



U.S. Department of Justice
Office of Legal Policy

September 29, 1982

Fred:

Re: Legislative Strategy
on Bankruptcy

Thought you would be interested in this. A great opportunity for a strong reply if only we can get the Senate to act promptly.

Jon

cc: J. Cicconi ✓
K. Cribb
R. Darman

Congress of the United States

House of Representatives

Washington, D.C. 20515

September 26, 1982

The Honorable William French Smith
Attorney General of the United States
U. S. Department of Justice
Washington, D. C. 20530

Dear Mr. Attorney General:

As you know, on June 28, 1982, the United States Supreme Court held the bankruptcy court system unconstitutional in Northern Pipeline Construction Company v. Marathon Pipe Line Co., U.S., 30 U.S.L.W. 4872. The Court stayed the effective date of its decision until October 4, 1982, in order to give the Congress time to correct the constitutional problem and to protect the orderly administration and adjudication of bankruptcy cases in the interim.

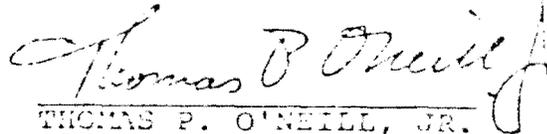
Aware of the necessity for prompt action on the matter in order for the Congress to comply with the October 4 deadline, the Committee on the Judiciary in the House of Representatives began hearings on possible legislative solutions to the problem on July 21 and 22, 1982. As a result of those hearings, H.R. 6978, a bill to provide for the appointment of United States bankruptcy judges under Article III of the Constitution, was introduced in the House on August 12. On August 17, the Subcommittee on Monopolies and Commercial Law favorably passed H. R. 6978, and the Judiciary Committee ordered the bill favorably reported on August 19. The Committee report on H.R. 6978 was filed on September 15 (H.R. No. 97-607).

While the House has diligently addressed the issues presented by the Northern Pipeline case and is anxious to meet the deadline imposed in that decision, it is enormously difficult to enact comprehensive legislation in the short period of time set forth by the Supreme Court in that case. It does not appear that it will be possible for the Congress to enact legislation to correct the constitutional problem in the bankruptcy court system in the closing days before the recess.

The Honorable William French Smith
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September 28, 1982

The judicial system and business community cannot withstand the uncertainty created by the Northern Pipeline decision. In the interests of maintaining the orderly administration of bankruptcy proceedings in the nation, particularly in the present state of the economy, we strongly urge the Department of Justice to seek an extension of the stay issued in the Northern Pipeline case.

Sincerely,



THOMAS P. O'NEILL, JR.

Speaker

U. S. House of Representatives

Union Calendar No. 497

97TH CONGRESS
2D SESSION

H. R. 6978

[Report No. 97-807]

To provide for the appointment of United States bankruptcy judges under article III of the Constitution, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 12, 1982

Mr. RODINO (for himself, Mr. EDWARDS of California, Mr. MCCLORY, and Mr. BUTLER) introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 15, 1982

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on August 12, 1982]

A BILL

To provide for the appointment of United States bankruptcy judges under article III of the Constitution, and for other purposes.

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

1 *That this Act may be cited as the "Bankruptcy Court Act of*
 2 *1982".*

3 *SEC. 2. (a) Title 28 of the United States Code is*
 4 *amended by inserting after chapter 5 the following new chap-*
 5 *ter:*

6 **"CHAPTER 6—BANKRUPTCY COURTS**

"Sec.

"151. Creation and composition of bankruptcy courts.

"152. Appointment of bankruptcy judges.

"153. Tenure and residence of bankruptcy judges.

"154. Salaries of bankruptcy judges.

"155. Chief judge; precedence of bankruptcy judges.

"156. Division of business among bankruptcy judges.

"157. Times and places of holding court.

"158. Vacant judgeship as affecting proceedings.

"159. Appellate panels.

7 **"§ 151. Creation and composition of bankruptcy courts**

8 *"(a) There shall be in each judicial district a bankrupt-*
 9 *cy court which shall be a court of record known as the United*
 10 *States Bankruptcy Court for the district.*

11 *"(b) Each bankruptcy court shall consist of the bank-*
 12 *ruptcy judge or judges for the district in regular active serv-*
 13 *ice. Justices or judges designated and assigned shall be com-*
 14 *petent to sit as judges of the bankruptcy court.*

15 *"(c) Except as otherwise provided by law, or rule or*
 16 *order of court, the judicial power of a bankruptcy court with*
 17 *respect to any action, suit, or proceeding may be exercised by*
 18 *a single bankruptcy judge, who may preside alone and hold a*
 19 *regular or special session of court at the same time other*
 20 *sessions are held by other bankruptcy judges.*

1 "§ 152. Appointment of bankruptcy judges

2 "The President shall appoint, by and with the advice
3 and consent of the Senate, bankruptcy judges for the several
4 judicial districts, as follows:

<i>"Districts</i>	<i>Judges</i>
<i>Alabama</i>	
Northern.....	4
Middle.....	2
Southern.....	2
<i>Alaska</i>	1
<i>Arizona</i>	4
<i>Arkansas</i>	
Eastern.....	1
Western.....	1
<i>California</i>	
Northern.....	7
Eastern.....	4
Central.....	12
Southern.....	3
<i>Colorado</i>	4
<i>Connecticut</i>	2
<i>Delaware</i>	1
<i>District of Columbia</i>	1
<i>Florida</i>	
Northern.....	1
Middle.....	2
Southern.....	3
<i>Georgia</i>	
Northern.....	4
Middle.....	2
Southern.....	1
<i>Hawaii</i>	1
<i>Idaho</i>	1
<i>Illinois</i>	
Northern.....	8
Central.....	2
Southern.....	1
<i>Indiana</i>	
Northern.....	2
Southern.....	4
<i>Iowa</i>	
Northern.....	1
Southern.....	1
<i>Kansas</i>	3
<i>Kentucky</i>	
Eastern.....	1
Western.....	2
<i>Louisiana</i>	
Eastern.....	2
Middle.....	1
Western.....	2

Maine	2
Maryland.....	2
Massachusetts.....	4
Michigan	
Eastern.....	4
Western.....	2
Minnesota.....	4
Mississippi	
Northern.....	1
Southern.....	2
Missouri	
Eastern.....	3
Western.....	3
Montana.....	1
Nebraska.....	1
Nevada.....	2
New Hampshire.....	1
New Jersey.....	5
New Mexico.....	1
New York	
Northern.....	2
Southern.....	7
Eastern.....	6
Western.....	3
North Carolina	
Eastern.....	2
Western.....	1
Middle.....	2
North Dakota.....	1
Ohio	
Northern.....	8
Southern.....	7
Oklahoma	
Northern.....	1
Eastern.....	1
Western.....	2
Oregon.....	4
Pennsylvania	
Eastern.....	3
Middle.....	2
Western.....	3
Puerto Rico.....	2
Rhode Island.....	1
South Carolina.....	1
South Dakota.....	1
Tennessee	
Eastern.....	2
Middle.....	2
Western.....	2
Texas	
Northern.....	3
Southern.....	3
Eastern.....	1
Western.....	2
Utah.....	2

Vermont.....	1
Virginia	
Eastern.....	3
Western.....	2
Washington	
Eastern.....	1
Western.....	4
West Virginia	
Northern.....	1
Southern.....	1
Wisconsin	
Eastern.....	3
Western.....	1
Wyoming.....	1

1 **“§ 153. Tenure and residence of bankruptcy judges**

2 “(a) The bankruptcy judges shall hold office during
3 good behavior.

4 “(b) Each bankruptcy judge, other than a bankruptcy
5 judge of the United States Bankruptcy Court for the District
6 of Columbia, shall reside in the district or one of the districts
7 for which he is appointed.

8 “(c) If the public interest and the nature of the business
9 of a bankruptcy court require that a bankruptcy judge should
10 maintain his abode at or near a particular place for holding
11 court in the district or within a particular part of the district
12 the judicial council of the circuit may so declare and may
13 make an appropriate order. If the bankruptcy judges of such
14 a district are unable to agree as to which of them shall main-
15 tain his abode at or near the place or within the area speci-
16 fied in such an order the judicial council of the circuit may
17 decide which of them shall do so.

1 ***“§ 154. Salaries of bankruptcy judges***

2 *“Each bankruptcy judge shall receive a salary at an*
3 *annual rate of \$65,000, subject to adjustment under section*
4 *225 of the Federal Salary Act of 1967 (2 U.S.C. 351–361)*
5 *and section 461 of this title.*

6 ***“§ 155. Chief judges; precedence of bankruptcy judges***

7 *“(a)(1) In any district having more than one bankrupt-*
8 *cy judge, the chief judge of the district shall be the bankrupt-*
9 *cy judge in regular active service who is senior in commis-*
10 *sion of those judges who—*

11 *“(A) are sixty-four years of age or under;*

12 *“(B) have served for one year or more as a bank-*
13 *ruptcy judge; and*

14 *“(C) have not served previously as chief judge.*

15 *“(2)(A) In any case in which no bankruptcy judge*
16 *meets the qualifications of paragraph (1), the youngest bank-*
17 *ruptcy judge in regular active service who is sixty-five years*
18 *of age or over and who has served as bankruptcy judge for*
19 *one year or more shall act as the chief judge.*

20 *“(B) In any case under subparagraph (A) in which*
21 *there is no bankruptcy judge in regular active service who*
22 *has served as a bankruptcy judge for one year or more, the*
23 *bankruptcy judge in regular active service who is senior in*
24 *commission and who has not served previously as chief judge*
25 *shall act as the chief judge.*

1 “(3)(A) *Except as provided in subparagraph (C), the*
2 *chief judge of the district appointed under paragraph (1)*
3 *shall serve for a term of seven years and shall serve after*
4 *expiration of such term until another judge is eligible under*
5 *paragraph (1) to serve as chief judge of the district.*

6 “(B) *Except as provided in subparagraph (C), a bank-*
7 *ruptcy judge acting as chief judge under subparagraph (A) or*
8 *(B) of paragraph (2) shall serve until a judge has been ap-*
9 *pointed who meets the qualifications under paragraph (1).*

10 “(C) *No bankruptcy judge may serve or act as chief*
11 *judge of the district after attaining the age of seventy years*
12 *unless no other bankruptcy judge is qualified to serve as chief*
13 *judge of the district under paragraph (1) or is qualified to act*
14 *as chief judge under paragraph (2).*

15 “(b)(1) *The chief judge shall have precedence and pre-*
16 *side at any session which he attends.*

17 “(2) *Other bankruptcy judges shall have precedence and*
18 *preside according to the seniority of their commissions.*
19 *Judges whose commissions bear the same date shall have*
20 *precedence according to seniority in age.*

21 “(c) *A judge whose commission extends over more than*
22 *one district shall be junior to all bankruptcy judges except in*
23 *the district in which he resided at the time he entered upon*
24 *the duties of his office.*

1 “(d) If the chief judge desires to be relieved of his duties
2 as chief judge while retaining his active status as bankruptcy
3 judge, he may so certify to the Chief Justice of the United
4 States, and thereafter, the chief judge of the district shall be
5 such other bankruptcy judge who is qualified to serve or act
6 as chief judge under subsection (a).

7 “(e) If a chief judge is temporarily unable to perform
8 his duties as such, they shall be performed by the bankruptcy
9 judge in active service, present in the district and able and
10 qualified to act, who is next in precedence.

11 “§ 156. Division of business among bankruptcy judges

12 “(a) The business of a bankruptcy court having more
13 than one judge shall be divided among the judges as provided
14 by the rules and orders of the court.

15 “(b) The chief judge of the bankruptcy court shall be
16 responsible for the observance of such rules and orders, and
17 shall divide the business and assign the cases so far as such
18 rules and orders do not otherwise prescribe.

19 “(c) If the bankruptcy judges in any district are unable
20 to agree upon the adoption of rules or orders for that purpose
21 the judicial council of the circuit shall make the necessary
22 orders.

1 **“§ 157. Times and places of holding court**

2 “(a) *The bankruptcy court at each designated place*
3 *shall be deemed to be in continuous session on all business*
4 *days throughout the year.*

5 “(b) *Each bankruptcy court may establish by local rule*
6 *or order schedules of court sessions at designated places of*
7 *holding court other than the headquarters office of the court.*
8 *Such schedules may be pretermitted by order of the court.*

9 “(c) *Bankruptcy court may be held at any place within*
10 *the district served, in any case, on order of the bankruptcy*
11 *court, for the convenience of the parties, on such notice as the*
12 *bankruptcy court orders.*

13 **“§ 158. Vacant judgeship as affecting proceedings**

14 “*When the office of the bankruptcy judge becomes*
15 *vacant, all pending process, pleadings, and proceedings shall,*
16 *when necessary, be continued by the clerk until a judge is*
17 *appointed or designated to hold such court.*

18 **“§ 159. Appellate panels**

19 “(a) *If the circuit council of a circuit orders application*
20 *of this section to a district within such circuit, the chief judge*
21 *of the circuit shall designate panels of three bankruptcy*
22 *judges to hear appeals from judgments, orders, and decrees of*
23 *the bankruptcy court of the United States for such district.*
24 *Except as provided in section 293(b) of this title, a panel*
25 *shall be composed only of bankruptcy judges for districts lo-*
26 *cated in the circuit in which the appeal arises. The chief*

1 judge shall designate a sufficient number of such panels so
2 that appeals may be heard and disposed of expeditiously.

3 “(b) A panel designated under subsection (a) of this sec-
4 tion may not hear an appeal from a judgment, order, or
5 decree entered by a member of the panel.

6 “(c) When hearing an appeal, a panel designated under
7 subsection (a) of this section shall sit at a place convenient to
8 the parties to the appeal.”.

9 “(b) The table of chapters of part I of title 28, United
10 States Code, is amended by inserting after the item relating
11 to chapter 5 of such title the following new item:

“6. Bankruptcy courts..... 151”.

12 SEC. 3. Section 291(b) of title 28, United States Code,
13 is amended by inserting “or bankruptcy” after “to hold a
14 district”.

15 SEC. 4. Section 292(b) of title 28, United States Code,
16 is amended by inserting “or a bankruptcy court” after “to
17 hold a district court”.

18 SEC. 5. Section 292(d) of title 28, United States Code,
19 is amended—

20 (1) by striking out “either”,

21 (2) by inserting “bankruptcy court,” after “in a”,

22 and

23 (3) by inserting a comma after “district court”.

