [tran-*

script and] record of the further proceedings" (42 U. S. C., sec. 291j, Public Health Service).

SEC. 28. The fourth sentence of subsection (c) of section 205 of the Sugar Act of 1948 (61 Stat. 927): "Within thirty days after the filing of said appeal the Secretary shall file with the court the [originals or certified copies of all papers and evidence presented to him upon the hearing involved, a like copy of his decision thereon, a full statement in writing of the facts and grounds for his decisions as found and given by him] record upon which the decision complained of was entered, as provided in section 2112 of title 28, United States Code, and a list of all interested persons to whom he has mailed or otherwise delivered a copy of said notice of appeal" (7 U. S. C., sec. 1115, Secretary of Agriculture (District of Columbia Circuit only)).

SEC. 29. The second and third sentences of subsection (a) of section 14 of the Internal Security Act of 1950 (64 Stat. 1001): "A copy of such petition shall be forthwith [served upon] transmitted by the clerk of the court to the Board, and thereupon the Board shall [certify and] file in the court [a transcript of] the [entire] record in the proceeding, [including all evidence taken and the report and order of the Board] as provided in section 2112 of title 28, United States Code. [Thereupon] Upon the filing of such petition the court shall have jurisdiction of the proceeding and shall have power to affirm or set aside the order of the Board; but the court may in its discretion and upon its own motion transfer any action so commenced to the United States Court of Appeals for the circuit wherein the petitioner resides" (50 U. S. C., sec. 793, Subversive Activities Control Board).

SEC. 30. (a) Subsection (e) of section 110 of the Internal Security Act of 1950 (64 Stat. 1028):

"(e) Until [a transcript of] the record in a case shall have been filed in a court, as hereinafter provided, the Board may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it" (50 U. S. C., sec. 820, Detention Review Board).

(b) The third and fifth sentences of subsection (c) of section 111 of the Internal Security Act of 1950 (64 Stat. 1028): "The Board shall thereupon file in the court [a duly certified transcript of] the [entire] record of the proceedings before the Board with respect to the matter concerning which judicial review is sought, [including all evidence upon which the order complained of was entered, the findings and order of the Board] as provided in section 2112 of title 28, United States code. \* \* \* [Thereupon] Upon the filing of such petition the court shall have jurisdiction of the proceeding, which upon the filing of the record with it shall be exclusive, and shall have power to affirm, modify, or set aside, or to enforce as modified the order of the Board" (50 U. S. C., sec. 821, Detention Review Board).

(c) The first sentence of subsection (d) of section 111 of the Internal Security Act of 1950 (60 Stat. 1029):

"(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board or its hearing examiner the court may order such additional evidence to be taken before the Board or its hearing ex-

aminer and to be made a part of the [transcript] record" (50 U. S. C., sec. 821, Detention Review Board).

SEC. 31. (a) Section 6 of the Act of December 29, 1950 (64 Stat. 1130):

"SEC. 6. [Within the time prescribed by, and in accordance with the requirements of, rules promulgated by the court of appeals in which the proceeding is pending, unless] *Unless* the proceeding has been terminated on a motion to dismiss the petition, the agency shall file in the office of the clerk of the court of appeals in which the proceeding is pending the record on review, [duly certified, consisting of the pleadings, evidence, and proceedings before the agency, or such portions thereof as such rules shall require to be included in such record, or such portions thereof as the petitioner and the agency, with the approval of the court of appeals, shall agree upon in writing] *as provided in section 2112 of title 28, United States Code*" (5 U. S. C., sec. 1036, Federal Communications Commission, Secretary of Agriculture, Federal Maritime Board, Maritime Administration, Atomic Energy Commission).

(b) The second sentence of subsection (c) of section 7 of the Act of December 29, 1950 (64 Stat. 1131): "The agency may modify its findings of fact, or make new findings, by reason of the additional evidence so taken and may modify or set aside its order and shall file [a certified transcript of] *in the court* such additional evidence, such modified findings or new findings, and such modified order or the order setting aside the original order" (5 U. S. C., sec. 1037, Federal Communications Commission, Secretary of Agriculture, Federal Maritime Board, Maritime Administration, Atomic Energy Commission).

SEC. 32. Subsection (b) of section 207 of the Act of September 23, 1950, as amended (64 Stat. 974), last three sentences: "*The local educational agency affected may file with the court a petition to review such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. Upon the filing of the petition the court shall have jurisdiction to affirm or set aside the action of the Commissioner in whole or in part.*" (20 U. S. C., sec. 277, Commissioner of Education).

SEC. 33. The fifth and sixth sentences of subsection (b) of section 207 of the International Claims Settlement Act of 1949, as amended (69 Stat. 564): "Such petition for review must be filed within sixty days after the date of mailing of the final order of denial by said designee and a copy shall forthwith be transmitted to the said designee by the clerk of the court [must be served on the said designee]. Within forty-five days after receipt [service] of such petition for review, or within such further time as the court may grant for good cause shown, said designee shall file an answer thereto, and shall [certify and] file with the court [a transcript of] the [entire] record of the proceedings with respect to such claim, *as provided in section 2112 of title 28, United States Code.*" (22 U. S. C., sec. 1631f, Attorney General).

SEC. 34. The second and third sentences of section 9 of the Bank Holding Company Act of 1956 (70 Stat. 138):

“A copy of such petition shall be forthwith *transmitted to the Board by the clerk of the court* [served upon the Board], and thereupon the Board shall [certify and] file in the court [a transcript of] the record made before the Board, *as provided in section 2112 of title 28, United States Code*. Upon the filing of such petition [the transcript] the court shall have jurisdiction to affirm, set aside, or modify the order of the Board and to require the Board to take such action with regard to the matter under review as the court deems proper.” (12 U. S. C., sec. 1848, Board of Governors of the Federal Reserve System).

SEC. 35. This Act shall not be construed to repeal or modify any provision of the Administrative Procedure Act.



# Calendar No. 2178

85TH CONGRESS }  
*2d Session* }

SENATE }

REPORT  
No. 2129

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## AUTHORIZING ABBREVIATED RECORDS IN REVIEWING ADMINISTRATIVE AGENCY PROCEEDINGS

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AUGUST 4, 1958.—Ordered to be printed

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Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

### R E P O R T

[To accompany H. R. 6788]

The Committee on the Judiciary, to which was referred the bill (H. R. 6788) to authorize the abbreviation of the record on the review or enforcement of orders of administrative agencies by the courts of appeals and the review or enforcement of such orders on the original papers and to make uniform the law relating to the record on review or enforcement of such orders, and for other purposes, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

### PURPOSE

The purpose of the proposed legislation is to save time and expense by permitting the several courts of appeals to adopt rules authorizing the abbreviation of the transcript and other parts of the record made before Federal administrative agencies when the orders of those agencies are to be reviewed by the courts of appeals. If review proceedings have been instituted in two or more courts with respect to the same order, the bill would require the Federal administrative agency involved to file the record in that court in which the proceeding was first instituted, but in the interest of justice and for the convenience of the parties, such court may thereafter transfer the proceedings to another court of appeals.

