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HOUSE

BILL	DATE	PAGE(S)
H.R. 6872	Sept. 20, 1982	H7269-75

ACTION
Passed under suspension of the rules

FEDERAL COURT REFORM ACT OF 1982

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6782) to provide greater discretion to the Supreme Court in selecting the cases it will review, to extend to all Federal jurors eligibility for Federal worker's compensation, to provide for the taxing of attorney fees in certain actions brought by jurors, to authorize the service of jury summonses by ordinary mail, to permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6872

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

Short Title

SECTION 1. This Act may be cited as the "Federal Court Reform Act of 1982".

TITLE I—SUPREME COURT REVIEW

REVIEW OF DECISIONS INVALIDATING ACTS OF CONGRESS

SEC. 101. Section 1252 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 81 of such title, are repealed.

REVIEW OF DECISIONS INVALIDATING STATE STATUTES

SEC. 102. (a) Section 1254 of title 28, United States Code, is amended by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) The section heading for section 1254 of such title is amended by striking out "appeal;".

(c) The item relating to section 1254 in the section analysis of chapter 81 of title 28, United States Code, is amended by striking out "appeal;".

REVIEW OF STATE COURT DECISIONS INVOLVING VALIDITY OF STATUTES

SEC. 103. Section 1257 of title 28, United States Code, is amended to read as follows:

"§ 1257. State courts; certiorari

"(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

"(b) For the purposes of this section, the term 'highest court of a State' includes the District of Columbia Court of Appeals.".

REVIEW OF DECISIONS FROM SUPREME COURT OF PUERTO RICO

SEC. 104. Section 1258 of title 28, United States Code, is amended to read as follows:

"§ 1258. Supreme Court of Puerto Rico; certiorari

"Final judgments or decrees rendered by the Supreme Court of the Commonwealth of Puerto Rico may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of the Commonwealth of Puerto Rico is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.".

CONFORMING AMENDMENTS

SEC. 105. (a) The items relating to sections 1257 and 1258 in the section analysis of chapter 81 of title 28, United States Code, are amended to read as follows:

"1257. State courts; certiorari.

"1258. Supreme Court of Puerto Rico; certiorari.".

(b) Section 2101(a) of title 28, United States Code, is amended by striking out "sections 1252, 1253 and 2282" and inserting in lieu thereof "section 1253".

(c)(1) Section 2104 of title 28, United States Code, is amended to read as follows:

"§ 2104. Reviews of State court decisions

"A review by the Supreme Court of a judgment or decree of a State court shall be conducted in the same manner and under the same regulations, and shall have the same effect, as if the judgment or decree reviewed had been rendered in a court of the United States.".

(2) The item relating to section 2104 in the section analysis of chapter 133 of title 28, United States Code, is amended to read as follows:

"2104. Reviews of State court decisions.".

(d) Section 2350(b) of title 28, United States Code, is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

AMENDMENTS TO OTHER LAWS

SEC. 106. (a) Section 310 of the Federal Election Campaign Act (2 U.S.C. 437h) is amended by repealing subsection (b).

(b) Section 2 of the Act of May 18, 1928 (25 U.S.C. 652), is amended by striking out ", with the right of either party to appeal to the United States Court of Appeals for the Federal Circuit".

(c) The last sentence of section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended to read as follows: "An interlocutory or final judgment, decree, or order of such distinct court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.".

(d) Section 209(e)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(e)(3)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court".

(e) Section 303(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(d)) is amended to read as follows:

"(d) REVIEW.—A finding or determination entered by the special court pursuant to subsection (c) of this section or section 306 of this title shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States. Such review is exclusive and any such petition shall be filed in the Supreme Court not more than 20 days after entry of such finding or determination.".

(f) Section 1152(b) of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1105(b)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court".

(g) Section 206 of the International Claims Settlement Act of 1949 (22 U.S.C. 1631e) is amended by striking out "1252, 1254, 1291," and inserting in lieu thereof "1291".

(h) Section 12(a) of the Act of May 13, 1954, commonly known as the Saint Lawrence Seaway Act (33 U.S.C. 988(a)), is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

EFFECTIVE DATE

SEC. 107. The amendments made by this title shall take effect ninety days after the date of the enactment of this Act, except that such amendments shall not apply to cases pending in the Supreme Court on the effective date of such amendments or affect the right to review or the manner of reviewing the judgment or decree of a court which was entered before such effective date.