1 *SEC. 6. (a) Section 293 of title 28, United States Code,*
2 *is amended by adding at the end thereof the following new*
3 *subsection:*

4 *“(b)(1) The Chief Justice of the United States may des-*
5 *ignate and assign temporarily a bankruptcy judge of one cir-*
6 *cuit to perform judicial duties in another circuit, either in a*
7 *bankruptcy court or a district court, upon presentation of a*
8 *certificate of necessity by the chief judge or circuit justice of*
9 *the circuit wherein the need arises and if such designation*
10 *and assignment will not impair the expeditious determina-*
11 *tion of cases pending in the bankruptcy court in which such*
12 *bankruptcy judge sits.*

13 *“(2) The chief judge of a circuit may designate and*
14 *assign one or more bankruptcy judges within the circuit to sit*
15 *upon the court of appeals or a panel thereof whenever the*
16 *business of that court so requires and whenever such desig-*
17 *nations and assignments will not impair the expeditious de-*
18 *termination of cases pending in the bankruptcy courts in*
19 *which such bankruptcy judges sit. Such designations or as-*
20 *signments shall be in conformity with the rules or orders of*
21 *the court of appeals of the circuit.*

22 *“(3) The chief judge of a circuit may, in the public*
23 *interest, designate and assign temporarily a bankruptcy*
24 *judge of the circuit to hold a district court in any district*
25 *within the circuit if such designation and assignment will not*

1 *impair the expeditious determination of cases pending in the*
2 *bankruptcy court in which such bankruptcy judge sits.*

3 “(4) *The chief judge of a circuit may, in the public*
4 *interest, designate and assign temporarily a bankruptcy*
5 *judge of the circuit to hold a bankruptcy court in any district*
6 *within the circuit.*”.

7 (b) *The heading of section 293 of title 28, United States*
8 *Code, is amended to read “Judges of other courts”.*

9 (c) *The item relating to section 293 in the table of sec-*
10 *tions of chapter 13 of title 28, United States Code, is amend-*
11 *ed to read:*

 “293. *Judges of other courts.*”.

12 SEC. 7. *Section 294 of title 28, United States Code, is*
13 *amended—*

14 (1) *in subsection (c) by striking out “or district”*
15 *and inserting in lieu thereof “, district, or bankrupt-*
16 *cy”, and*

17 (2) *in subsection (d)—*

18 (A) *in the first sentence by striking out “or*
19 *district” and inserting in lieu thereof “, district,*
20 *or bankruptcy”,*

21 (B) *in the second sentence by striking out*
22 *“or district” and inserting in lieu thereof “, dis-*
23 *trict, or bankruptcy”, and*

1 (C) in the third sentence by striking out "or
2 district court" and inserting in lieu thereof ", dis-
3 trict court, or bankruptcy court".

4 SEC. 8. Section 295 of title 28, United States Code, is
5 amended by striking out "or district" and inserting in lieu
6 thereof ", district, or bankruptcy".

7 SEC. 9. Section 331 of title 28, United States Code, is
8 amended—

9 (1) in the first paragraph by striking out "and a
10 district judge from each judicial circuit" and inserting
11 in lieu thereof ", and a district judge and a bankrupt-
12 cy judge from each judicial circuit,"

13 (2) in the second paragraph—

14 (A) by striking out ", except that" and all
15 that follows through "three years", and

16 (B) by inserting at the end thereof the fol-
17 lowing: "The bankruptcy judge to be summoned
18 from each judicial circuit shall be chosen by the
19 circuit and bankruptcy judges of the circuit at the
20 annual judicial conference of the circuit held pur-
21 suant to section 333 of this title and shall serve
22 as a member of the conference for three successive
23 years, except that in the year following the effec-
24 tive date of this sentence the circuit and bankrupt-
25 cy judges in the first, fourth, seventh, and tenth

1 *circuits shall choose a bankruptcy judge to serve*
2 *for one year, the circuit and bankruptcy judges in*
3 *the second, fifth, eighth, and eleventh circuits*
4 *shall choose a bankruptcy judge to serve for two*
5 *years and the circuit and bankruptcy judges in*
6 *the third, sixth, ninth, and District of Columbia*
7 *circuits shall choose a bankruptcy judge to serve*
8 *for three years.”, and*

9 *(3) in the third paragraph—*

10 *(A) by striking out “or the district judge”*
11 *and inserting in lieu thereof “or the district or*
12 *bankruptcy judge”, and*

13 *(B) by striking out “or district” and insert-*
14 *ing in lieu thereof “, district, or bankruptcy”.*

15 *SEC. 10. Section 332(a) of title 28, United States*
16 *Code, is amended—*

17 *(1) in paragraph (1)(C)—*

18 *(A) by inserting “and bankruptcy judges of*
19 *the circuit” after “district judges of the circuit”,*
20 *and*

21 *(B) in clause (i) and clause (ii) by striking*
22 *out “the number of district judges” each place it*
23 *appears and inserting in lieu thereof “the aggre-*
24 *gate number of district and bankruptcy judges”,*

1 (2) in paragraph (3) by striking out "circuit and
2 district" and inserting "circuit, district, and bankrupt-
3 cy" in lieu thereof,

4 (3) in paragraph (4) by striking out "circuit and
5 district" and inserting in lieu thereof "circuit, district,
6 and bankruptcy", and

7 (4) in paragraph (5) by adding at the end thereof
8 the following: "No more than one bankruptcy judge
9 from any one district shall serve simultaneously on the
10 council, unless at least one bankruptcy judge from each
11 district within the circuit is already serving as a
12 member of the council."

13 SEC. 11. (a) The fourth paragraph of section 372(a) of
14 title 28, United States Code, is amended by striking out "or
15 district" and inserting in lieu thereof ", district, or bankrupt-
16 cy".

17 (b) Section 372(b) of title 28, United States Code, is
18 amended by striking out "or district" and inserting in lieu
19 thereof ", district, or bankruptcy".

20 (c) Section 372(c)(6)(B)(vii) of title 28, United States
21 Code, is amended by striking out "and any removal of a
22 bankruptcy judge shall be in accordance with section 153 of
23 this title".

1 *SEC. 12. The table of sections of chapter 17 of title 28,*
2 *United States Code, is amended by striking out the item re-*
3 *lating to section 375.*

4 *SEC. 13. (a) Section 376(a)(1) of title 28, United*
5 *States Code, is amended—*

6 *(1) by redesignating subparagraphs (C), (D), and*
7 *(E) as subparagraphs (D), (E), and (F), respectively,*

8 *(2) by inserting after subparagraph (B) the fol-*
9 *lowing new subparagraph:*

10 *“(C) a bankruptcy judge, as defined by sec-*
11 *tion 377(j) of this title;”,*

12 *(3) by striking out “or” before “(iii)”, and*

13 *(4) by inserting before the semicolon at the end*
14 *thereof “, or (iv) in the case of a bankruptcy judge, as*
15 *defined by section 377(j) of this title, the date of the*
16 *enactment of the Bankruptcy Court Act of 1982”.*

17 *(b) Section 376(a)(2) of title 28, United States Code, is*
18 *amended—*

19 *(1) by redesignating subparagraphs (C), (D), and*
20 *(E) as subparagraphs (D), (E), and (F), respectively,*
21 *and*

22 *(2) by inserting after subparagraph (B) the fol-*
23 *lowing new subparagraph:*

24 *“(C) in the case of a bankruptcy judge, as*
25 *defined by section 377(j) of this title, retirement*

1 *pay received after retirement from office under*
2 *section 377;”.*

3 *SEC. 14. (a) Chapter 17 of title 28, United States*
4 *Code, is amended by adding at the end thereof the following*
5 *new section:*

6 ***“§ 377. Bankruptcy transition judges***

7 *“(a) A bankruptcy judge who is not appointed under*
8 *section 152 of this title to the bankruptcy court after March*
9 *31, 1983, shall be eligible to retire and to receive retirement*
10 *pay under subsection (c) of this section after attaining the*
11 *age of sixty years, if such judge—*

12 *“(1) continues in service until March 31, 1983;*

13 *“(2) whenever designated and appointed under*
14 *section 50(c) of the Bankruptcy Court Act of 1982,*
15 *serves in accordance with such section;*

16 *“(3) serves as a bankruptcy judge for at least ten*
17 *years; and*

18 *“(4) advises the President in writing, not later*
19 *than January 1, 1983, that such judge is willing to*
20 *accept appointment under section 152 of this title to*
21 *the bankruptcy court.*

22 *“(b) Any bankruptcy judge who becomes permanently*
23 *disabled from performing the duties of the office shall retire.*

24 *“(c)(1) A bankruptcy judge who elects under subsection*
25 *(d) of this section to receive retirement pay under this subsec-*

1 *tion and who retires under subsection (a) of this section shall*
2 *receive retirement pay for any period at a rate equal to the*
3 *product of—*

4 “(A) *the rate of salary payable to such judge on*
5 *March 31, 1983, for a comparable period; and*

6 “(B) *the sum of—*

7 “(i) *the number of years the bankruptcy*
8 *judge who so elects served as a bankruptcy judge*
9 *before October 1, 1979, divided by 28; and*

10 “(ii) *the number of years the bankruptcy*
11 *judge who so elects serves as a bankruptcy judge*
12 *after September 30, 1979, divided by 14;*

13 *except that the rate of such retirement pay shall not exceed*
14 *the rate of salary payable to such judge on March 31, 1983.*

15 “(2) *A bankruptcy judge who elects under subsection (d)*
16 *of this section to receive retirement pay under this subsection*
17 *and who retires under subsection (b) of this section shall re-*
18 *ceive retirement pay for any period at a rate—*

19 “(A) *equal to the rate of salary payable to such*
20 *judge immediately preceding the date his retirement*
21 *commences, for a comparable period, if before such re-*
22 *tirement such judge serves as a bankruptcy judge not*
23 *less than ten years; or*

24 “(B) *equal to 50 per centum of the rate of salary*
25 *payable to such judge immediately preceding the date*

1 his retirement commences, for a comparable period if
2 before such retirement such judge serves as a bankrupt-
3 cy judge less than ten years;

4 except that the rate of such retirement pay shall not exceed
5 the rate of salary payable to such judge on March 31, 1983.

6 “(3)(A) Such retirement pay shall begin to accrue on
7 the day following the day on which such bankruptcy judge
8 becomes eligible to retire under subsection (a) or (b) and shall
9 continue to accrue during the remainder of the life of such
10 judge.

11 “(B) Retirement pay accruing under this section shall
12 be adjusted under section 154 of this title and paid in the
13 same manner as the salary of a United States bankruptcy
14 judge.

15 “(4) In computing the rate of retirement pay under this
16 subsection, that portion of the aggregate number of years of
17 service which is a fractional part of one year shall be elimi-
18 nated if it is less than six months, or shall be counted as a
19 full year if such part equals or exceeds six months.

20 “(d)(1) A bankruptcy judge may elect to receive retire-
21 ment pay under subsection (c) of this section by filing notice
22 of such election in writing with the Director of the Adminis-
23 trative Office of the United States Courts. The Director shall
24 transmit to the Office of Personnel Management a copy of
25 each notice filed under this paragraph.

1 “(2) Such election may be made by a bankruptcy judge
2 only during such judge’s term of office.

3 “(e) In the case of any bankruptcy judge who files an
4 election pursuant to subsection (d) of this section to receive
5 retirement pay under subsection (c) of this section—

6 “(1) no annuity or other payment shall be pay-
7 able in any period during which such election is in
8 effect to such judge under the civil service retirement
9 laws with respect to any service performed by such
10 judge (whether performed before or after such election
11 is filed and whether performed as a bankruptcy judge
12 or otherwise);

13 “(2) no deduction for purposes of the Civil Serv-
14 ice Retirement and Disability Fund shall be made
15 from retirement pay payable to such judge under sub-
16 section (c) of this section or from any other salary,
17 pay, or compensation payable to such judge for any
18 period during which such election is in effect;

19 “(3) for purposes of section 376(a) of this title,
20 such judge shall be deemed to have notified, on the date
21 such election is filed, the Director of the Administrative
22 Office of the United States Courts of such judge’s in-
23 tention to come within the purview of section 376 of
24 this title; and

1 “(4) notwithstanding section 8342 of title 5,
2 *United States Code, the lump-sum credit of such judge*
3 *computed under section 8331(8) of title 5, United*
4 *States Code, shall be transferred from the individual*
5 *account of such judge in the Civil Service Retirement*
6 *and Disability Fund to the individual account of such*
7 *judge in the Judicial Survivors’ Annuities Fund. Any*
8 *surplus monies in such judge’s account in the Judicial*
9 *Survivors’ Annuities Fund resulting from such trans-*
10 *fer shall be retained in such account and administered*
11 *under section 376 of this title.*

12 “(f) A bankruptcy judge who desires to retire under sub-
13 *section (b) of this section shall furnish to the Director of the*
14 *Administrative Office of the United States Courts a certifi-*
15 *cate of disability signed by the chief judge of the circuit in*
16 *which such bankruptcy judge is serving.*

17 “(g)(1) A bankruptcy judge who files an election under
18 *subsection (d) of this section to receive retired pay under sub-*
19 *section (c) of this section may revoke such election at any*
20 *time before the first day on which retirement pay would begin*
21 *to accrue with respect to such judge but for such revocation.*

22 “(2) Any revocation under this subsection of an election
23 *shall be made by filing notice of such revocation with the*
24 *Office of Personnel Management. The Office of Personnel*
25 *Management shall transmit to the Director of the Adminis-*

1 trative Office of the United States Courts a copy of each
2 notice filed under this paragraph.