## STATEMENT

## 1. ORIGIN AND PRIOR CONSIDERATION

This proposal emanates from the Judicial Conference of the United States. It was submitted to the Congress after substantial consideration by the Committee on Revision of the Laws of the Judicial Conference and the Judicial Conference itself. After submission, it was the subject of a hearing before a subcommittee of the House Committee on the Judiciary on May 17, 1956, and subjected to agency comments. It was thereafter revised and reintroduced and again subjected to review by the administrative agencies. Following this, the Judiciary Committee after adopting several amendments, reported the bill to the House of Representatives, which later approved it.

The bill has been approved in principle by the American Bar Association, and it incorporates a recommendation of the President's Conference on Administrative Procedure. It likewise carries the approval of the Judicial Conference of the United States.

## 2. DISCUSSION AND SUMMARY

Most of the present statutes which provide for judicial review or enforcement by the courts of appeals of the orders of administrative agencies require that a transcript of the entire record of the proceedings before the agency be prepared by the agency and physically filed with the court. Such a requirement frequently operates to delay court proceedings and to impose upon the agency large and unnecessary expenditures of money and effort. In many types of cases the agency record involves persons other than the petitioner for review. The record may, therefore, be unnecessarily voluminous and much of it irrelevant to the review.

The object of the instant legislation is to eliminate the filing of the entire record except in those instances where it is required for an adequate determination or where the abbreviation of the record would prove more costly than the transmission of the entire record. This objective could have been accomplished by a general statute repealing all inconsistent provisions of the various acts providing for judicial review of agency action. Such a course, however, would have left a residuum of doubt as to whether specific provisions would have been repealed by implication. This legislation avoids that difficulty by direct amendment of the many existing statutes providing for judicial review of administrative determinations and orders.

The bill is not intended to apply to the review of decisions of the Tax Court, which is not an administrative agency within the contemplation of this measure, or to the review of such agency orders as are by law reviewable by the district courts, such as exclusion and deportation orders.

Many of the statutes providing for the enforcement or review of agency orders provide that the courts of appeals acquire jurisdiction upon the filing of the petition for review. Many others provide, however, that jurisdiction is not acquired by the courts until the filing of the transcript of the record. This latter provision has sometimes proved both illogical and unwise—illogical, since it places authority within the Federal agency to delay the acquisition of full jurisdic-

tion by a Federal appellate court; and unwise, since it raises a serious question concerning the extent of the court's authority to make orders relating to the filing of the record or other preliminary orders between the time of filing the petition for review and the time when the record is actually filed. Accordingly, this legislation proposes to amend various statutes to provide that in all cases the reviewing court shall acquire jurisdiction upon the filing of a petition on review. However, the bill further provides that although jurisdiction shall be immediately acquired by the court upon the filing of a petition for review, the existing jurisdiction of agencies, pending filing of the record, is preserved and until such filing the jurisdiction shall be concurrent and shall become exclusive in the appellate court only upon the filing of the record. This provision was added in order to make clear that up to the filing of the record or transcript, an agency may retain jurisdiction in order to permit that agency to entertain motions for additional processes before the administrative agency, such as the modification or setting aside of an order.

This legislation accomplishes its objective of permitting the filing of abbreviated records by adding a new section, section 2112, to title 28, of the United States Code, and amending the several statutes relating to appeals from administrative agencies to bring them into conformity with the provisions of this new section of title 28. The bill seeks to accomplish its purposes in the following ways:

(1) By giving the courts of appeals, with the approval of the Judicial Conference, authority to adopt rules on the subject, which are to be so far as practicable uniform in all courts.

(2) By providing for the abbreviation of the record to include only those materials which are relevant to the issues involved as determined by the rules or special orders of the court or by stipulation of the parties.

(3) By providing in appropriate cases which can be disposed of on the pleadings, such as consent decrees, that no record at all need be filed.

(4) By permitting the entire record to be filed in those cases where the parties find it will be less expensive and time consuming to do so than to select and copy portions of it for filing. The selection of the relevant portions of the record to be printed in the petitioner's appendix can sometimes better be done at the brief-writing stage.

(5) By providing that the courts may permit an agency to file in court merely a list of the materials in the record while retaining in its custody the materials themselves until any such materials are actually needed and sent for by the court.

(6) By authorizing the agency, if it finds it better to do so, to transmit original papers, rather than copies, as the record on review. These are, of course, to be returned to the agency upon the termination of the proceeding, or earlier if needed.

The bill would further accomplish its objectives by amending the various statutes now providing for the review and enforcement of agency orders so as to bring about uniformity in their provisions by—

(7) Providing that the record shall be filed in each case as provided in the new section 2112 of title 28;

(8) Providing that the jurisdiction of the court of appeals shall attach in all cases upon the filing of the petition for review or enforcement, while preserving the concurrent jurisdiction of the agency, in appropriate cases, until the record is filed; and

(9) Providing that in all cases it shall be the duty of the clerk of the court to transmit to the agency a copy of the petition for review which has been filed with the court.

In addition, the bill meets the problem which is presented when petitions by different aggrieved parties to review the same agency order are filed in different circuits. It does so by providing that the court of appeals in which the first petition is filed shall have exclusive jurisdiction of all the petitions but with power to transfer them all to another court of appeals if the convenience of the parties and the interests of justice so require. At present the agency, by selecting the court in which it files the record, determines which court shall have jurisdiction.

#### CONCLUSION

With the advent of an increasing number of bureaus and agencies within the Federal Government, the Congress has seen fit to authorize judicial review of the orders of such agencies and bureaus in order to afford maximum protection to the interests of the Government and the individual or corporate litigant. In many cases this review function has been placed upon the Federal courts of appeals, thereby increasing the workload of that part of the Federal court system. Part of that workload involves the perusal of records filed in connection with such appeals. These records are frequently voluminous and are not edited, so as to encompass only information relevant to the points at issue. The reduction of such a record to its pertinent parts, as proposed here, should in most cases serve as an aid to the expedition of appeals from orders of administrative agencies. Thus, adoption of this measure is expected to facilitate the work of the Federal appellate courts. Moreover, this legislation is likewise expected to occasion a saving in time and expense to the Federal Government in its role as litigant. The cost of preparing the transcript in nearly all cases rests with the agency and is, therefore, a charge upon the Federal Treasury. Consequently, any reduction in the size of the record which must be filed could result in reducing the cost of litigation to the Government.