3 “(3) In the case of a bankruptcy judge who revokes
4 under this subsection an election made under subsection (d)
5 of this section—

6 “(A) for purposes of this section, such judge shall
7 be treated as not having filed such election;

8 “(B) for purposes of section 376 of this title—

9 “(i) such judge shall be treated as not having
10 filed an election under subsection (a)(1) of such
11 section; and

12 “(ii) subsection (g) of such section shall not
13 apply with respect to such judge, and the amount
14 credited to such judge’s account under subsection
15 (e) of such section and subsection (e)(5) of this
16 section, together with interest at 4 per centum per
17 annum to December 31, 1947, and 3 per centum
18 per annum thereafter, compounded on December
19 31, of each year to the date on which the revoca-
20 tion is filed, shall be returned to such judge; and

21 “(C)(i) for purposes of the civil service retirement
22 laws, no credit shall be allowed for service as a bank-
23 ruptcy judge or otherwise unless with respect to such
24 service such judge deposits in the Civil Service Retire-

1 *ment and Disability Fund the amount required by the*
2 *civil service retirement laws; and*

3 *“(ii) if such judge deposits the amount so re-*
4 *quired, then the Administrative Office of the United*
5 *States Courts shall deposit in the Civil Service Retire-*
6 *ment and Disability Fund an amount equal to the*
7 *amount it would have contributed to such fund but for*
8 *the effectiveness of the election made by such judge*
9 *under subsection (d) of this section to receive retire-*
10 *ment pay under subsection (c) of this section. Upon*
11 *such deposit, service as a bankruptcy judge shall be*
12 *treated as service with respect to which deductions and*
13 *contributions had been made during the period of such*
14 *service.*

15 *“(h) Except as otherwise provided in this subsection, the*
16 *provisions of the civil service retirement laws, including the*
17 *provisions relating to the deduction and withholding of*
18 *amounts from basic pay, salary, and compensation, shall*
19 *apply with respect to service as a bankruptcy judge, together*
20 *with other service as an officer or employee to whom such*
21 *civil service retirement laws apply, as if this section had not*
22 *been enacted.*

23 *“(i) For purposes of this section, the term ‘bankruptcy*
24 *judge’ means, except when used in the term ‘United States*

1 *bankruptcy judge*, a *bankruptcy judge* referred to in section
2 48(a) of the *Bankruptcy Court Act of 1982*.”

3 (b) *The table of sections for chapter 17 of title 28,*
4 *United States Code, is amended by adding at the end thereof*
5 *the following new item:*

“377. *Bankruptcy transition judges.*”

6 *SEC. 15. Section 451 of title 28, United States Code,*
7 *is amended—*

8 (1) *by striking out “including” and inserting in*
9 *lieu thereof “, bankruptcy courts,” in the paragraph*
10 *beginning with “The term ‘court of the United*
11 *States’ ”, and*

12 (2) *by inserting “bankruptcy courts,” after “dis-*
13 *trict courts,” in the paragraph beginning with “The*
14 *term ‘judge of the United States’ ”.*

15 *SEC. 16. (a) Section 456(b) of title 28, United States*
16 *Code, is amended—*

17 (1) *by striking out “and” the last place it ap-*
18 *pears, and*

19 (2) *by inserting “, and the United States Bank-*
20 *ruptcy Court for the District of Columbia” after*
21 *“United States District Court for the District of Co-*
22 *lumbia”.*

23 (b) *Section 456(d) of title 28, United States Code, is*
24 *amended—*

1 (1) by inserting "and each bankruptcy judge"
2 after "each district judge", and

3 (2) by inserting "or bankruptcy court, as the case
4 may be," after "a district court".

5 (c) Section 456(g) of title 28, United States Code, is
6 amended by striking out "or district" and inserting in lieu
7 thereof ", district, or bankruptcy".

8 SEC. 17. Section 457 of title 28, United States Code,
9 is amended by striking out "of district courts" and inserting
10 in lieu thereof "of bankruptcy courts, of district courts,".

11 SEC. 18. Section 569(a) of title 28, United States
12 Code, is amended by striking out "of the district court" and
13 inserting in lieu thereof "of the bankruptcy court, of the dis-
14 trict court,".

15 SEC. 19. Section 571(b) of title 28, United States
16 Code, is amended by striking out "and district" and insert-
17 ing in lieu thereof ", district, and bankruptcy".

18 SEC. 20. (a) Section 602(b) of title 28, United States
19 Code, is amended by striking out "section 604(a)(15)(B)"
20 and inserting in lieu thereof "section 604(a)(16)(B)".

21 (b) Section 604(a) of title 28, United States Code, is
22 amended—

23 (1) by redesignating paragraph (17) as paragraph
24 (18).

1 (2) in paragraph (10) by striking out "paragraph
2 (17)" each place it appears and inserting in lieu there-
3 of "paragraph (18)",

4 (3) by redesignating paragraphs (15) and (16) as
5 paragraphs (16) and (17), respectively, and

6 (4) by redesignating paragraph (14), as added by
7 section 3(c) of the Court Interpreters Act (Public Law
8 95-539; 92 Stat. 2043), as paragraph (15).

9 (c) Subsection (f) of section 604 of title 28, United
10 States Code, as added by section 225(b) of the Act of Novem-
11 ber 6, 1978 (Public Law 95-598; 92 Stat. 2665), is redesi-
12 gnated as subsection (i).

13 SEC. 21. Section 610 of title 28, United States Code,
14 is amended by striking out "and district courts" and insert-
15 ing in lieu thereof ", district courts, and bankruptcy court".

16 SEC. 22. Section 620(b)(3) of title 28, United States
17 Code, is amended—

18 (1) by striking out "referees," and

19 (2) by striking out "commissioners" and inserting
20 in lieu thereof "magistrates".

21 SEC. 23. Section 621(a)(2) of title 28, United States
22 Code, is amended by striking out "one" and inserting in lieu
23 thereof "two".

24 SEC. 24. Section 631(c) of title 28, United States
25 Code, is amended—

1 (1) by striking out "of the conference, a part-time
2 referee in bankruptcy or" and inserting in lieu thereof
3 "of the conference," and

4 (2) by striking out "magistrate and part-time ref-
5 eree in bankruptcy," and inserting in lieu thereof
6 "magistrate and".

7 SEC. 25. Section 232 of the Act of November 6, 1978
8 (Public Law 95-598; 92 Stat. 2665); shall take effect on the
9 date of the enactment of this Act.

10 SEC. 26. (a) Title 28, United States Code, is amended
11 by inserting after chapter 49 the following new chapter:

12 **"CHAPTER 50—BANKRUPTCY COURTS**

~~"Sec.~~

~~"771. Clerks.~~

~~"772. Other employees.~~

~~"773. Reporters.~~

~~"774. Power to appoint.~~

~~"775. Salaries.~~

13 **"§ 771. Clerks**

14 "(a) Each bankruptcy court may appoint a clerk who
15 shall be subject to removal by the court.

16 "(b) The clerk may appoint, with the approval of the
17 court, necessary deputies, clerical assistants, and employees
18 in such number as may be approved by the Director of the
19 Administrative Office of the United States Courts. Such
20 deputies, clerical assistants, and employees shall be subject to
21 removal by the clerk with the approval of the court.

1 “(c) *The clerk of each bankruptcy court shall reside in*
2 *the district for which he is appointed. The bankruptcy court*
3 *may designate places within the district for the offices of the*
4 *clerk and his deputies, and their official stations.*

5 “(d) *A clerk of a bankruptcy court or his deputy or as-*
6 *sistant shall not receive any compensation or emoluments*
7 *through any office or position to which he is appointed by the*
8 *court, other than that received as such clerk, deputy, or as-*
9 *sistant, whether from the United States or from private liti-*
10 *gants.*

11 “(e)(1) *The clerk of each bankruptcy court shall pay*
12 *into the Treasury all fees, costs, and other moneys collected*
13 *by him, except uncollected fees not required by Act of Con-*
14 *gress to be prepaid.*

15 “(2) *He shall make returns thereof to the Director of the*
16 *Administrative Office of the United States Courts under reg-*
17 *ulations prescribed by the Director.*

18 “§ 772. *Other employees*

19 “*Bankruptcy judges may appoint necessary other em-*
20 *ployees, including law clerks and secretaries, subject to any*
21 *limitation on the aggregate salaries of such employees which*
22 *may be imposed by law.*

23 “§ 773. *Reporters*

24 “(a)(1) *Each bankruptcy court of the United States*
25 *shall appoint one or more court reporters.*

1 “(2) *The number of reporters shall be determined by the*
2 *Judicial Conference of the United States.*

3 “(3) *The qualifications of such reporters shall be deter-*
4 *mined by standards formulated by the Judicial Conference.*
5 *Each reporter shall take an oath faithfully to perform the*
6 *duties of his office.*

7 “(4) *Each such court, with the approval of the Director*
8 *of the Administrative Office of the United States Courts,*
9 *may appoint additional reporters for temporary service not*
10 *exceeding three months, when there is more reporting work in*
11 *the district that can be performed promptly by the authorized*
12 *number of reporters and the urgency is so great as to render*
13 *it impracticable to obtain the approval of the Judicial Confer-*
14 *ence.*

15 “(5) *If any such court and the Judicial Conference are*
16 *of the opinion that it is in the public interest that the duties of*
17 *reporter should be combined with those of any other employee*
18 *of the court, the Judicial Conference may authorize such a*
19 *combination and fix the salary for the performance of the*
20 *duties combined.*

21 “(b)(1) *Each session of the court and every other pro-*
22 *ceeding designated by rule or order of the court or by one of*
23 *the judges shall be recorded verbatim by shorthand, mechani-*
24 *cal means, electronic sound recording, or any other method,*
25 *subject to regulations promulgated by the Judicial Confer-*

1. *ence and subject to the discretion and approval of the judge.*
2 *The regulations promulgated pursuant to the preceding sen-*
3 *tence shall prescribe the types of electronic sound recording or*
4 *other means which may be used and shall be the same as the*
5 *regulations promulgated under section 753(b) of this title.*
6 *Proceedings to be recorded under this section include (A) all*
7 *proceedings in cases had in open court unless the parties with*
8 *the approval of the judge shall agree specifically to the con-*
9 *trary and (B) such other proceedings as a judge of the court*
10 *may direct or as may be required by rule or order of court as*
11 *may be requested by any party to the proceeding.*

12 “(2) *The reporter or other individual designated to pro-*
13 *duce the record shall attach his official certificate to the origi-*
14 *nal shorthand notes or other original records so taken and*
15 *promptly file them with the clerk who shall preserve them in*
16 *the public records of the court for not less than ten years.*

17 “(3) *The reporter or other individual designated to pro-*
18 *duce the record shall transcribe and certify such parts of the*
19 *record of proceedings as may be required by any rule or order*
20 *of court unless they have been recorded by electronic sound*
21 *recording as provided in this subsection and the original rec-*
22 *ords so taken have been certified by him and filed with the*
23 *clerk as provided in this subsection. He shall also transcribe*
24 *and certify such other parts of the record of proceedings as*
25 *may be required by rule or order of court. Upon the request of*

1 *any party to any proceeding which has been so recorded who*
2 *has agreed to pay the fee therefor, or of a judge of the court,*
3 *the reporter or other individual designated to produce the*
4 *record shall promptly transcribe the original records of the*
5 *requested parts of the proceedings, attach to the transcript his*
6 *official certificate, and deliver such transcript to the party or*
7 *judge making the request.*

8 “(4) *The reporter or other designated individual shall*
9 *promptly deliver to the clerk for the records of the court a*
10 *certified copy of any transcript so made.*

11 “(5) *The transcript in any case certified by the reporter*
12 *or other individual designated to produce the record shall be*
13 *deemed prima facie a correct statement of the testimony taken*
14 *and proceedings had. No transcripts of the proceedings of the*
15 *court shall be considered as official except those made from*
16 *the records certified by the reporter or other individual desig-*
17 *nated to produce the record.*

18 “(6) *The original notes or other original records and the*
19 *copy of the transcript in the office of the clerk shall be open*
20 *during office hours to inspection by any person without*
21 *charge.*

22 “(c) *The reporters shall be subject to the supervision of*
23 *the appointing court and the Judicial Conference in the per-*
24 *formance of their duties, including dealings with parties re-*
25 *questing transcripts.*

1 “(d) *The Judicial Conference shall prescribe records*
2 *which shall be maintained and reports which shall be filed by*
3 *the reporters. Such records shall be inspected and audited in*
4 *the same manner as the records and accounts of clerks of the*
5 *district courts, and may include records showing—*

6 “(1) *the quantity of transcripts prepared;*

7 “(2) *the fees charged and the fees collected for*
8 *transcripts;*

9 “(3) *any expenses incurred by the reporters in*
10 *connection with transcripts;*

11 “(4) *the amount of time the reporters are in at-*
12 *tendance upon the courts for the purpose of recording*
13 *proceedings; and*

14 “(5) *such other information as the Judicial Con-*
15 *ference may require.*

16 “(e) *Each reporter shall receive an annual salary to be*
17 *fixed from time to time by the Judicial Conference of the*
18 *United States. All supplies shall be furnished by the reporter*
19 *at his own expense.*

20 “(f) *Each reporter may charge and collect fees for tran-*
21 *scripts requested by the parties, including the United States,*
22 *at rates prescribed by the court subject to the approval of the*
23 *Judicial Conference. The reporter shall not charge a fee for*
24 *any copy of a transcript delivered to the clerk for the records*
25 *of court. Fees for transcripts to persons permitted to appeal in*

1 *forma pauperis shall also be paid by the United States if the*
2 *trial judge or an appellate judge certifies that the appeal is*
3 *not frivolous (but presents a substantial question). The re-*
4 *porter may require any party requesting a transcript to*
5 *prepay the estimated fee in advance except as to transcripts*
6 *that are to be paid for by the United States.*

7 “(g) *If, upon the advice of the chief judge of any bank-*
8 *ruptcy court within the circuit, the judicial council of any*
9 *circuit determines that the number of court reporters provided*
10 *such bankruptcy court pursuant to subsection (a) of this sec-*
11 *tion is insufficient to meet temporary demands and needs and*
12 *that the services of additional court reporters for such bank-*
13 *ruptcy court should be provided the judges of such bankrupt-*
14 *cy court (including the senior judges thereof when such*
15 *senior judges are performing substantial judicial services for*
16 *such court) on a contract basis, rather than by appointment*
17 *of court reporters as otherwise provided in this section, and*
18 *such judicial council notifies the Director of the Administra-*
19 *tive Office, in writing, of such determination, then the Direc-*
20 *tor of the Administrative Office is authorized to and shall*
21 *contract, without regard to section 3709 of the Revised Stat-*
22 *utes of the United States, as amended (41 U.S.C. 5), with*
23 *any suitable person, firm, association, or corporation for the*
24 *providing of court reporters to serve such bankruptcy court*
25 *under such terms and conditions as the Director of the Ad-*

1 *ministrative Office finds, after consultation with the chief*
 2 *judge of the bankruptcy court, will best serve the needs of*
 3 *such bankruptcy court.*

4 **“§ 774. Power to appoint**

5 *“Whenever a majority of the bankruptcy judges of any*
 6 *bankruptcy court cannot agree upon the appointment of any*
 7 *officer of such court, the chief judge shall make such appoint-*
 8 *ment.*

9 **“§ 775. Salaries**

10 *“The salary of an individual appointed or employed*
 11 *under section 771(a) or 773(a) of this title shall be the same*
 12 *as the salary of an individual appointed or employed under*
 13 *section 751(a) or 753(a) of this title, respectively. The sala-*
 14 *ries of individuals appointed under section 771(b) of this title*
 15 *shall be comparable to the salaries of individuals appointed*
 16 *under section 751(b) of this title.”*

17 *(b) The table of chapters of part III of title 28, United*
 18 *States Code, is amended by inserting after the item relating*
 19 *to chapter 49 the following new item:*

“50. Bankruptcy Courts..... 771”.

20 *SEC. 27. Section 957 of title 28, United States Code,*
 21 *is amended by inserting “or bankruptcy court” after “district*
 22 *court”.*

23 *SEC. 28. (a) Chapter 83 of title 28, United States*
 24 *Code, is amended by inserting after section 1292 the follow-*
 25 *ing new section:*

*Sold*1 **"§ 1293. Bankruptcy appeals**

2 “(a) The courts of appeals shall have jurisdiction of ap-
3 peals from all final decisions of bankruptcy appellate panels
4 established in section 159 of this title and from all final deci-
5 sions of bankruptcy courts for districts to which the applica-
6 tion of section 159 of this title is not ordered.

7 “(b) A court of appeals shall have jurisdiction of an
8 appeal from a final judgment, order, or decree of a bankrupt-
9 cy appellate panel or, notwithstanding section 1482 of this
10 title, from a final judgment, order, or decree of a bankruptcy
11 court of the United States if the parties to such appeal agree
12 to a direct appeal to the court of appeals.”.

13 (b) The table of sections of chapter 83 of title 28, United
14 States Code, is amended by inserting after the item relating
15 to section 1292 the following new item:

“1293. Bankruptcy appeals.”.

16 SEC. 29. Section 1294 of title 28, United States Code,
17 is amended—

18 (1) by striking out “district and territorial” and
19 inserting in lieu thereof “~~district, bankruptcy, and ter-~~
20 ritorial”,

21 (2) by striking out the period at the end thereof
22 and inserting a semicolon, and

23 (3) by adding at the end thereof the following new
24 paragraphs:

1 “(5) From a panel of a bankruptcy appellate
2 panel to the court of appeals for the circuit in which
3 the appellate panel is so established,

4 “(6) From a bankruptcy court of the United
5 States to the court of appeals for the circuit embracing
6 the district in which the bankruptcy court is located.”.

7 SEC. 30. (a)(1) Section 1364 of title 28, United States
8 Code, as added by section 705(f)(1) of the Ethics in Govern-
9 ment Act of 1978, is redesignated as section 1365.

10 (2) Section 705(a) of the Ethics in Government Act of
11 1978 (2 U.S.C. 288d(a)) is amended by striking out “sec-
12 tion 1364” and inserting in lieu thereof “section 1365”.

13 (b) Section 1364 of title 28, United States Code, as
14 added by section 172(c)(1) of the District of Columbia Court
15 Reform and Criminal Procedure Act of 1970 and redesignat-
16 ed as section 1364 by section 6(b)(1) of the Jury System
17 Improvement Act of 1978, is redesignated as section 1366.

18 (c) The table of sections of chapter 85 of title 28, United
19 States Code, is amended—

20 (1) in the item relating to section 1330 by strik-
21 ing out “Action” and inserting in lieu thereof “Ac-
22 tions”, and

23 (2) by striking out the three items relating to sec-
24 tion 1364 and inserting in lieu thereof the following
25 new items:

“1364. Direct actions against insurers of members of diplomatic missions and their families.

"1365. Senate actions.

"1366. Construction of references to laws of the United States or Acts of Congress."

1 *SEC. 31. Chapter 85 of title 28, United States Code, is*
2 *amended—*

3 *(1) by striking out section 1334, and*

4 *(2) in the table of sections relating to such chapter*
5 *by striking out the item relating to section 1334.*

6 *SEC. 32. Section 1360(a) of title 28, United States*
7 *Code, is amended by striking out "within the Territory" and*
8 *inserting in lieu thereof "within the State".*

9 *SEC. 33. (a) Title 28 of the United States Code is*
10 *amended by inserting after chapter 89 the following new*
11 *chapter:*

12 **"CHAPTER 90—BANKRUPTCY COURTS**

"Sec.

"1471. Jurisdiction.

"1472. Venue of cases under title 11.

"1473. Venue of proceedings arising under or related to cases under title 11.

"1474. Venue of cases ancillary to foreign proceedings.

"1475. Change of venue.

"1476. Creation or alteration of district or division.

"1477. Cure or waiver of defects.

"1478. Removal to the bankruptcy courts.

"1479. Provisional remedies; security.

"1480. Jury trials.

"1481. Powers of bankruptcy court.

"1482. Appeals.

13 **"§ 1471. Jurisdiction.**

14 *"(a) Except as provided in subsection (b) of this section,*
15 *the bankruptcy courts shall have original and exclusive juris-*
16 *isdiction of all cases under title 11.*

1 “(b) Notwithstanding any Act of Congress that confers
2 exclusive jurisdiction on a court or courts other than the
3 bankruptcy courts, the bankruptcy courts shall have original
4 but not exclusive jurisdiction of all civil proceedings arising
5 under title 11 or arising in or related to cases under title 11.

6 “(c) Subsection (b) of this section does not prevent a
7 bankruptcy court, in the interest of justice, from abstaining
8 from hearing a particular proceeding arising under title 11
9 or arising in or related to a case under title 11. Such absten-
10 tion, or a decision not to abstain, is not reviewable by appeal
11 or otherwise.

12 “(d) The bankruptcy court in which a case under title
13 11 is pending shall have exclusive jurisdiction of all of the
14 property, wherever located, of the debtor, as of the commence-
15 ment of the case.

16 “§ 1472. Venue of cases under title 11

17 “Except as provided in section 1474 of this title, a case
18 under title 11 may be commenced in the bankruptcy court for
19 a district—

20 “(1) in which the domicile, residence, principal
21 place of business, in the United States, or principal
22 assets, in the United States, of the person or entity
23 that is the subject of such case have been located for the
24 one hundred and eighty days immediately preceding
25 such commencement, or for a longer portion of such

1 *one hundred and eighty day period than such domicile,*
2 *residence, principal place of business, in the United*
3 *States, or principal assets, in the United States, were*
4 *located in any other district; or*

5 *“(2) in which there is pending a case under title*
6 *11 concerning such person’s affiliate, general partner,*
7 *or partnership.*

8 **“§ 1473. Venue of proceedings arising under or related to**
9 ***cases under title 11***

10 *“(a) Except as provided in subsections (b) and (d) of*
11 *this section, a proceeding arising under title 11 or arising in*
12 *or related to a case under title 11 may be commenced in the*
13 *bankruptcy court in which such case is pending.*

14 *“(b) Except as provided in subsection (d) of this section,*
15 *a trustee in a case under title 11 may commence a proceeding*
16 *arising in or related to such case to recover a money judg-*
17 *ment of or property worth less than \$1,000 or a consumer*
18 *debt of less than \$5,000 only in the bankruptcy court for the*
19 *district in which a defendant resides.*

20 *“(c) Except as provided in subsection (b) of this section,*
21 *a trustee in a case under title 11 may commence a proceeding*
22 *arising in or related to such case as statutory successor to the*
23 *debtor or creditors under section 541 or 544(b) of title 11 in*
24 *the bankruptcy court for the district where the State or Fed-*
25 *eral court sits in which, under applicable nonbankruptcy*

1 venue provisions, the debtor or creditors, as the case may be,
2 may have commenced an action on which such proceeding is
3 based if the case under title 11 had not been commenced.

4 “(d) A trustee may commence a proceeding arising
5 under title 11 or arising in or related to a case under title 11
6 based on a claim arising after the commencement of such case
7 from the operation of the business of the debtor only in the
8 bankruptcy court for the district where a State or Federal
9 court sits in which, under applicable nonbankruptcy venue
10 provisions, an action on such claim may have been brought.

11 “(e) A proceeding arising under title 11 or arising in or
12 related to a case under title 11, based on a claim arising after
13 the commencement of such case from the operation of the
14 business of the debtor, may be commenced against the repre-
15 sentative of the estate in such case in the bankruptcy court
16 for the district where the State or Federal court sits in which
17 the party commencing such proceeding may, under applicable
18 nonbankruptcy venue provisions, have brought an action on
19 such claim, or in the bankruptcy court in which such case is
20 pending.

21 **“§ 1474. Venue of cases ancillary to foreign proceedings**

22 “(a) A case under section 304 of title 11 to enjoin the
23 commencement or continuation of an action or proceeding in
24 a State or Federal court, or the enforcement of a judgment,
25 may be commenced only in the bankruptcy court for the dis-

1 -trict where the State or Federal court sits in which is pend-
2 ing the action or proceeding against which the injunction is
3 sought.

4 “(b) A case under section 304 of title 11 to enjoin the
5 enforcement of a lien against property, or to require turnover
6 of property of an estate, may be commenced only in the bank-
7 ruptcy court for the district in which such property is found.

8 “(c) A case under section 304 of title 11, other than a
9 case specified in subsection (a) or (b) of this section, may be
10 commenced only in the bankruptcy court for the district in
11 which is located the principal place of business in the United
12 States, or the principal assets in the United States, of the
13 estate that is the subject of such case.

14 **“§ 1475. Change of venue**

15 “A bankruptcy court may transfer a case under title 11
16 or a proceeding arising in or related to such case to a bank-
17 ruptcy court for another district, in the interest of justice and
18 for the convenience of the parties.

19 **“§ 1476. Creation or alteration of district or division**

20 “Cases or proceedings pending at the time of the cre-
21 ation of a new district or division or transfer of a county or
22 territory from one division or district to another may be tried
23 in the district or division as it existed at the institution of the
24 case or proceeding, or in the district or division so created or

1 to which the county or territory is so transferred as the par-
2 ties shall agree or the court direct.

3 **“§ 1477. Cure or waiver of defects**

4 “(a) The bankruptcy court of a district in which is filed
5 a case or proceeding laying venue in the wrong division or
6 district may, in the interest of justice and for the convenience
7 of the parties, retain such case or proceeding, or may trans-
8 fer, under section 1475 of this title, such case or proceeding
9 to any other district or division.

10 “(b) Nothing in this chapter shall impair the jurisdic-
11 tion of a bankruptcy court of any matter involving a party
12 who does not interpose timely and sufficient objection to the
13 venue.

14 **“§ 1478. Removal to the bankruptcy courts**

15 “(a) A party may remove any claim or cause of action
16 in a civil action, other than a proceeding before the United
17 States Tax Court or civil action by a governmental unit to
18 enforce such governmental unit’s police or regulatory power,
19 to the bankruptcy court for the district where such civil action
20 is pending, if the bankruptcy courts have jurisdiction over
21 such claim or cause of action.

22 “(b) The court to which such claim or cause of action is
23 removed may remand such claim or cause of action on any
24 equitable ground. An order under this subsection remanding

1 a claim or cause of action is not reviewable by appeal or
2 otherwise.

3 **“§ 1479. Provisional remedies; security**

4 “(a) Whenever any action is removed to a bankruptcy
5 court under section 1478 of this title, any attachment or se-
6 questration of the goods or estate of the defendant in such
7 action shall hold the goods or estate to answer the final judg-
8 ment or decree in the same manner as they would have been
9 held to answer final judgment or decree had it been rendered
10 by the court from which the action was removed, unless the
11 attachment or sequestration is invalidated under applicable
12 law.

13 “(b) Any bond, undertaking, or security given by any
14 party in an action prior to removal under section 1478 of this
15 title shall remain valid and effectual notwithstanding such
16 removal, unless such bond, undertaking, or other security is
17 invalidated under applicable law.

18 “(c) All injunctions, orders, and other proceedings in an
19 action prior to removal of such action under section 1478 of
20 this title shall remain in full force and effect until dissolved
21 or modified by the bankruptcy court.

22 **“§ 1480. Jury trials**

23 “(a) Except as provided in subsection (b) of this section,
24 this chapter and title 11 do not affect any right to trial by
25 jury, in a case under title 11 or in a proceeding arising

1 under title 11 or arising in or related to a case under title 11,
 2 that is provided by any statute in effect on September 30,
 3 1979.

4 “(b) The bankruptcy court may order the issues arising
 5 under section 303 of title 11 to be tried without a jury.

6 **“§ 1481. Powers of bankruptcy court**

7 “A bankruptcy court shall have the powers of a court of
 8 equity, law, and admiralty.

9 **“§ 1482. Appeals**

10 “(a) Bankruptcy appellate panels established in section
 11 159(a) of this title shall have jurisdiction of appeals from all
 12 final judgments, orders, and decrees of bankruptcy courts.

13 “(b) Bankruptcy appellate panels shall have jurisdic-
 14 tion of appeals from interlocutory judgments, orders, and de-
 15 crees of bankruptcy courts, but only by leave of the panel to
 16 which the appeal is taken.”.

17 (b) The table of chapters of part IV of title 28 of the
 18 United States Code is amended by inserting after the item
 19 relating to chapter 89 the following new item:

“90. Bankruptcy Courts..... 1471.”.

20 SEC. 34. Section 1656 of title 28, United States Code,
 21 is amended by inserting “or in a bankruptcy court” after “a
 22 district court”.

23 SEC. 35. Section 1827(i) of title 28, United States
 24 Code, is amended by striking out “referee in bankruptcy”
 25 and inserting in lieu thereof “bankruptcy judge”.