In addition to these considerations, the authority conferred by the bill contains sufficient flexibility to permit an appellate court to adapt its procedures to the exigencies of cases presented to it. Thus, if a litigant, either an individual or an agency, determined that the cause of justice, or considerations of time or expense, require the submission of a full record, that may be done. The purpose of the proposal is expedition, but not expedition at the expense of justice.

The bill was the subject of thorough consideration in the Judicial Conference prior to its submission to the Congress, and since its submission has been reviewed in detail by the administrative agencies. It is also appropriate to note that the agency primarily concerned with litigation involving the Federal Government, the Department of Justice, considers the proposal "a laudable effort to eliminate un-

necessary expenditures in time and money in the review of agency orders by the courts of appeals." In short, the Department of Justice recommends enactment of the measure.

The acceptance and approval of this bill by the bench and the bar indicates that it may reasonably be calculated to accomplish the worthwhile objective which it is designed to accomplish. Consequently, the committee recommends favorable consideration of the legislation.

Attached to this report is the letter of transmittal of the Administrative Office of United States Court, dated April 5, 1957, and the report of the Department of Justice under date of June 10, 1957, to which reference was made earlier. The other agency reports on the bill are incorporated in House Report No. 842 of the 85th Congress, 1st session. In the interests of brevity they may be considered as having been incorporated by reference in this report.

#### VIEWS OF EXECUTIVE DEPARTMENTS

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,  
*Washington, D. C., April 5, 1957.*

HON. SAM RAYBURN,  
*Speaker of the House of Representatives,*  
*Washington, D. C.*

DEAR MR. SPEAKER: On behalf of the Judicial Conference of the United States, I transmit herewith for the consideration of the Congress a draft of a bill concerning the record on review or enforcement of orders of administrative agencies by the courts of appeals.

The purpose of the proposed legislation is to promote economy in and to facilitate the review by the courts of appeals of orders of administrative agencies subject to review by the courts of appeals. It would permit the agencies pursuant to rules adopted by the several courts of appeals, with the approval of the Judicial Conference of the United States, to send to the court an abbreviated record where the whole record is not necessary and authorize the use of the original papers in lieu of a transcript, the papers to be returned to the agency upon the completion of review proceedings and to permit the agency to file in the court a certified list of the materials comprising the record and retain or hold for the court all such materials transmitting the same or any part thereof to the court when and as required by the court.

The bill is the product of approximately 4 years' work by the Judicial Conference Committee on the Revision of the Laws, of which Circuit Judge Albert B. Maris of the third circuit is chairman, during the course of which affected agencies have been consulted and views of the judges through the country solicited and considered. The Judicial Conference of the United States has approved the proposed legislation upon consideration of the report and recommendation of its committee.

The bill would add to chapter 133 of title 28 of the United States Code dealing with miscellaneous provisions concerning judicial review, a new section, 2112, dealing with the record on review and enforcement by the courts of appeals of orders of administrative

agencies. Among the principal provisions of the new section are the following:

Power would be given to the several courts of appeals to adopt, with the approval of the Judicial Conference of the United States, rules governing the time, manner of filing, and the contents of the record in all proceedings instituted in the courts of appeals to review or enforce orders of administrative agencies in which the applicable statute does not specifically prescribe these matters. The rules could authorize the agency to file in the court a certified list of the materials comprising the record and retain or hold for the court the materials transmitting all or parts thereof to the court as required. It would provide that if proceedings have been instituted in two or more courts of appeals with respect to the same order, the agency concerned shall file the record in that one of those courts "in which in its judgment the proceedings may be carried on with the greatest convenience to all the parties involved."

The bill would provide that the record to be filed in the court of appeals should consist of the order in question, the findings or report upon which it was based, and pleadings, evidence, and proceedings before the agency concerned, or such portions thereof as the rules of the court of appeals might require to be included, the agency or any party to the case might consistently with the rules of the court designate, or the court upon motion of a party, or, after a prehearing conference, upon its own motion might by order designate to be included. It might be provided in an appropriate case by stipulation or order that no record need be filed in the court of appeals. If, however, the correctness of a finding of fact was questioned, all of the evidence should be included except such as by stipulation filed with the agency or in the court the parties concerned might agree to omit as immaterial to the questioned finding. The agency involved might at its option, if the rules of the court of appeals in which the proceeding was pending did not require the printing of the entire record, file in the court the entire record without abbreviation.

This is in accordance with the pattern of a late congressional enactment on the subject, the act of December 29, 1950, relating to the review of orders of the Federal Communications Commission, and takes it out of the power of administrative agencies which they have under some present provisions to retard the gaining of full jurisdiction by the court of appeals by delaying the filing of the record. Various other perfecting amendments of existing statutes are included in the bill.

It is believed that the bill if enacted will simplify the procedure for the review or enforcement by the courts of appeals of orders of administrative agencies, will be conducive to economy and expedition in the proceedings and in their determination and will therefore be in the interest of the litigants and the public. It is accordingly hoped that the bill may be favorably considered by the Congress and in due course be enacted.

Sincerely yours,

ELMER WHITEHURST,  
*Acting Director.*

JUNE 10, 1957.

HON. EMANUEL CELLER,

*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 6788) to authorize the abbreviation of the record on the review or enforcement of orders of administrative agencies by the courts of appeals and the review or enforcement of such orders on the original papers and to make uniform the law relating to the record on review or enforcement of such orders and for other purposes.

This bill would authorize the several courts of appeals to adopt, with the approval of the Judicial Conference, rules prescribing the time and manner of filing and the contents of the record in all proceedings instituted in the courts of appeals to review or enforce orders of administrative agencies, boards, commissions and officers, in which the applicable statute does not specifically prescribe such time or manner of filing or contents of the record. It would also provide for abbreviation of such records pursuant to rules of court, stipulation of the parties, or court order. The bill would permit an agency which issued an order to file the original papers in lieu of a transcript and to regain possession of them upon completion of the proceedings in the court of appeals. It would also incorporate the foregoing provisions in a number of existing statutes dealing with review of administrative orders by courts of appeals.