1 *SEC. 36. Section 1869(f) of title 28, United States*
2 *Code, is amended by inserting "chapter 6 of title 28, United*
3 *States Code," after "chapter 5 of title 28, United States*
4 *Code,".*

5 *SEC. 37. Section 1962 of title 28, United States Code,*
6 *is amended by inserting "or bankruptcy court" after "district*
7 *court".*

8 *SEC. 38. Section 1963 of title 28, United States Code,*
9 *is amended—*

10 *(1) in the first paragraph by inserting "or bank-*
11 *ruptcy court" after "district court" the first place it ap-*
12 *pears,*

13 *(2) in the first sentence of the first paragraph by*
14 *inserting "with the clerk of the district court or the*
15 *bankruptcy court, whichever is appropriate" before the*
16 *period at the end thereof, and*

17 *(3) by adding at the end thereof the following new*
18 *undesignated paragraph:*

19 *"An order of discharge or an order of confirmation in a*
20 *case under title 11 which has become final may be registered*
21 *in any other district by filing in the office of the clerk of the*
22 *bankruptcy court of that other district a certified copy of the*
23 *order and when so registered shall have the same effect as an*
24 *order of the bankruptcy court of the district where so regis-*
25 *tered and may be enforced in like manner."*

1 *SEC. 39. Section 2107 of title 28, United States Code,*
2 *is amended—*

3 (1) *by inserting “or the bankruptcy court” after*
4 *“district court”, and*

5 (2) *by striking out the last paragraph.*

6 *SEC. 40. Section 2109 of title 28, United States Code,*
7 *is amended by inserting “or from a bankruptcy court” after*
8 *“from a district court”.*

9 *SEC. 41. (a) Chapter 153 of title 28, United States*
10 *Code, is amended by adding at the end thereof the following*
11 *new section:*

12 ***“§ 2256. Habeas corpus from bankruptcy courts***

13 *“A bankruptcy court may issue a writ of habeas*
14 *corpus—*

15 *“(1) when appropriate to bring a person before the*
16 *court—*

17 *“(A) for examination;*

18 *“(B) to testify; or*

19 *“(C) to perform a duty imposed on such*
20 *person under this title or title 11; or*

21 *“(2) ordering the release of a debtor in a case*
22 *under title 11 in custody under the judgment of a Fed-*
23 *eral or State court if—*

24 *“(A) such debtor was arrested or imprisoned*
25 *on process in any civil action;*

1. “(B) such process was issued for the collec-
2 tion of a debt—

3 “(i) that is dischargeable under title 11;

4 or

5 “(ii) that is or will be provided for in a
6 plan under chapter 11 or 13 of title 11; and

7 “(C) before the issuance of such writ, notice
8 and a hearing have been afforded the adverse
9 party of such debtor in custody to contest the issu-
10 ance of such writ.”.

11 (b) The table of sections for chapter 153 of title 28,
12 United States Code, is amended by adding at the end thereof
13 the following new item:

 “2256. Habeas corpus from bankruptcy courts.”.

14 SEC. 42. Rule 1101(a) of the Federal Rules of Evi-
15 dence is amended by inserting “the United States bankrupt-
16 cy courts,” after “the United States district courts,”.

17 SEC. 43. (a) Section 8331(22) of title 5, United States
18 Code, is amended—

19 (1) in subparagraph (A)—

20 (A) by striking out “March 31, 1984” and
21 inserting in lieu thereof “March 31, 1983”, and

22 (B) by striking out “under section 201 of
23 this Act” and inserting in lieu thereof “under sec-
24 tion 151 of title 28, United States Code,” and

1 (2) in subparagraph (B) by striking out "during
2 the transition period" and inserting in lieu thereof "be-
3 tween October 1, 1979, and March 31, 1983, inclu-
4 sive,".

5 (b) Subsections (f), (i), (j), (k), (l), and (m) of section
6 8339, subsections (b)(1) and (d) of section 8341, and section
7 8344(a)(A) of title 5, United States Code, are each amended
8 by striking out "and (o)" and inserting in lieu thereof "and
9 (n)".

10 SEC. 44. Section 2(a) of the Act of November 8, 1977
11 (Public Law 95-157; 91 Stat. 1266), is amended by insert-
12 ing "and a bankruptcy court" after "district court".

13 SEC. 45. (a) Section 402(b) of the Act of November 6,
14 1978 (Public Law 95-598; 92 Stat. 4682), is amended by
15 striking out "shall take effect on April 1, 1984" and insert in
16 lieu thereof "shall not take effect".

17 (b) Section 402(e) of the Act of November 6, 1978
18 (Public Law 95-598; 92 Stat. 2682) is amended by striking
19 out "April 1, 1984" and inserting in lieu thereof "the date of
20 enactment of the Bankruptcy Court Act of 1982".

21 SEC. 46. (a) Section 406(a) of the Act of November 6,
22 1978 (Public Law 95-598; 92 Stat. 2686), is amended—

23 (1) by striking out paragraph (2), and

24 (2) in paragraph (1)—

25 (A) by striking out "(1)",

1 (B) by striking out "During the transition
2 period, the" and inserting in lieu thereof "The",

3 (C) in subparagraph (A)—

4 (i) by striking out "(A)" and inserting
5 in lieu thereof "(1)", and

6 (ii) by striking out "section 201 of this
7 Act" and inserting in lieu thereof "section
8 151 of title 28, United States Code," and

9 (D) in subparagraph (B) by striking out
10 "(B)" and inserting in lieu thereof "(2)".

11 (b) Section 406(b) of the Act of November 6, 1978
12 (Public Law 95-598; 92 Stat. 2686), is amended by striking
13 out "section 201 of this Act" and inserting in lieu thereof
14 "section 151 of title 28, United States Code,".

15 SEC. 47. Sections 404, 405(a), 405(b), 405(c), 407(c),
16 409, and 410 of the Act of November 6, 1978 (Public Law
17 95-598; 92 Stat. 2683) are repealed.

18 SEC. 48. (a) The offices of bankruptcy judges for which
19 appointments are authorized, by laws in effect immediately
20 preceding the date of the enactment of this Act, to be made in
21 a judicial district shall constitute the bankruptcy court of
22 such judicial district during the period beginning on the date
23 of the enactment of this Act and ending on March 31, 1983
24 (hereinafter in this Act referred to as the "transition
25 period").

1 (b) *The bankruptcy courts established in subsection (a)*
2 *shall be deemed to be the bankruptcy courts for purposes of—*

3 (1) *this Act,*

4 (2) *the Acts amended by this Act,*

5 (3) *title 28 of the United States Code, as amend-*
6 *ed by this Act, other than sections 152, 293(b), 294,*
7 *295, 331, 372, and 451 of such title,*

8 (4) *title 11 of the United States Code, and*

9 (5) *the Acts amended by the Act of November 6,*
10 *1978 (Public Law 95-598; 92 Stat. 2549).*

11 (c) *During the transition period and in addition to cases*
12 *and proceedings commenced during such period, all cases*
13 *under title 11 of the United States Code and all proceedings*
14 *arising under title 11 of the United States Code or arising in*
15 *or related to a case under title 11 of the United States Code*
16 *pending on the date of enactment of this Act shall be heard by*
17 *the bankruptcy courts established in subsection (a) as though*
18 *such cases and proceedings had been commenced in such*
19 *courts.*

20 SEC. 49. (a) *Judges of the bankruptcy courts estab-*
21 *lished in section 48(a) of this Act shall have the title United*
22 *States bankruptcy judges.*

23 (b) *During the transition period United States bank-*
24 *ruptcy judges may exercise the jurisdiction and powers con-*

1 *ferred by title 28 and title 11 of the United States Code on*
2 *bankruptcy courts.*

3 *(c) Notwithstanding section 34a of the Bankruptcy Act*
4 *as in effect on September 30, 1979, and section 404(b) of the*
5 *Act of November 6, 1978, as in effect before the date of the*
6 *enactment of this Act, the terms of office of all United States*
7 *bankruptcy judges who are serving on the date of the enact-*
8 *ment of this Act in the bankruptcy courts established in sec-*
9 *tion 48(a) expire on March 31, 1983.*

10 *(d) During the transition period and for any subsequent*
11 *period of service under section 50(c), the levels of salaries of*
12 *United States bankruptcy judges are continued at the levels*
13 *in effect on the date of the enactment of this Act, subject to*
14 *adjustment under section 225 of the Federal Salary Act of*
15 *1967 (2 U.S.C. 351-361) and section 461 of title 28,*
16 *United States Code.*

17 *(e)(1) During the transition period an appeal from a*
18 *judgment, order, or decree of a United States bankruptcy*
19 *judge shall be—*

20 *(A) if the judicial council of the circuit in which*
21 *the bankruptcy judge sits so orders for the district in*
22 *which the bankruptcy judge sits, to a panel of three*
23 *bankruptcy judges appointed in the manner described*
24 *in section 159 of title 28, United States Code, as*
25 *added by section 2 of this Act,*

1 (B) if no panel is appointed under subparagraph
2 (A) for the district in which such bankruptcy judge
3 sits, to the district court for such district, or

4 (C) if the parties to the appeal agree to a direct
5 appeal to the court of appeals for such circuit, to such
6 court of appeals.

7 (2) During the transition period the district courts of the
8 United States shall have jurisdiction to hear appeals from the
9 judgments, orders, and decrees of bankruptcy courts.

10 (3) During the transition period a panel referred to in
11 paragraph (1)(A) shall be deemed to be a bankruptcy appel-
12 late panel referred to in section 1293 of title 28, United
13 States Code.

14 SEC. 50. (a) On April 1, 1983, there shall be trans-
15 ferred to the appropriate United States bankruptcy court es-
16 tablished in section 151(a) of title 28, United States Code—

17 (1) cases, and matters and proceedings in cases,
18 under the Bankruptcy Act that are pending, at the end
19 of March 31, 1983, in the bankruptcy courts estab-
20 lished in section 48(a) of this Act, other than cases,
21 and matters and proceedings in cases under—

22 (A) section 77 or chapter IX of the Bank-
23 ruptcy Act, or

1 (B) chapter X of the Bankruptcy Act in
2 which a general reference under section 117 of the
3 Bankruptcy Act is not in effect, and

4 (2) cases under title 11 of the United States
5 Code, and proceedings arising under title 11 of the
6 United States Code or arising in or related to cases
7 under title 11 of the United States Code, that are
8 pending at the end of March 31, 1983, in the bank-
9 ruptcy courts established in section 48(a) of this Act.

10 (b) On April 1, 1983, there shall be transferred to the
11 appropriate bankruptcy appellate panels established in sec-
12 tion 159 of title 28, United States Code, appeals from final
13 judgments, orders, and decrees of the bankruptcy courts es-
14 tablished in section 48(a) pending at the end of March 31,
15 1983, in the panels appointed under section 49(e)(1)(A).

16 (c) After March 31, 1983, a United States bankruptcy
17 court established in section 151(a) of title 28, United States
18 Code, may designate and appoint former United States
19 bankruptcy judges whose terms expired on March 31, 1983,
20 to hear and determine cases or proceedings that are pending
21 in such court. Section 48(b) and section 49(d) of this Act
22 shall apply to such former United States bankruptcy judges
23 when they sit by designation under this subsection. Any such
24 designation and appointment shall terminate 30 days after
25 all appointments under section 152 of title 28, United States

1 *Code, to the United States bankruptcy court involved have*
2 *first been made or on September 30, 1983, whichever is*
3 *earlier.*

4 *SEC. 51. The Supreme Court may issue such addition-*
5 *al rules of procedure, consistent with Acts of Congress, as*
6 *may be necessary for the orderly transfer of functions and*
7 *records and the orderly transition to the new bankruptcy*
8 *court system created by this Act.*

9 *SEC. 52. (a) Whenever a vacancy occurs in a bank-*
10 *ruptcy court of the United States, the President shall nomi-*
11 *nate as a bankruptcy judge to fill that vacancy a person*
12 *whose character, experience, ability, and impartiality qualify*
13 *such person to serve in the Federal judiciary.*

14 *(b) The Attorney General of the United States shall*
15 *assist the President by evaluating potential nominees and by*
16 *recommending to the President for consideration for appoint-*
17 *ment persons who are qualified to be bankruptcy judges.*

18 *(c) Before transmitting to the President the names of the*
19 *persons he deems best qualified to fill any existing vacancy,*
20 *the Attorney General shall have determined that—*

21 *(1) public notice of such vacancy has been given*
22 *and an affirmative effort has been made, in the case of*
23 *each such vacancy, to identify qualified candidates,*
24 *without discrimination as to race, color, sex, religion,*
25 *or national origin,*

1 (2) *such persons are members in good standing of*
2 *at least one State bar, or the District of Columbia bar,*
3 *and members in good standing of every other bar of*
4 *which they may be members,*

5 (3) *such persons possess, and have a reputation*
6 *for, integrity and good character,*

7 (4) *such persons are of sound physical and mental*
8 *health,*

9 (5) *such persons possess and have demonstrated*
10 *commitment to equal justice under law,*

11 (6) *such persons possess and have demonstrated*
12 *outstanding legal ability and competence, as evidenced*
13 *by substantial legal experience, ability to deal with*
14 *complex legal problems, aptitude for legal scholarship*
15 *and writing, and familiarity with courts and court*
16 *processes, and*

17 (7) *such persons' demeanor, character, and per-*
18 *sonality indicate that they would exhibit judicial tem-*
19 *perament if appointed to the position of United States*
20 *bankruptcy judge.*

21 *SEC. 53. (a) Except as provided in subsection (b), this*
22 *Act and the amendments made by this Act shall take effect on*
23 *the date of the enactment of this Act.*

1 **(b)** *Sections 151(a), 153, 154, and 159 of title 28,*
2 *United States Code, as added by section 2 of this Act, shall*
3 *take effect on April 1, 1983.*

Butler Bill —
Draft

TITLE I - BANKRUPTCY DIVISION OF THE UNITED STATES DISTRICT COURT

SEC. ^{101.} ~~1.~~ This title may be cited as the Bankruptcy ~~Court~~ ^{Division} Act of 1982. ✓

SEC. ^{102a.} ~~2.~~ (a) Title 28 of the United States Code is amended by inserting after section 132 the following new section: ✓

"§ 132A. Bankruptcy division of district courts

"(a) There shall be in each judicial district a division of the district court known as the bankruptcy division of the district court.

"(b) Each bankruptcy division shall consist of the district judge or judges for the district in regular active service assigned to the bankruptcy division. Justices or judges designated and assigned shall be competent to sit as judges of the bankruptcy division. ✓

"(c) Any reference to the bankruptcy courts in title 11 or other provisions of law shall be deemed to be a reference to the bankruptcy division of the district courts."

(b) The table of sections of chapter 5 of title 28, United States Code, is amended by inserting after the item relating to section 132 the following new item:

"132A. Bankruptcy division of district courts."