The Department of Justice considers the proposal a laudable effort to eliminate unnecessary expenditures in time and money in the review of agency orders by the courts of appeals. Accordingly, it recommends enactment of the measure. It is noted that at its annual meeting in September 1956, the Judicial Conference reaffirmed its previously expressed approval of this legislation with a minor amendment.

Some concern has been expressed that the broad language of the proposed section 2112 (a) may possibly be construed to apply to certain proceedings not intended to be covered, for example, decisions of the Tax Court and administrative orders for the exclusion and deportation of aliens entered under the provisions of the Immigration and Nationality Act of 1952 (66 Stat. 1166, 8 U. S. C. A. (1101 et seq.)). As you know, Tax Court decisions are presently subject to review by the courts of appeals pursuant to section 7482 of the Internal Revenue Code of 1954 (26 U. S. C. 7482); exclusion and deportation orders, to the extent that judicial review is permissible, are uniformly reviewable in the first instance in the district courts. The apprehension arises because of the broad language of section 2112 (a) that it shall apply to "all proceedings instituted in the courts of appeals to \* \* \* review \* \* \* orders of administrative agencies, boards, commissions, and officers \* \* \*." In this connection it might be both desirable and appropriate to incorporate in the committee reports express language that the bill is not intended to apply to decisions of the Tax Court or to exclusion and deportation orders. Although there would appear to be little basis for believing that the bill in its present form could reasonably be construed to extend to

such proceedings, it may nevertheless be wise to dispel any possible ambiguity in this regard.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,  
*Deputy Attorney General.*

### CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

## TITLE 28. UNITED STATES CODE

### CHAPTER 133. REVIEW—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

2112. *Record on review and enforcement of agency orders.*

\* \* \* \* \*

§ 2112. *Record on review and enforcement of agency orders.*

(a) *The several courts of appeals shall have power to adopt, with the approval of the Judicial Conference of the United States, rules, which so far as practicable shall be uniform in all such courts prescribing the time and manner of filing and the contents of the record in all proceedings instituted in the courts of appeals to enjoin, set aside, suspend, modify, or otherwise review or enforce orders of administrative agencies, boards, commissions, and officers, to the extent that the applicable statute does not specifically prescribe such time or manner of filing or contents of the record. Such rules may authorize the agency, board, commission, or officer to file in the court a certified list of the materials comprising the record and retain and hold for the court all such materials and transmit the same or any part thereof to the court, when and as required by it, at any time prior to the final determination of the proceeding, and such filing of such certified list of the materials comprising the record and such subsequent transmittal of any such materials when and as required shall be deemed full compliance with any provision of law requiring the filing of the record in the court. The record in such proceedings shall be certified and filed in or held for and transmitted to the court of appeals by the agency, board, commission, or officer concerned within the time and in the manner prescribed by such rules. If proceedings have been instituted in two or more courts of appeals with respect to the same order the agency, board, commission or officer concerned shall file the record in that one of such courts in which a proceeding with respect to such order was first instituted. The other courts in which such proceedings are pending shall thereupon transfer them to the court of appeals in which the record has been filed. For the convenience of the parties in the interest of justice such court may thereafter transfer all the proceedings with respect to such order to any other court of appeals.*

(b) *The record to be filed in the court of appeals in such a proceeding shall consist of the order sought to be reviewed or enforced, the findings or report upon which it is based, and the pleadings, evidence, and proceedings before the agency, board, commission, or officer concerned, or such portions thereof (1) as the said rules of the court of appeals may require to be included therein, or (2) as the agency, board, commission, or officer concerned, the petitioner for review or respondent in enforcement, as the case may be, and any intervenor in the court proceeding by written stipulation filed with the agency, board, commission, or officer concerned or in the court in any such proceeding may consistently with the rules of such court designate to be included, therein or (3) as the court upon motion of a party or, after a prehearing conference, upon its own motion may by order in any such proceeding designate to be included therein. Such a stipulation or order may provide in an appropriate case that no record need be filed in the court of appeals. If, however, the correctness of a finding of fact by the agency, board, commission, or officer is in question all of the evidence before the agency, board, commission, or officer shall be included in the record except such as the agency, board, commission, or officer concerned, the petitioner for review or respondent in enforcement, as the case may be, and any intervenor in the court proceeding by written stipulation filed with the agency, board, commission, or officer concerned or in the court agree to omit as wholly immaterial to the questioned finding. If there is omitted from the record any portion of the proceedings before the agency, board, commission, or officer which the court subsequently determines to be proper for it to consider to enable it to review or enforce the order in question the court may direct that such additional portion of the proceedings be filed as a supplemental to the record. The agency, board, commission, or officer concerned may, at its option and without regard to the foregoing provisions of this subsection, and if so requested by the petitioner for review or respondent in enforcement shall, file in the court the entire record of the proceedings before it without abbreviation.*

(c) *The agency, board, commission, or officer concerned may transmit to the court of appeals the original papers comprising the whole or any part of the record or any supplemental record, otherwise true copies of such papers certified by an authorized officer or deputy of the agency, board, commission, or officer concerned shall be transmitted. Any original papers thus transmitted to the court of appeals shall be returned to the agency, board, commission, or officer concerned upon the final determination of the review or enforcement proceeding. Pending such final determination any such papers may be returned by the court temporarily to the custody of the agency, board, commission, or officer concerned if needed for the transaction of the public business. Certified copies of any papers included in the record or any supplemental record may also be returned to the agency, board, commission, or officer concerned upon the final determination of review or enforcement proceedings.*

(d) *The provisions of this section are not applicable to proceedings to review decisions of the Tax Court of the United States or to proceedings to review or enforce those orders of administrative agencies, boards, commissions, or officers which are by law reviewable or enforceable by the district court.*

SEC. 3. (a) The sixth sentence of subsection (b) of section 5 of the Federal Trade Commission Act, as amended (52 Stat. 112): "Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until [the transcript of] the record in the proceeding has been filed in a court of appeals of the United States, as hereinafter provided, the Commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section."

(b) The second and third sentences of subsection (c) of section 5 of the Federal Trade Commission Act, as amended (52 Stat. 112-113): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to the Commission, and thereupon the Commission [forthwith] shall [certify and] file in the court [a transcript of] the [entire] record in the proceeding, [including all the evidence taken and the report and order of the Commission] as provided in section 2112 of title 28, United States Code.* Upon such filing of the petition [and transcript] the court shall have jurisdiction of the proceeding and of the question determined therein *concurrently with the Commission until the filing of the record* and shall have power to make and enter [upon the pleadings, evidence, and proceedings set forth in such transcript] a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors *pendente lite.*"

(c) Subsection (d) of section 5 of the Federal Trade Commission Act, as amended (52 Stat. 113):

"(d) [The] *Upon the filing of the record with it the jurisdiction of the court of appeals of the United States to affirm, enforce, modify or set aside orders of the Commission shall be exclusive*" (15 U. S. C., § 45, Federal Trade Commission).