SEC. ^{103.} ~~3.~~ (a) Title 28 of the United States Code is amended by inserting after section 133 the following new section: ✓

"§ 133A. Appointment of district judges in the bankruptcy division.

^{cc} In addition to the district judges authorized in section 133 of this title, the President shall appoint, by and ✓

with the advice and consent of the Senate, district judges to
serve in the bankruptcy division of the several judicial
districts, as follows:

~~SECRET~~

"Districts	Judges
Alabama	
Northern.....	4
Middle.....	2
Southern.....	2
Alaska.....	1
Arizona.....	4
Arkansas	
Eastern.....	1
Western.....	1
California	
Northern.....	7
Eastern.....	4
Central.....	12
Southern.....	3
Colorado.....	4
Connecticut.....	2
Delaware.....	1
District of Columbia.....	1
Florida	
Northern.....	1
Middle.....	2
Southern.....	3
Georgia	
Northern.....	4
Middle.....	2
Southern.....	1
Hawaii.....	1
Idaho.....	1
Illinois	
Northern.....	8
Central.....	2
Southern.....	1
Indiana	
Northern.....	2
Southern.....	4
Iowa	
Northern.....	1
Southern.....	1
Kansas.....	3
Kentucky	
Eastern.....	1
Western.....	2
Louisiana	
Eastern.....	2
Middle.....	1
Western.....	2

Maine.....	2
Maryland.....	2
Massachusetts.....	4
Michigan.....	
Eastern.....	4
Western.....	2
Minnesota.....	4
Mississippi.....	
Northern.....	1
Southern.....	2
Missouri.....	
Eastern.....	3
Western.....	3
Montana.....	1
Nebraska.....	1
Nevada.....	2
New Hampshire.....	1
New Jersey.....	5
New Mexico.....	1
New York.....	
Northern.....	2
Southern.....	7
Eastern.....	6
Western.....	3
North Carolina.....	
Eastern.....	2
Western.....	1
Middle.....	2
North Dakota.....	1
Ohio.....	
Northern.....	8
Southern.....	7
Oklahoma.....	
Northern.....	1
Eastern.....	1
Western.....	2
Oregon.....	4
Pennsylvania.....	
Eastern.....	3
Middle.....	2
Western.....	3
Puerto Rico.....	2
Rhode Island.....	1
South Carolina.....	1
South Dakota.....	1
Tennessee.....	
Eastern.....	2
Middle.....	2
Western.....	2
Texas.....	
Northern.....	3
Southern.....	3
Eastern.....	1
Western.....	2
Utah.....	2

Vermont	1
Virginia	
Eastern	3
Western	2
Washington	
Eastern	1
Western	4
West Virginia	
Northern	1
Southern	1
Wisconsin	
Eastern	3
Western	1
Wyoming	1

58
-3-

"(b) Judgeships authorized by subsection (a) shall expire upon the resignation, retirement, removal or death of a district appointed under subsection (a), provided that at least one district judge shall be assigned to the bankruptcy division in the district in which the vacancy occurs."

14622

(b) The table of sections for chapter 5 of title 28, United States Code, is amended by inserting after the item relating to section 133 the following new item:

³
"137A. Appointment of district judges in the bankruptcy division."

~~✓~~

104.

SEC. ~~4~~ Section 137 of title 28 of the United States Code is amended by adding at the end thereof the following new paragraph:

✓

"Cases under title 11 and civil proceedings arising under title 11 or arising in or related to cases under title 11 shall be assigned to the bankruptcy division of the district court. ^A ~~The~~ district judge ~~or judges~~ assigned to the bankruptcy division may be assigned other cases, if such assignment will not impair the expeditious determination of cases and proceedings pending in the bankruptcy division in which such district judge sits."

✓

105.

SEC. ~~5~~ Section 139 of title 28 of the United States Code is amended --

✓

(1) by inserting "(a)" at the beginning thereof; and

(2) by inserting at the end thereof the following new paragraph:

"(b) (1) The bankruptcy division of the district court at each designated place shall be deemed to be in continuous session on all business days throughout the year.

"(2) Each district court may establish by local rule or order schedules of court sessions of the bankruptcy division at designated places of holding court other than the headquarters office of the court. Such schedules may be pretermitted by order of the court.

"(3) The district judges assigned to the bankruptcy division may hold court at any place within the district served, in any case, on order of the district court for the convenience of the parties, on such notice as the district court orders."

106.

SEC. ~~6~~ Chapter 5 of title 28 of the United States Code is amended by adding at the end thereof the following new section:

"§ 145. Bankruptcy Appellate Panels

"(a) If the judicial council of a circuit orders application of this section to a district within such circuit, the chief judge of the circuit shall designate panels of three judges to hear appeals from judgments, orders, and decrees of the bankruptcy division of such district. Except as provided in chapter 13 of this title, a panel shall be composed only of district judges in the bankruptcy division of districts located in the circuit in which the appeal arises. The chief judge shall

designate a sufficient number of such panels so that appeals may be heard and disposed of expeditiously.

"(b) A panel designated under subsection (a) of this section may not hear an appeal from a judgment, order, or decree entered by a member of the panel.

"(c) When hearing an appeal, a panel designated under subsection (a) of this section shall sit at a place convenient to the parties to the appeal."

^{107.}
SEC. ~~7~~. Section 295 of title 28, United States Code, is amended by inserting after the first sentence thereof the following: "No designation and assignment of a district judge serving in the bankruptcy division of a district court shall be made if such designation and assignment will impair the expeditious determination of cases ^{and proceedings} pending in the bankruptcy division in which such district judge sits."

^{108.}
SEC. ~~8~~. Section 296 of title 28, United States Code, is amended by inserting before the period at the end of the second sentence thereof the following: ", including the duties of a district judge assigned to the bankruptcy division".

^{109.}
SEC. ~~9~~. The table of sections of chapter 17 of title 28, United States Code, is amended by striking out the item relating to section 375.

110.

SEC. ~~10~~. (a) Section 376(a)(1) of title 28, United States Code, is amended --

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively,

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) a bankruptcy judge, as defined by section 377(j) of this title;"

(3) by striking out "or" before "(iii)", and

(4) by inserting before the semicolon at the end thereof: ", or (iv) in the case of a bankruptcy judge, as defined by section 377(j) of this title, the date of the enactment of the Bankruptcy ^{Division} ~~Court~~ Act of 1982".

(b) Section 376(a)(2) of title 28, United States Code, is amended --

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of a bankruptcy judge, as defined by section 377(j) of this title, retirement

1 pay received after retirement from office under
2 section 377;".

iii.

3 SEC. ~~377~~ (a) Chapter 17 of title 28, United States
4 Code, is amended by adding at the end thereof the following
5 new section:

6 "§ 377. Bankruptcy transition judges

7 "(a) ~~A~~ ^{133A} bankruptcy judge who is not appointed under
8 section ~~102~~ ^{133A} of this title to the bankruptcy court after ~~March~~ ^{September}
9 ~~31~~ ³⁰, 1983, shall be eligible to retire and to receive retirement
10 pay under subsection (c) of this section after attaining the
11 age of sixty years, if such judge—

12 "(1) continues in service until ~~March 31~~ ^{September 30}, 1983;

13 "(2) whenever designated and appointed under
14 section ~~50(c)~~ ^{134(c)} of the Bankruptcy ~~Code~~ ^{Division} Act of 1982,
15 serves in accordance with such section;

16 "(3) serves as a bankruptcy judge for at least ten
17 years; and

18 "(4) advises the President in writing, not later
19 than January 1, 1983, that such judge is willing to
20 accept appointment under section ~~102~~ ^{133A} of this title to
21 the bankruptcy court.

22 "(b) Any bankruptcy judge who becomes permanently
23 disabled from performing the duties of the office shall retire.

24 "(c)(1) A bankruptcy judge who elects under subsection
25 (d) of this section to receive retirement pay under this subsec-

1 tion and who retires under subsection (a) of this section shall
2 receive retirement pay for any period at a rate equal to the
3 product of—

"(A) 2 1/2 percent of the largest annual rate resulting
from averaging such judge's rate of salary in effect over
any three consecutive years of service, ~~or over the total~~
~~service if less than three years~~, with each rate weighted
by the time it was in effect; and

6. "(B) the sum of—

7 "(i) the number of years the bankruptcy
8 judge who so elects served as a bankruptcy judge
9 before October 1, 1979, divided by 2; and

10 "(ii) the number of years the bankruptcy
11 judge who so elects serves as a bankruptcy judge
12 after September 30, 1979;

13 except that the rate of such retirement pay shall not exceed 80% of
14 the rate of salary payable to such judge on ~~March 31~~, September 30, 1983.

15 "(2) A bankruptcy judge who elects under subsection (d)
16 of this section to receive retirement pay under this subsection
17 and who retires under subsection (b) of this section shall re-
18 ceive retirement pay for any period at a rate—

19 "(A) equal to the rate of salary payable to such
20 judge immediately preceding the date his retirement
21 commences, for a comparable period, if before such re-
22 tirement such judge serves as a bankruptcy judge not
23 less than ten years; or

24 "(B) equal to 50 per centum of the rate of salary
25 payable to such judge immediately preceding the date

1 his retirement commences, for a comparable period if
2 before such retirement such judge serves as a bankrupt-
3 cy judge less than ten years;

4 except that the rate of such retirement pay shall not exceed
5 the rate of salary payable to such judge on ^{September 30,} ~~March 21,~~ 1983.

6 "(3)(A) Such retirement pay shall begin to accrue on
7 the day following the day on which such bankruptcy judge
8 becomes eligible to retire under subsection (a) or (b) and shall
9 continue to accrue during the remainder of the life of such
10 judge.

11 "(B) Retirement pay accruing under this section shall
12 be adjusted under section ¹³⁵ ~~135~~ of this title and paid in the
13 same manner as the salary of a United States ^{district} ~~bankruptcy~~
14 judge.

15 "(4) In computing the rate of retirement pay under this
16 subsection, that portion of the aggregate number of years of
17 service which is a fractional part of one year shall be elimi-
18 nated if it is less than six months, or shall be counted as a
19 full year if such part equals or exceeds six months.

20 "(d)(1) A bankruptcy judge may elect to receive retire-
21 ment pay under subsection (c) of this section by filing notice
22 of such election in writing with the Director of the Adminis-
23 trative Office of the United States Courts. The Director shall
24 transmit to the Office of Personnel Management a copy of
25 each notice filed under this paragraph.

1 “(2) Such election may be made by a bankruptcy judge
2 only during such judge’s term of office.

3 “(e) In the case of any bankruptcy judge who files an
4 election pursuant to subsection (d) of this section to receive
5 retirement pay under subsection (c) of this section—

6 - “(1) no annuity or other payment shall be pay-
7 able in any period during which such election is in
8 effect to such judge under the civil service retirement
9 laws with respect to any service performed by such
10 judge (whether performed before or after such election
11 is filed and whether performed as a bankruptcy judge
12 or otherwise);

13 “(2) no deduction for purposes of the Civil Serv-
14 ice Retirement and Disability Fund shall be made
15 from retirement pay payable to such judge under sub-
16 section (c) of this section or from any other salary,
17 pay, or compensation payable to such judge for any
18 period during which such election is in effect;

19 “(3) for purposes of section 376(a) of this title,
20 such judge shall be deemed to have notified, on the date
21 such election is filed, the Director of the Administrative
22 Office of the United States Courts of such judge’s in-
23 tention to come within the purview of section 376 of
24 this title; and

1 “(4) notwithstanding section 8342 of title 5,
2 United States Code, the lump-sum credit of such judge
3 computed under section 8331(8) of title 5, United
4 States Code, shall be transferred from the individual
5 account of such judge in the Civil Service Retirement
6 and Disability Fund to the individual account of such
7 judge in the Judicial Survivors' Annuities Fund. Any
8 surplus monies in such judge's account in the Judicial
9 Survivors' Annuities Fund resulting from such trans-
10 fer shall be retained in such account and administered
11 under section 376 of this title.

12 “(f) A bankruptcy judge who desires to retire under sub-
13 section (b) of this section shall furnish to the Director of the
14 Administrative Office of the United States Courts a certifi-
15 cate of disability signed by the chief judge of the circuit in
16 which such bankruptcy judge is serving.

17 “(g)(1) A bankruptcy judge who files an election under
18 subsection (d) of this section to receive retired pay under sub-
19 section (c) of this section may revoke such election at any
20 time before the first day on which retirement pay would begin
21 to accrue with respect to such judge but for such revocation.

22 “(2) Any revocation under this subsection of an election
23 shall be made by filing notice of such revocation with the
24 Office of Personnel Management. The Office of Personnel
25 Management shall transmit to the Director of the Adminis-

1 trative Office of the United States Courts a copy of each
2 notice filed under this paragraph.

3 “(3) In the case of a bankruptcy judge who revokes
4 under this subsection an election made under subsection (d)
5 of this section—

6 “(A) for purposes of this section, such judge shall
7 be treated as not having filed such election;

8 “(B) for purposes of section 376 of this title—

9 “(i) such judge shall be treated as not having
10 filed an election under subsection (a)(1) of such
11 section; and

12 “(ii) subsection (g) of such section shall not
13 apply with respect to such judge, and the amount
14 credited to such judge's account under subsection
15 (e) of such section and subsection (e)(5) of this
16 section, together with interest at 4 per centum per
17 annum to December 31, 1947, and 3 per centum
18 per annum thereafter, compounded on December
19 31, of each year to the date on which the revoca-
20 tion is filed, shall be returned to such judge; and

21 “(C)(i) for purposes of the civil service retirement
22 laws, no credit shall be allowed for service as a bank-
23 ruptcy judge or otherwise unless with respect to such
24 service such judge deposits in the Civil Service Retire-

1 ment and Disability Fund the amount required by the
2 civil service retirement laws; and

3 “(ii) if such judge deposits the amount so re-
4 quired, then the Administrative Office of the United
5 States Courts shall deposit in the Civil Service Retire-
6 ment and Disability Fund an amount equal to the
7 amount it would have contributed to such fund but for
8 the effectiveness of the election made by such judge
9 under subsection (d) of this section to receive retire-
10 ment pay under subsection (c) of this section. Upon
11 such deposit, service as a bankruptcy judge shall be
12 treated as service with respect to which deductions and
13 contributions had been made during the period of such
14 service.