SEC. 4. (a) The sixth sentence of the second paragraph of section 11 of the Act of October 15, 1914, as amended (64 Stat. 1127): "Until [a transcript of] the record in such hearing shall have been filed in a United States court of appeals, as hereinafter provided, the Commission or Board may at any time, upon such notice, and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section."

(b) The first and second sentences of the third paragraph of section 11 of the Act of October 15, 1914, as amended (64 Stat. 1127):

"If such person fails or neglects to obey such order of the Commission or Board while the same is in effect the Commission or Board may apply to the United States court of appeals, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall [certify and] file [with its application a transcript of] the [entire] record in the proceeding, [including all the testimony taken and the report and order of the Commission or Board] *as provided in section 2112 of title 28, United States Code.* Upon such filing of the application [and transcript] the court shall cause notice thereof to be served upon such person, and thereupon shall

have jurisdiction of the proceeding and of the question determined therein, *concurrently with the Commission or Board until the filing of the record* and shall have power to make and enter [upon the pleadings, testimony, and proceedings set forth in such transcript] a decree affirming, modifying, or setting aside the order of the Commission or Board."

(c) The second and third sentences of the fourth paragraph of section 11 of the Act of October 15, 1914, as amended (64 Stat. 1128): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to the Commission or Board and thereupon the Commission or Board [forthwith] shall [certify and] file in the court [a transcript of] the record in the proceeding, as [hereinbefore] provided in section 2112 of title 28, United States Code. Upon the filing of [the transcript] such petition the court shall have the same jurisdiction to affirm, set aside, or modify the order of the Commission or Board as in the case of an application by the Commission or Board for the enforcement of its order, and the findings of the Commission or Board as to the facts, if supported by substantial evidence, determined as provided in section 10 (e) of the Administrative Procedure Act, shall in like manner be conclusive.*"

(d) The fifth paragraph of section 11 of the Act of October 15, 1914, as amended (64 Stat. 1128):

"[The] *Upon the filing of the record with it the jurisdiction of the United States court of appeals to enforce, set aside, or modify orders of the Commission or Board shall be exclusive*" (15 U. S. C., sec. 21, Interstate Commerce Commission, Federal Communications Commission, Civil Aeronautics Board, Board of Governors of the Federal Reserve System).

SEC. 5. The fourth and fifth sentences of the first paragraph of section 2 of the Act of July 28, 1916 (39 Stat. 425): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to the Post Office Department and thereupon the said department [forthwith] shall [certify and] file in the court [a transcript of] the record [and testimony], as provided in section 2112 of title 28, United States Code. Upon the filing of such [transcript] petition the court shall have jurisdiction to affirm, set aside, or modify the order of the department*" (39 U. S. C., sec. 576, Postmaster General (District of Columbia Circuit only)).

SEC. 6 (a) Subsection (c) of section 203 of the Packers and Stockyards Act, 1921 (42 Stat. 162):

"(c) Until [a transcript of] the record in such hearing has been filed in a court of appeals of the United States, as provided in section 204, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the packer to be heard, may amend or set aside the report or order, in whole or in part" (7 U. S. C., sec. 193, Secretary of Agriculture).

(b) Subsections (b), (c) and (d) of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162):

"(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall [forthwith prepare, certify, and] *thereupon file in the court [a full and accurate transcript of] the record in such proceedings, [including the complaint, the evidence, and the report and order] as provided in*

section 2112 of title 28, United States Code. If before such [transcript] record is filed, the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

“(c) At any time after such [transcript] petition is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the packer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.”

“(d) The evidence so taken or admitted [duly certified] and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.” (7 U. S. C., sec. 194, Secretary of Agriculture.)

(e) The first sentence of subsection (h) of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162) :

“(h) The court of appeals shall have [exclusive] jurisdiction, which upon the finding of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section [240 of the Judicial Code] 1254 of title 28, if such writ is duly applied for within sixty days after entry of the decree” (7 U. S. C., sec. 194, Secretary of Agriculture).

SEC. 7. (a) The third and fourth sentences of paragraph (a) of section 6 of the Commodity Exchange Act (42 Stat. 1001) : “The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Secretary of Agriculture, Chairman of said Commission, or any member thereof, and the said Commission shall [forthwith prepare, certify, and] thereupon file in the court [a full and accurate transcript of] the record in such proceedings [including the notice to the board of trade, a copy of the charges, the evidence, and the report and order], as provided in section 2112 of title 28, United States Code. The testimony and evidence taken or submitted before the said Commission, duly [certified and] filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case.” (7 U. S. C., sec. 8, Contract Market Commission.)

(b) The seventh and eighth sentences of paragraph (b) of section 6 of the Commodity Exchange Act (42 Stat. 1002), as amended: “A copy of such petition shall be forthwith [served upon] transmitted by the clerk of the court to the Secretary of Agriculture [by delivering such copy to him] and thereupon the Secretary of Agriculture shall [forthwith certify and] file in the court [a transcript of] the record theretofore made, [including evidence received] as provided in section 2112 of title 28, United States Code. Upon the filing of the [transcript] petition the court shall have jurisdiction to affirm, to set aside, or modify the order of the Secretary of Agriculture, and the findings of the Secretary of Agriculture as to the facts, if supported by the weight of evidence, shall in like manner be conclusive” (7 U. S. C., sec. 9, Secretary of Agriculture).

SEC. 8. The third and fourth sentences of the second paragraph of subsection (b) of section 641 of the Tariff Act of 1930, as amended

(49 Stat. 865): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to the Secretary of the Treasury, or [upon] any officer designated by him for that purpose, and thereupon the Secretary of the Treasury shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.* Upon the filing of such [transcript] *petition* such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part" (19 U. S. C., sec. 1641, Secretary of the Treasury).

SEC. 9. The second sentence of subsection (a) of section 9 of the Securities Act of 1933 (48 Stat. 80): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to the Commission, and thereupon the Commission shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code*" (15 U. S. C., sec. 771, Securities and Exchange Commission).