15 “(h) Except as otherwise provided in this subsection, the
16 provisions of the civil service retirement laws, including the
17 provisions relating to the deduction and withholding of
18 amounts from basic pay, salary, and compensation, shall
19 apply with respect to service as a bankruptcy judge, together
20 with other service as an officer or employee to whom such
21 civil service retirement laws apply, as if this section had not
22 been enacted.

"(i) For purposes of this section, the term 'bankruptcy judge' means a bankruptcy judge referred to in section ^{132(a)}~~32(a)~~ of the Bankruptcy ^{Division}~~Court~~ Act of 1982."



(b) The table of sections for chapter 17 of title 28, United States code, is amended by adding at the end thereof the following new item:

"377. Bankruptcy transition judges."

SEC. ^{112.}~~12.~~ (a) Section 602(b) of title 28, United States Code, is amended by striking out "section 604(a)(15)(B)" and inserting in lieu thereof "section 604(a)(16)(B)".



(b) Section 604(a) of title 28, United States Code, is amended --

(1) by redesignating paragraph (17) as paragraph (18),

(2) in paragraph (10) by striking out "paragraph (17)" each place it appears and inserting in lieu thereof "paragraph (18)",

(3) by redesignating paragraphs (15)" and (16) as paragraphs (16) and (17), respectively, and

(4) by redesignating paragraph (14), as added by section 3(c) of the Court Interpreters Act (Public Law 95-539; 92 Stat. 2043), as paragraph (15).

(c) Subsection (f) of section 604 of title 28, United States Code, as added by section 225(b) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2665), is redesignated as subsection (i).

113.

SEC. ~~113~~. Section 620(b)(3) of title 28, United States Code, is amended --

- (1) by striking out "referees," and
- (2) by striking out "commissioners" and inserting in lieu thereof "magistrates".

114.

SEC. ~~114~~. Section 621(a)(2) of title 28, United States Code, is amended by striking out "three active judges of the district courts of the United States, one active judge of the bankruptcy courts of the United States" and inserting in lieu thereof "four active judges of the district courts of the United States (one of whom is assigned to the bankruptcy division of a district court)".

115.

SEC. ~~115~~. Section 631(c) of title 28, United States Code, is amended --

- (1) by striking out "of the conference, a part-time referee in bankruptcy or" and inserting in lieu thereof "of the conference," and
- (2) by striking out "magistrate and part-time referee in bankruptcy," and inserting in lieu thereof "magistrate and".

116.

SEC. ~~116~~. Section 232 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2665), shall take effect on the date of the enactment of this Act.

SEC. ^{117.}~~17.~~ Section 751(b) of title 28, United States Code, is amended by inserting before the period at the end of the first sentence thereof the following: ", including deputies, clerical assistants and employees assigned to the bankruptcy division of the court".

SEC. ^{118.}~~18.~~ (a) Chapter 83 of title 28, United States Code, is amended by inserting after section 1292 the following new section:

~~INSERT PAGE 12~~

1 "§ 1293. Bankruptcy appeals

2 "(a) The courts of appeals shall have jurisdiction of ap-
3 peals from all final decisions of bankruptcy appellate panels
4 established in section ¹⁴⁵~~159~~ of this title and from all final deci-
5 sions of ^{the} ~~bankruptcy courts for~~ ^{divisions} of ~~districts~~ to which the applica-
6 tion of section ¹⁴⁵~~159~~ of this title is not ordered.



7 "(b) A court of appeals shall have jurisdiction of an
8 appeal from a final judgment, order, or decree of a bankrupt-
9 cy appellate panel or, notwithstanding section ¹⁴⁸⁰~~1502~~ of this
10 title, from a final judgment, order, or decree of ^{the} ~~bankruptcy~~ ^{division of} / a district
11 court of the United States if the parties to such appeal agree
12 to a direct appeal to the court of appeals."

13 (b) The table of sections of chapter 83 of title 28, United
14 States Code, is amended by inserting after the item relating
15 to section 1292 the following new item:

"1293. Bankruptcy appeals."

16 ^{119.} ~~117.~~ SEC. ~~22~~. Section 1294 of title 28, United States Code,
17 is amended—



18 ~~XX~~
19 ~~XX~~
20 ~~XXXXXXXXXX~~

21 (2) ¹ by striking out the period at the end thereof
22 and inserting a semicolon, and

23 (3) ² by adding at the end thereof the following new
24 paragraph:

6

1 “(5) From a panel of a bankruptcy appellate
2 panel to the court of appeals for the circuit in which
3 the appellate panel is so established.”

4 ~~“(6) From a panel of a bankruptcy appellate
5 panel to the court of appeals for the circuit in which
6 the appellate panel is so established.”~~

7 ⁽¹²⁰⁾ ~~SEC. 1364~~ (a)(1) Section 1364 of title 28, United States
8 Code, as added by section 705(f)(1) of the Ethics in Govern-
9 ment Act of 1978, is redesignated as section 1365. ✓

10 (2) Section 705(a) of the Ethics in Government Act of
11 1978 (2 U.S.C. 288d(a)) is amended by striking out “sec-
12 tion 1364” and inserting in lieu thereof “section 1365”.

13 (b) Section 1364 of title 28, United States Code, as
14 added by section 172(c)(1) of the District of Columbia Court
15 Reform and Criminal Procedure Act of 1970 and redesignat-
16 ed as section 1364 by section 6(b)(1) of the Jury System
17 Improvement Act of 1978, is redesignated as section 1366.

18 (c) The table of sections of chapter 85 of title 28, United
19 States Code, is amended—

20 (1) in the item relating to section 1330 by strik-
21 ing out “Action” and inserting in lieu thereof “Ac-
22 tions”, and

23 (2) by striking out the three items relating to sec-
24 tion 1364 and inserting in lieu thereof the following
25 new items:

“1364. Direct actions against insurers of members of diplomatic missions and their families.

"1365. Senate actions.

"1366. Construction of references to laws of the United States or Acts of Congress".

1 ~~121.~~ ~~81.~~ SEC. ~~31~~ Chapter 85 of title 28, United States Code, is
2 amended—

3 (1) by striking out section 1334, and

4 (2) in the table of sections relating to such chapter
5 by striking out the item relating to section 1334.

6 ~~122.~~ ~~82.~~ SEC. ~~32~~ Section 1360(a) of title 28, United States
7 Code, is amended by striking out "within the Territory" and
8 inserting in lieu thereof "within the State".

9 ~~123.~~ ~~83.~~ SEC. ~~33~~ (a) Title 28 of the United States Code is
10 amended by inserting after chapter 89 the following new
11 chapter:

12 "CHAPTER 90—~~ESTATE AND PROBATE COURTS~~
DISTRICT COURTS; BANKRUPTCY

"Sec.

"1471 Jurisdiction.

"1472. Venue of cases under title 11.

"1473. Venue of proceedings arising under or related to cases under title 11.

"1474. Venue of cases ancillary to foreign proceedings.

"1475. Change of venue.

~~"1476. Creation or alteration of districts or divisions.~~

"1476. Cure or waiver of defects.

"1477. Removal to the bankruptcy courts.

"1478. Provisional remedies; security.

"1479. Jury trials.

~~"1480. Powers of bankruptcy courts.~~

"1481. Appeals.

13 "§ 1471. Jurisdiction.

14 "(a) Except as provided in subsection (b) of this section,

15 the ~~bankruptcy~~ ^{district} courts shall have original and exclusive juris-

16 diction of all cases under title 11, and such cases shall be

assigned to the bankruptcy division.

1 “(b) ~~Notwithstanding any Act of Congress that confers~~
2 ~~exclusive jurisdiction on a court or courts other than the~~
3 ~~district courts, the district~~ ~~bankruptcy~~ courts shall have original
4 but not exclusive jurisdiction of all civil proceedings arising
5 under title 11 or arising in or related to cases under title 11.

6 “(c) Subsection (b) of this section does not prevent a
7 ~~district~~ ~~bankruptcy~~ court, in the interest of justice, from abstaining
8 from hearing a particular proceeding arising under title 11
9 or arising in or related to a case under title 11. Such absten-
10 tion, or a decision not to abstain, is not reviewable by appeal
11 or otherwise.

12 “(d) ~~The~~ ~~district~~ ~~bankruptcy~~ court in which a case under title
13 11 is pending shall have exclusive jurisdiction of all of the
14 property, wherever located, of the debtor, as of the commence-
15 ment of the case.

16 “§ 1472. Venue of cases under title 11

17 “Except as provided in section 1474 of this title, a case
18 under title 11 may be commenced in the ~~district~~ ~~bankruptcy~~ court for
19 a district—

20 “(1) in which the domicile, residence, principal
21 place of business, in the United States, or principal
22 assets, in the United States, of the person or entity
23 that is the subject of such case have been located for the
24 one hundred and eighty days immediately preceding
25 such commencement, or for a longer portion of such

1 one hundred and eighty day period than such domicile,
2 residence, principal place of business, in the United
3 States, or principal assets, in the United States, were
4 located in any other district; or

5 "(2) in which there is pending a case under title
6 11 concerning such person's affiliate, general partner,
7 or partnership.

8 "§ 1473. Venue of proceedings arising under or related to
9 cases under title 11

10 "(a) Except as provided in subsections (b) and (d) of
11 this section, a proceeding arising under title 11 or arising in
12 or related to a case under title 11 may be commenced in the
13 ~~bankruptcy~~ ^{district} court in which such case is pending.

14 "(b) Except as provided in subsection (d) of this section,
15 a trustee in a case under title 11 may commence a proceeding
16 arising in or related to such case to recover a money judg-
17 ment of or property worth less than \$1,000 or a consumer
18 debt of less than \$5,000 only in the ~~bankruptcy~~ ^{district} court for the
19 district in which a defendant resides.

20 "(c) Except as provided in subsection (b) of this section,
21 a trustee in a case under title 11 may commence a proceeding
22 arising in or related to such case as statutory successor to the
23 debtor or creditors under section 541 or 544(b) of title 11 in
24 the ~~bankruptcy~~ ^{district} court for the district where the State or Fed-
25 eral court sits in which, under applicable nonbankruptcy

1 venue provisions, the debtor or creditors, as the case may be,
2 may have commenced an action on which such proceeding is
3 based if the case under title 11 had not been commenced.

4 “(d) A trustee may commence a proceeding arising
5 under title 11 or arising in or related to a case under title 11
6 based on a claim arising after the commencement of such case
7 from the operation of the business of the debtor only in the
8 ^{district}~~bankruptcy~~ court for the district where a State or Federal
9 court sits in which, under applicable nonbankruptcy venue
10 provisions, an action on such claim may have been brought.

11 “(e) A proceeding arising under title 11 or arising in or
12 related to a case under title 11, based on a claim arising after
13 the commencement of such case from the operation of the
14 business of the debtor, may be commenced against the repre-
15 ^{district}~~sentative~~ of the estate in such case in the ~~bankruptcy~~ court
16 for the district where the State or Federal court sits in which
17 the party commencing such proceeding may, under applicable
18 nonbankruptcy venue provisions, have brought an action on
19 such claim, or in the ^{district}~~bankruptcy~~ court in which such case is
20 pending.

21 “§ 1474. Venue of cases ancillary to foreign proceedings

22 “(a) A case under section 304 of title 11 to enjoin the
23 commencement or continuation of an action or proceeding in
24 a State or Federal court, or the enforcement of a judgment,
25 may be commenced only in the ^{district}~~bankruptcy~~ court for the dis-

1 trict where the State or Federal court sits in which is pend-
2 ing the action or proceeding against which the injunction is
3 sought.

4 "(b) A case under section 304 of title 11 to enjoin the
5 enforcement of a lien against property, or to require turnover
6 of property of an estate, may be commenced only in the ^{district} ~~court~~
7 ~~court~~ court for the district in which such property is found.

8 "(c) A case under section 304 of title 11, other than a
9 case specified in subsection (a) or (b) of this section, may be
10 commenced only in the ^{district} ~~court~~ court for the district in
11 which is located the principal place of business in the United
12 States, or the principal assets in the United States, of the
13 estate that is the subject of such case.

14 "§ 1475. Change of venue

15 "A ^{district} ~~court~~ court may transfer a case under title 11
16 or a proceeding arising in or related to such case to a ^{district} ~~court~~
17 ~~court~~ court for another district, in the interest of justice and
18 for the convenience of the parties.

19 ~~§ 1475. Change of venue~~

20 ~~"A district court may transfer a case under title 11~~
21 ~~or a proceeding arising in or related to such case to a district~~
22 ~~court for another district, in the interest of justice and~~
23 ~~for the convenience of the parties.~~
24 ~~"§ 1475. Change of venue~~

1 a claim or cause of action is not reviewable by appeal or
2 otherwise.

3 ¹⁴⁷⁸ "§ ~~1478~~. Provisional remedies; security

4 "(a) Whenever any action is removed to a ^{district} ~~local~~ court

5 ~~under~~ ¹⁴⁷⁹ section ~~1478~~ of this title, any attachment or se-

6 questration of the goods or estate of the defendant in such

7 action shall hold the goods or estate to answer the final judg-

8 ment or decree in the same manner as they would have been

9 held to answer final judgment or decree had it been rendered

10 by the court from which the action was removed, unless the

11 attachment or sequestration is invalidated under applicable

12 law.

13 "(b) Any bond, undertaking, or security given by any

14 party in an action prior to removal under section ¹⁴⁷⁷ ~~1478~~ of this

15 title shall remain valid and effectual notwithstanding such

16 removal, unless such bond, undertaking, or other security is

17 invalidated under applicable law.

18 "(c) All injunctions, orders, and other proceedings in an

19 action prior to removal of such action under section ¹⁴⁷⁷ ~~1478~~ of

20 this title shall remain in full force and effect until dissolved

21 or modified by the ^{district} ~~local~~ court.

22 ¹⁴⁷⁹ "§ ~~1480~~. Jury trials

23 "(a) Except as provided in subsection (b) of this section,

24 this chapter and title 11 do not affect any right to trial by

25 jury, in a case under title 11 or in a proceeding arising

under title 11 or arising in or related to a case under title 11, that is provided by any statute in effect on September 30, 1979.

"(b) The district court may order the issues arising under section 303 of title 11 to be tried without a jury.

"§ 1480. Appeals

"(a) Bankruptcy appellate panels established in section 145(a) of this title shall have jurisdiction of appeals from all final judgments, orders, and decrees of the bankruptcy division of the district courts.