SEC. 10. The second and third sentences of subsection (a) of section 25 of the Securities Exchange Act of 1934 (48 Stat. 901): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to any member of the Commission, and thereupon the Commission shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.* Upon the filing of such [transcript] *petition* such court shall have [exclusive] jurisdiction, *which upon the filing of the record shall be exclusive,* to affirm, modify, and enforce or set aside such order, in whole or in part." (15 U. S. C. sec. 78y, Securities and Exchange Commission.)

SEC. 11. The third sentence of subsection (c) of section 18 of the Act of June 18, 1934 (48 Stat. 1002): "The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Board and it shall [forthwith prepare, certify, and] *thereupon* file in the court [a full and accurate transcript of] the record in the proceedings held before it under this section, [the charges, the evidence, and the order revoking the grant] *as provided in section 2112 of title 28 United States Code*" (19 U. S. C., sec. 81r, Foreign Trade Zone Board).

SEC. 12. The second sentence of subsection (d) of section 402 of the Communications Act of 1934, as amended (66 Stat. 719): "Within thirty days after the filing of an appeal, the Commission shall file with the court [a copy of the order complained of, a full statement in writing of the facts and grounds relied upon by it in support of the order involved upon said appeal, and the originals or certified copies of all papers and evidence presented to and considered by it in entering said order] *the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code* (47 U. S. C., sec. 402, Federal Communications Commission (District of Columbia Circuit only)).

SEC. 13. (a) (Subsection (d) of section 10 of the National Labor Relations Act, as amended (61 Stat. 147):

"(d) Until [a transcript of] the record in a case shall have been filed in a court, as hereinafter provided, the Board may at any time,

upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it."

(b) The first, second, fifth, and seventh sentences of subsection (e) of section 10 of the National Labor Relations Act, as amended (61 Stat. 147) :

"(e) The Board shall have power to petition any court of appeals of the United States [(including the United States Court of Appeals for the District of Columbia)], or if all the courts of appeals to which application may be made are in vacation, any district court of the United States [(Including the District Court of the United States for the District of Columbia)], within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall [certify and] file in the court [a transcript of] the [entire] record in the proceedings [(including the pleadings and testimony upon which such order was entered and the findings and order of the Board)], as provided in section 2112 of title 28, United States Code. Upon [such] the filing of such petition, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter [upon the pleadings, testimony, and proceedings set forth in such transcript] a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board. \* \* \* If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its member, agent, or agency, the court may order such additional evidence to be taken before the Board, its [members] member, agent, or agency, and to be made a part of the [transcript] record. \* \* \* [The] Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in [sections 239 and 240 of the Judicial Code, as amended [(U. S. C., title 28, secs. 346 and 347)] section 1254 of title 28."

(c) The second and third sentences of subsection (f) of section 10 of the National Labor Relations Act, as amended (61 Stat. 148) : "A copy of such petition shall be forthwith [served upon] transmitted by the clerk of the court to the Board, and thereupon the aggrieved party shall file in the court [a transcript of] the [entire] record in the proceeding, certified by the Board [(including the pleading and testimony upon which the order complained of was entered, and the findings and order of the Board)], as provided in section 2112 of title 28, United States Code. Upon [such] the filing of such petition, the court shall proceed in the same manner as in the case of an application by the Board under subsection (e) of this section, and shall have the same

[exclusive] jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board; the findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive" (29 U. S. C., sec. 160, National Labor Relations Board).

SEC. 14. The third and fourth sentences of subsection (h) of section 4 of the Federal Alcohol Administration Act (49 Stat. 980), as amended: "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to the Secretary, or [upon] any officer designated by him for that purpose, and thereupon the Secretary shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.* Upon the filing of such [transcript] *petition* such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part" (27 U. S. C., sec. 204, Secretary of the Treasury).

SEC. 15. The second and third sentences of subsection (a) of section 24 of the Public Utility Holding Company Act of 1935 (49 Stat. 834): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to any member of the Commission, or [upon] any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.* Upon the filing of such [transcript] *petition* such court shall have [exclusive] jurisdiction, *which upon the filing of the record shall be exclusive,* to affirm, modify, or set aside such order, in whole or in part (15 U. S. C., sec. 79x, Securities and Exchange Commission).

SEC. 16. (a) Subsection (a) of section 313 of the Federal Power Act, as amended, (49 Stat. 860), last sentence: "*Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at anytime, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this Act.*"

(b) The second and third sentences of subsection (b) of section 313 of the Federal Power Act, as amended (49 Stat. 860): "A copy of such petition shall forthwith be [served upon] *transmitted by the clerk of the court to any member of the Commission and thereupon the Commission shall [certify and] file with the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.* Upon the filing of such [transcript] *petition* such court shall have [exclusive] jurisdiction, *which upon the filing of the record with it shall be exclusive,* to affirm, modify, or set aside such order in whole or in part" (16 U. S. C. sec. 825 l, Federal Power Commission).

SEC. 17. The second and third sentences of subsection (b) of section 611 of the Merchant Marine Act, 1936, as amended (52 Stat. 961): "A copy of such petition shall be forthwith [served upon] *transmit-*

ted by the clerk of the court to any member of the [Board] Commission, or [upon] any officer thereof designated by the [Board] Commission for that purpose, and thereupon the [Board] Commission shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such [transcript] petition such court shall have exclusive jurisdiction to determine whether such cancellation or default was without just cause, and to affirm or set aside such order." (46 U. S. C., sec. 1181 (b), Federal Maritime Board (District of Columbia Circuit only)).

SEC. 18. Subsection (c) of section 1006 of the Civil Aeronautics Act of 1938 (52 Stat. 1024) :

"(c) A copy of the petition shall, upon filing, be forthwith transmitted to the Board by the clerk of the court; and the Board shall thereupon [certify and] file in the court [a transcript of] the record, if any, upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code" (49 U. S. C., sec. 646, Civil Aeronautics Board).

SEC. 19. (a) Subsection (a) of section 19 of the Natural Gas Act (52 Stat. 831), last sentence: "Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this Act."

(b) The second and third sentences of subsection (b) of section 19 of the Natural Gas Act (52 Stat. 831) : "A copy of such petition shall forthwith be [served upon] transmitted by the clerk of the court to any member of the Commission and thereupon the Commission shall [certify and] file with the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition [transcript] such court shall have [exclusive] jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part" (15 U. S. C., sec. 717r, Federal Power Commission).

SEC. 20. (a) The first and second sentences of paragraph (2) of subsection (i) of section 408 of the Federal Food, Drug, and Cosmetic Act, as added by the Act of July 22, 1954 (ch. 559, 68 Stat. 515) :

"(2) In the case of a petition with respect to an order under subsection (d) (5) or (e), a copy of the petition shall be forthwith [served upon] transmitted by the clerk of the court to the Secretary, or [upon] any officer designated by him for that purpose, and thereupon the Secretary shall [certify and] file in the court [a transcript] the record of the proceedings [and the record] on which he based his order, as provided in section 2112 of title 28, United States Code. Upon [such] the filing of such petition, the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part."

(b) The first and second sentences of paragraph (3) of subsection (i) of section 408 of the Federal Food, Drug, and Cosmetic Act, as added by the Act of July 22, 1954 (ch. 559, 68 Stat. 515) :

“(3) In the case of a petition with respect to an order such subsection (1), a copy of the petition shall be forthwith [served upon] *transmitted by the clerk of the court to the Secretary of Agriculture, or [upon] any officer designated by him for that purpose, and thereupon the Secretary shall [certify and] file in the court [a transcript] the record of the proceedings [and the record] on which he based his order, as provided in section 2112 of title 28, United States Code.* Upon [such] *the filing of such petition,* the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part” (21 U. S. C., sec 346a, Secretary of Health, Education, and Welfare, Secretary of Agriculture).

SEC. 21. (a) The second and third sentences of paragraph (1) of subsection (f) of section 701 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1055), as amended: *A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. [The summons and petition may be served at any place in the United States.] The Secretary [promptly upon service of the summons and petition] thereupon shall [certify and] file in the court the [transcript] record of the proceedings [and the record] on which the Secretary based his order, as provided in section 2112 of title 28, United States Code.”*

(b) The first sentence of paragraph 3 of subsection (f) of section 701 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1055), as amended: *“Upon the filing of the petition referred to in paragraph (1) of this subsection, the [The] court shall have jurisdiction to affirm the order, or to set it aside in whole or in part, temporarily or permanently.”* (21 U. S. C., sec. 371, Secretary of Health, Education, and Welfare.)

SEC. 22. The second and third sentences of subsection (a) of section 10 of the Fair Labor Standards Act of 1938 (52 Stat. 1065), as amended: *“A copy of such petition shall forthwith be [served upon] transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall [certify and] file in the court [a transcript of] the record of the industry committee upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such [transcript] petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part, so far as it is applicable to the petitioner.”* (29 U. S. C., sec. 210, Secretary of Labor.)

SEC. 23. The fourth, fifth, sixth, and eighth sentences of subsection (f) of section 5 of the Railroad Unemployment Insurance Act, as amended (52 Stat. 1100): *“Within fifteen days after receipt of service, or within such additional time as the court may allow, the Board shall [certify and] file with the court in which such petition has been filed [a transcript of] the record upon which the findings and decision complained of are based, as provided in section 2112 of title 28, United States Code. Upon [such] the filing of such petition the court shall have exclusive jurisdiction of the proceeding and of the question determined therein, and shall give precedence in the adjudication thereof over all over civil cases not otherwise entitled by law to precedence. It shall have power to enter [upon the pleadings and transcript of the record,] a decree affirming, modifying, or reversing the decision of the Board, with or without remanding the cause for*

rehearing. \* \* \* No additional evidence shall be received by the court, but the court may order additional evidence to be taken before the Board, and the Board may, after hearing such additional evidence, modify its findings of fact and conclusions and file such additional or modified findings and conclusions with the court, and the Board shall file with the court [a transcript of] the additional record" (45 U. S. C., sec. 355, Railroad Retirement Board).

SEC. 24. (a) Subsection (c) of section 409 of the Federal Seed Act (53 Stat. 1287):

"(c) Until [a transcript of] the record in such hearing has been filed in a court of appeals as provided in section 410, the Secretary of Agriculture at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the person to be heard, may amend or set aside the report or order, in whole or in part" (7 U. S. C., sec. 1599, Secretary of Agriculture).

(b) The second, third, and fourth paragraphs of section 410 of the Federal Seed Act (53 Stat. 1288):

"The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall [forthwith prepare, certify, and] *thereupon* file in the court [a full and accurate transcript of] the record in such proceedings, [including the complaint, the evidence, and the report and order] *as provided in section 2112 of title 28, United States Code*. If before such [transcript] *record* is filed, the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

"At any time after such [transcript] *petition* is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the person and his officers, directors, agents, and employees from violating any of the provisions of the order pending the final determination of the appeal.

"The evidence so taken or admitted [, duly certified] and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way." (7 U. S. C., sec. 1600, Secretary of Agriculture.)

(c) The first and second sentences of section 411 of the Federal Seed Act (53 Stat. 1288):

"SEC. 411. If any person against whom an order is issued under section 409 fails to obey the order, the Secretary of Agriculture, or the United States, by its Attorney General, may apply to the court of appeals of the United States, within the circuit where the person against whom the order was issued resides or has his principal place of business, for the enforcement of the order, and shall [certify and] file [with its application a full and accurate transcript of] the record in such proceedings, [including the complaint, the evidence, the report, and the order] *as provided in section 2112 of title 28, United States Code*. Upon such filing of the application [and transcript] the court shall cause notice thereof to be served upon the person against whom the order was issued" (7 U. S. C., sec. 1601, Secretary of Agriculture).

SEC. 25. The second and third sentences of subsection (a) of section 43 of the Investment Company Act of 1940, as amended (54 Stat. 844): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to any member of the Commission or [upon] any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.* Upon the filing of such [transcript] *petition such court shall have [exclusive] jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, or set aside such order, in whole or in part"* (15 U. S. C., sec. 80a-42, Securities and Exchange Commission).

SEC. 26. The second and third sentences of subsection (a) of section 213 of the Investment Advisers Act of 1940, as amended (54 Stat. 855): "A copy of such petition shall be forthwith [served upon] *transmitted by the clerk of the court to any member of the Commission, or [upon] any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall [certify and] file in the court [a transcript of] the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.* Upon the filing of such [transcript] *petition such court shall have [exclusive] jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, or set aside such order, in whole or in part"* (15 U. S. C., sec. 80b-13, Securities and Exchange Commission).