"(b) Bankruptcy appellate panels shall have jurisdiction of appeals from interlocutory judgments, orders, and decrees of the bankruptcy division of the district courts, but only by leave of the panel to which the appeal is taken."

(b) The table of chapters of part IV of title 28 of the United States Code is amended by inserting after the item relating to chapter 89 the following new item:

"90. District Courts; Bankruptcy 1471."

124.

SEC. ~~27~~. Section 1827(i) of title 28, United States Code, is amended by striking out "a United States magistrate, and a referee in bankruptcy" and inserting in lieu thereof "and a United States magistrate".

125.

SEC. ~~27~~. Section 1963 of title 28, United States Code, is amended by adding at the end thereof the following new undesignated paragraph:

"An order of discharge or an order of confirmation in a case under title 11 which has become final may be registered in any other district by filing in the office of the clerk of the district court of that other district a certified copy of the order and when so registered shall have the same effect as an order of the district court of the district where so registered and may be enforced in like manner."

SEC. ^{126.}~~27.~~ Section 2107 of title 28, United States Code, is amended by striking out the last paragraph. ✓

SEC. ^{127.}~~27.~~ (a) Chapter 153 of title 28, United States Code, is amended by adding at the end thereof the following new section: ✓

"§ 2256. Bankruptcy

"In cases under title 11 and civil proceedings arising under title 11 or arising in or related to cases under title 11, a district judge may issue a writ of habeas corpus --

"(1) when appropriate to bring a person before the court --

(A) for examination;

(B) to testify; or

(C) to perform a duty imposed on such person under this title or title 11; or

"(2) ordering the release of a debtor in a case under title 11 in custody under the judgment of a Federal or State court if --

" (A) such debtor was arrested or imprisoned on
process in any civil action;

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1 “(B) such process was issued for the collec-
2 tion of a debt—

3 “(i) that is dischargeable under title 11;
4 or

5 “(ii) that is or will be provided for in a
6 plan under chapter 11 or 13 of title 11; and

7 “(C) before the issuance of such writ, notice
8 and a hearing have been afforded the adverse
9 party of such debtor in custody to contest the issu-
10 ance of such writ.”.

11 (b) The table of sections for chapter 153 of title 28,
12 United States Code, is amended by adding at the end thereof
13 the following new item:

14 ~~“2256. Bankruptcy.”~~
15 ~~“2256. Bankruptcy.”~~
16 ~~“2256. Bankruptcy.”~~

17 128. ~~SEC. 43.~~ (a) Section 8331(22) of title 5, United States
18 Code, is amended—

“September 30, 1983” ✓

19 (1) in subparagraph (A)—
20 (A) by striking out “March 31, 1984” and
21 inserting in lieu thereof ~~“September 30, 1983”~~ and ✓

22 (B) by striking out “under section 201 of
23 this Act” and inserting in lieu thereof “under sec-
24 tion ^{132A} ~~201~~ of title 28, United States Code,” and

1 (2) in subparagraph (B) by striking out "during
2 the transition period" and inserting in lieu thereof "be-
3 tween October 1, 1979, and ^{September 30,} ~~October 31,~~ 1983, inclu-
4 sive,".

5 (b) Subsections (f), (i), (j), (k), (l), and (m) of section
6 8339, subsections (b)(1) and (d) of section 8341, and section
7 8344(a)(A) of title 5, United States Code, are each amended
8 by striking out "and (o)" and inserting in lieu thereof "and
9 (n)".

10 ~~Section 2(a) of the Act of November 8, 1977~~
11 ~~(Public Law 95-57; 91 Stat. 266), is amended by striking~~
12 ~~out "shall take effect on April 1, 1984" and inserting in~~

13 129. SEC. 402(a) Section 402(b) of the Act of November 6,
14 1978 (Public Law 95-598; 92 Stat. 4682), is amended by
15 striking out "shall take effect on April 1, 1984" and insert in
16 lieu thereof "shall not take effect".

17 (b) Section 402(e) of the Act of November 6, 1978
18 (Public Law 95-598; 92 Stat. 2682) is amended by striking
19 out "April 1, 1984" and inserting in lieu thereof "the date of
20 enactment of the Bankruptcy ^{Division} ~~Code~~ Act of 1982".

21 130. SEC. 406(a) Section 406(a) of the Act of November 6,
22 1978 (Public Law 95-598; 92 Stat. 2686), is amended—

23 (1) by striking out paragraph (2), and

24 (2) in paragraph (1)—

25 (A) by striking out "(1)",

1 (B) by striking out "During the transition
2 period, the" and inserting in lieu thereof "The",

3 (C) in subparagraph (A)—

4 (i) by striking out "(A)" and inserting
5 in lieu thereof "(1)", and

6 (ii) by striking out "section 201 of this
7 Act" and inserting in lieu thereof "section
8 151 of title 28, United States Code," and

9 (D) in subparagraph (B) by striking out
10 "(B)" and inserting in lieu thereof "(2)".

11 (b) Section 406(b) of the Act of November 6, 1978
12 (Public Law 95-598; 92 Stat. 2686), is amended by striking
13 out "section 201 of this Act" and inserting in lieu thereof
14 "section ^{132A} ~~201~~ of title 28, United States Code,".

15 ^{131.} ~~SEC. 47.~~ Sections ~~404~~, 405(a), 405(b), 405(c), 407(c),
16 409, and 410 of the Act of November 6, 1978 (Public Law
17 95-598; 92 Stat. 2683) are repealed. ✓

18 ^{13a.} ~~SEC. 48.~~ (a) The offices of bankruptcy judges for which
19 appointments are authorized, by laws in effect immediately
20 preceding the date of the enactment of this ~~Act~~ ^{titles} to be made in ✓

21 a judicial district shall constitute the bankruptcy court of
22 such judicial district during the period beginning on the date
23 of the enactment of this ~~Act~~ ^{title} and ending on ^{September 30,} ~~September 30,~~ 1983 ✓
24 (hereinafter in this ~~Act~~ ^{title} referred to as the "transition
25 period"). ✓

1 (b) The bankruptcy courts established in subsection (a)
2 shall be deemed to be the bankruptcy courts for purposes of—

3 (1) this Act,

4 (2) the Acts amended by this Act,

5 (3) title 28 of the United States Code, as amend-
6 ed by this Act, other than sections ~~293~~^{133A,} 293(b), 294,
7 295, 331, 372, and 451 of such title,

8 (4) title 11 of the United States Code, and

9 (5) the Acts amended by the Act of November 6,
10 1978 (Public Law 95-598; 92 Stat. 2549).

11 (c) During the transition period and in addition to cases
12 and proceedings commenced during such period, all cases
13 under title 11 of the United States Code and all proceedings
14 arising under title 11 of the United States Code or arising in
15 or related to a case under title 11 of the United States Code
16 pending on the date of enactment of this Act shall be heard by
17 the bankruptcy courts established in subsection (a) as though
18 such cases and proceedings had been commenced in such
19 courts.

20 ¹³³ SEC. ~~132~~ (a) Judges of the bankruptcy courts estab-
21 lished in section ~~132~~^{132(a)} of this Act shall have the title United
22 States bankruptcy judges. (title)

23 (b) During the transition period United States bank-
24 ruptcy judges may exercise the jurisdiction and powers con-



1 ferred by title 28 and title 11 of the United States Code on
2 bankruptcy courts.

3 (c) Notwithstanding section 34a of the Bankruptcy Act
4 as in effect on September 30, 1979, and section 404(b) of the
5 Act of November 6, 1978, as in effect before the date of the
6 enactment of this ~~Act~~^{title} the terms of office of all United States
7 bankruptcy judges who are serving on the date of the enact-

8 ment of this ~~Act~~^{title} in the bankruptcy courts established in sec-
9 tion ~~404~~^{132(a)} expire on ~~March 31~~^{September 30,} 1983.

10 (d) During the transition period and for any subsequent
11 period of service under section ~~504~~^{134(c)}, the levels of salaries of
12 United States bankruptcy judges are continued at the levels
13 in effect on the date of the enactment of this Act, subject to
14 adjustment under section 225 of the Federal Salary Act of
15 1967 (2 U.S.C. 351-361) and section 461 of title 28,
16 United States Code.

17 (e)(1) During the transition period an appeal from a
18 judgment, order, or decree of a United States bankruptcy
19 judge shall be—

20 (A) if the judicial council of the circuit in which
21 the bankruptcy judge sits so orders for the district in
22 which the bankruptcy judge sits, to a panel of three
23 bankruptcy judges appointed in the manner described
24 in section ~~509~~¹⁴⁵ of title 28, United States Code, as
25 added by ~~section 2 of this Act~~^{section 106 of this title,}

1 (B) if no panel is appointed under subparagraph
2 (A) for the district in which such bankruptcy judge
3 sits, to the district court for such district, or

4 (C) if the parties to the appeal agree to a direct
5 appeal to the court of appeals for such circuit, to such
6 court of appeals.

7 (2) During the transition period the district courts of the
8 United States shall have jurisdiction to hear appeals from the
9 judgments, orders, and decrees of bankruptcy courts.

10 (3) During the transition period a panel referred to in
11 paragraph (1)(A) shall be deemed to be a bankruptcy appel-
12 late panel referred to in section 1293 of title 28, United
13 States Code.

134.

14 ~~SEC. 307~~ ³⁰⁷ (a) On ~~April~~ ^{October 1,} 1983, there shall be trans- ✓
15 ferred to the appropriate United States ~~bankruptcy~~ ^{district} court ~~es-~~ --
16 ~~tablished in section 151(a) of title 28, United States Code.~~

17 (1) cases, and matters and proceedings in cases,
18 under the Bankruptcy Act that are pending, at the end
19 of ~~March 31,~~ ^{September 30,} 1983, in the bankruptcy courts estab-

132(a)

20 lished in section ~~281~~ ²⁸¹ of this ~~Act,~~ ^{title,} other than cases, ✓
21 and matters and proceedings in cases under—

22 (A) section 77 or chapter IX of the Bank-
23 ruptcy Act, or

1 (B) chapter X of the Bankruptcy Act in
2 which a general reference under section 117 of the
3 Bankruptcy Act is not in effect, and

4 (2) cases under title 11 of the United States
5 Code, and proceedings arising under title 11 of the
6 United States Code or arising in or related to cases
7 under title 11 of the United States Code, that are
8 pending at the end of ~~March 31~~ September 30, 1983, in the bank-

9 ruptcy courts established in section ~~48(a)~~ ~~of this Act~~

132(a)
of this
title.

10 (b) On ~~April~~ ^{October} 1, 1983, there shall be transferred to the
11 appropriate bankruptcy appellate panels established in sec-
12 tion ~~149~~ ¹⁴⁵ of title 28, United States Code, appeals from final
13 judgments, orders, and decrees of the bankruptcy courts es-

132(a)

14 tablished in section ~~48(a)~~ ^{22(a)} pending at the end of ~~March 31~~ September 30,
15 1983, in the panels appointed under section ~~48~~ ¹³³ (e)(1)(A).

16 (c) After ~~March 31~~ September 30, 1983, a United States ~~bankruptcy~~
17 court ~~established in section 151(c) of title 28, United States~~
18 ~~Code~~ may designate and appoint former United States
19 bankruptcy judges whose terms expired on ~~March 31~~ September 30, 1983,

20 to hear and determine cases or proceedings that are pending
21 in such court. Section ~~48(b)~~ ^{132(b)} and section ~~48(d)~~ ^{23, 132(d)} of this ~~Act~~
22 shall apply to such former United States bankruptcy judges
23 when they sit by designation under this subsection. Any such
24 designation and appointment shall terminate 30 days after

25 all appointments under section ~~158~~ ^{133A} of title 28, United States

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1 Code, to the United States ~~bankruptcy~~ district court involved have
2 first been made or on/ ~~September 26, 1982,~~ March 31, 1984,
3 earlier.

4 ~~SEC. 57~~ ^{135.} The Supreme Court may issue such addition-
5 al rules of procedure, consistent with Acts of Congress, as
6 may be necessary for the orderly transfer of functions and
7 records and the orderly transition to the new ~~bankruptcy~~ system of bankrupt
8 divisions of the district courts created by this Act.

136. ~~SEC. 57~~ ⁵⁷⁶ (a) Whenever a vacancy occurs in a district
9 court judgeship authorized under section 132A ~~of title 28, United States~~ Code, the
10 ~~United States~~ President shall nomi-
11 nate as a ~~bankruptcy~~ judge ~~under section 132A~~ a person
12 whose character, experience, ability, and impartiality qualify
13 such person to serve in the Federal judiciary.

14 (b) The Attorney General of the United States shall
15 assist the President by evaluating potential nominees and by
16 recommending to the President for consideration for appoint-
17 ment persons who are qualified to be ~~bankruptcy~~ such district judges.

18 (c) Before transmitting to the President the names of the
19 persons he deems best qualified to fill any existing vacancy,
20 the Attorney General shall have determined that—

21 (1) public notice of such vacancy has been given
22 and an affirmative effort has been made, in the case of
23 each such vacancy, to identify qualified candidates,
24 without discrimination as to race, color, sex, religion,
25 or national origin,

1 (2) such persons are members in good standing of
2 at least one State bar, or the District of Columbia bar,
3 and members in good standing of every other bar of
4 which they may be members,

5 (3) such persons possess, and have a reputation
6 for, integrity and good character,

7 (4) such persons are of sound physical and mental
8 health,

9 (5) such persons possess and have demonstrated
10 commitment to equal justice under law,

11 (6) such persons possess and have demonstrated
12 outstanding legal ability and competence, as evidenced
13 by substantial legal experience, ability to deal with
14 complex legal problems, aptitude for legal scholarship
15 and writing, and familiarity with courts and court
16 processes, and

17 (7) such persons' demeanor, character, and per-
18 sonality indicate that they would exhibit judicial tem-
19 perament if appointed to the position of United States
20 ~~bar~~ district judge.

21 137. SEC. ~~137~~ (a) Except as provided in subsection (b), this
22 ~~Act~~ ^{title} and the amendments made by this ~~Act~~ ^{title} shall take effect on
23 the date of the enactment of this ~~Act~~ ^{title}.

✓
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132A and 145

- 1 (b) Sections ~~151(e), 152, 154, and 159~~ of title 28,
- 2 United States Code, as added by ~~section 2~~ of this Act, shall
- 3 take effect on ~~April 1, 1982~~ October 1, 1983.