SEC. 27. (a) Paragraph (1) of subsection (b) of section 632 of the Act of July 1, 1944, as added by the Hospital Survey and Construction Act (60 Stat. 1048):

"(b) (1) If the Surgeon General refuses to approve any application under section 625 or section 654, the State agency through which the application was submitted, or if any State is dissatisfied with the Surgeon General's action under subsection (a) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located [the summons and notice of appeal may be served at any place in the United States] *by filing with such court a notice of appeal. The jurisdiction of the court shall attach upon the filing of such notice. A copy of the notice of appeal shall be forthwith transmitted by the clerk of the court to the Surgeon General, or any officer designated by him for that purpose. The Surgeon General shall [forthwith certify and] thereupon file in the court the [transcript] record of the proceedings [and the record] on which he based his action, as provided in section 2112 of title 28, United States Code.*

(b) The first sentence of paragraph (2) of subsection (b) of section 632 of the Act of July 1, 1944, as added by the Hospital Survey and Construction Act (60 Stat. 1048):

"(2) The findings of fact by the Surgeon General, unless substantially contrary to the weight of the evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Surgeon General to take further evidence, and the Surgeon General may thereupon make new or modified findings of fact and may modify his previous action, shall [certify to] *file in the court the [tran-*

script and] record of the further proceedings" (42 U. S. C., sec. 291j, Public Health Service).

SEC. 28. The fourth sentence of subsection (c) of section 205 of the Sugar Act of 1948 (61 Stat. 927): "Within thirty days after the filing of said appeal the Secretary shall file with the court the [originals or certified copies of all papers and evidence presented to him upon the hearing involved, a like copy of his decision thereon, a full statement in writing of the facts and grounds for his decisions as found and given by him] record upon which the decision complained of was entered, as provided in section 2112 of title 28, United States Code, and a list of all interested persons to whom he has mailed or otherwise delivered a copy of said notice of appeal" (7 U. S. C., sec. 1115, Secretary of Agriculture (District of Columbia Circuit only)).

SEC. 29. The second and third sentences of subsection (a) of section 14 of the Internal Security Act of 1950 (64 Stat. 1001): "A copy of such petition shall be forthwith [served upon] transmitted by the clerk of the court to the Board, and thereupon the Board shall [certify and] file in the court [a transcript of] the [entire] record in the proceeding, [including all evidence taken and the report and order of the Board] as provided in section 2112 of title 28, United States Code. [Thereupon] Upon the filing of such petition the court shall have jurisdiction of the proceeding and shall have power to affirm or set aside the order of the Board; but the court may in its discretion and upon its own motion transfer any action so commenced to the United States Court of Appeals for the circuit wherein the petitioner resides" (50 U. S. C., sec. 793, Subversive Activities Control Board).

SEC. 30. (a) Subsection (e) of section 110 of the Internal Security Act of 1950 (64 Stat. 1028):

"(e) Until [a transcript of] the record in a case shall have been filed in a court, as hereinafter provided, the Board may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it" (50 U. S. C., sec. 820, Detention Review Board).

(b) The third and fifth sentences of subsection (c) of section 111 of the Internal Security Act of 1950 (64 Stat. 1028): "The Board shall thereupon file in the court [a duly certified transcript of] the [entire] record of the proceedings before the Board with respect to the matter concerning which judicial review is sought, [including all evidence upon which the order complained of was entered, the findings and order of the Board] as provided in section 2112 of title 28, United States code. \* \* \* [Thereupon] Upon the filing of such petition the court shall have jurisdiction of the proceeding, which upon the filing of the record with it shall be exclusive, and shall have power to affirm, modify, or set aside, or to enforce as modified the order of the Board" (50 U. S. C., sec. 821, Detention Review Board).

(c) The first sentence of subsection (d) of section 111 of the Internal Security Act of 1950 (60 Stat. 1029):

"(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board or its hearing examiner the court may order such additional evidence to be taken before the Board or its hearing ex-

aminer and to be made a part of the [transcript] record" (50 U. S. C., sec. 821, Detention Review Board).

SEC. 31. (a) Section 6 of the Act of December 29, 1950 (64 Stat. 1130):

"SEC. 6. [Within the time prescribed by, and in accordance with the requirements of, rules promulgated by the court of appeals in which the proceeding is pending, unless] *Unless* the proceeding has been terminated on a motion to dismiss the petition, the agency shall file in the office of the clerk of the court of appeals in which the proceeding is pending the record on review, [duly certified, consisting of the pleadings, evidence, and proceedings before the agency, or such portions thereof as such rules shall require to be included in such record, or such portions thereof as the petitioner and the agency, with the approval of the court of appeals, shall agree upon in writing] *as provided in section 2112 of title 28, United States Code*" (5 U. S. C., sec. 1036, Federal Communications Commission, Secretary of Agriculture, Federal Maritime Board, Maritime Administration, Atomic Energy Commission).

(b) The second sentence of subsection (c) of section 7 of the Act of December 29, 1950 (64 Stat. 1131): "The agency may modify its findings of fact, or make new findings, by reason of the additional evidence so taken and may modify or set aside its order and shall file [a certified transcript of] *in the court* such additional evidence, such modified findings or new findings, and such modified order or the order setting aside the original order" (5 U. S. C., sec. 1037, Federal Communications Commission, Secretary of Agriculture, Federal Maritime Board, Maritime Administration, Atomic Energy Commission).

SEC. 32. Subsection (b) of section 207 of the Act of September 23, 1950, as amended (64 Stat. 974), last three sentences: "*The local educational agency affected may file with the court a petition to review such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. Upon the filing of the petition the court shall have jurisdiction to affirm or set aside the action of the Commissioner in whole or in part.*" (20 U. S. C., sec. 277, Commissioner of Education).

SEC. 33. The fifth and sixth sentences of subsection (b) of section 207 of the International Claims Settlement Act of 1949, as amended (69 Stat. 564): "Such petition for review must be filed within sixty days after the date of mailing of the final order of denial by said designee and a copy shall forthwith be transmitted to the said designee by the clerk of the court [must be served on the said designee]. Within forty-five days after receipt [service] of such petition for review, or within such further time as the court may grant for good cause shown, said designee shall file an answer thereto, and shall [certify and] file with the court [a transcript of] the [entire] record of the proceedings with respect to such claim, *as provided in section 2112 of title 28, United States Code.*" (22 U. S. C., sec. 1631f, Attorney General).

SEC. 34. The second and third sentences of section 9 of the Bank Holding Company Act of 1956 (70 Stat. 138):

“A copy of such petition shall be forthwith *transmitted to the Board by the clerk of the court* [served upon the Board], and thereupon the Board shall [certify and] file in the court [a transcript of] the record made before the Board, *as provided in section 2112 of title 28, United States Code.* Upon the filing of *such petition* [the transcript] the court shall have jurisdiction to affirm, set aside, or modify the order of the Board and to require the Board to take such action with regard to the matter under review as the court deems proper.” (12 U. S. C., sec. 1848, Board of Governors of the Federal Reserve System).

SEC. 35. This Act shall not be construed to repeal or modify any provision of the Administrative Procedure Act.