TITLE II—JURORS AND SUMMONS FOR JURY SERVICE

INJURY COMPENSATION FOR JURORS

SEC. 201. (a) Chapter 81 of title 5, United States Code, is amended by inserting immediately after section 8141 the following new section:

"§ 8141a. Federal petit and grand jurors

"(a) For purposes of this section, 'Federal petit or grand juror' means a person who is selected pursuant to chapter 121 of title 28 and summoned to serve as a petit or grand juror and who is entitled to the fees provided for attendance in section 1871 of title 28.

"(b) Subject to the provisions of this section, this subchapter applies to a Federal grand or petit juror, except that entitlement to disability compensation payments does not commence until the day after the date of termination of service as a Federal petit or grand juror.

"(c) In administering this subchapter with respect to a Federal petit or grand juror—

"(1) a Federal petit or grand juror is deemed to receive monthly pay at the minimum rate for grade GS-2, except that in any case in which the actual pay of any such juror is higher—

"(A) monthly pay is determined in accordance with section 8114 of this title, subject to subparagraphs (B) and (C) of this paragraph,

"(B) any reference in section 8114 of this title to employment by or employee of the Government shall, in the case of a juror who is not otherwise an employee for purposes of this subchapter, be deemed to refer to employment by or employee of the actual employer, and

"(C) the average annual earnings of a juror who is not otherwise an employee for purposes of this subchapter may not exceed the minimum rate of basic pay for GS-15; and

"(2) 'performance of duty' as a Federal petit or grand juror includes that time when the juror is (A) in attendance at court pursuant to a summons, (B) in deliberation, (C) sequestered by order of a judge, or (D) traveling to and from the courthouse pursuant to a jury summons or sequestration order, or as otherwise necessitated by order of court such as for the taking of a view.".

(b) The chapter analysis of chapter 81 of title 5, United States Code, is amended by inserting immediately after the item relating to section 8141 the following new item:

"8141a. Federal petit and grand jurors.".

(c) Section 8101(1) of title 5, United States Code, is amended—

(1) by striking out subparagraph (F); and

(2) in clause (iv) by striking out "; and" and inserting in lieu thereof a period.

(d) The amendment made by subsection (a) shall take effect on October 1, 1982.

TAXATION OF JUROR ATTORNEY'S FEES

SEC. 202. Section 1875(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" immediately after "(d)"; and

(2) by amending paragraph (2) to read as follows:

"(2) In any action or proceeding under this section, the court may award a prevailing employee who brings such action or proceeding by retained counsel a reasonable attorney's fee as part of the costs. The court may tax a defendant employer, as costs payable to the court, the attorney fees and expenses incurred on behalf of a prevailing employee, in any case in which such fees and expenses were paid pursuant to paragraph (1) of this subsection. The court may award a prevailing employer a reasonable attorney's fee as part of the costs only if the court finds that the action or proceeding is frivolous, vexatious, or brought in bad faith.".

SERVICE OF SUMMONS FOR JURY SERVICE

SEC. 203. (a) The second paragraph of section 1866(b) of title 28, United States Code, is amended to read as follows:

"Each person drawn for jury service may be served personally, or by registered, certified, or first class mail addressed to such person at his usual residence or business address.".

(b) The fourth paragraph of section 1866(b) of title 28, United States Code, is amended to read as follows:

"If such service is made by mail, the summons may be served by the marshal, clerk, or jury commission, or their duly designated deputies, who shall make affidavit of service and shall attach thereto any receipt from the addressee for a registered or certified summons.".

TITLE III—CIVIL PRIORITIES

ESTABLISHMENT OF PRIORITY OF CIVIL ACTIONS

SEC. 301. (a) Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1657. Priority of civil actions

"(a) Notwithstanding any other provisions of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause therefor is shown.

"(b) The Judicial Conference of the United States may modify the rules adopted by the courts to determine the order in which civil actions are heard and determined, in order to establish consistency among the judicial circuits."

(b) The section analysis of chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1657. Priority of civil actions.".

AMENDMENTS TO OTHER LAWS

SEC. 302. The following provisions of law are amended:

(1)(A) Section 309(a)(10) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(11) is repealed.

(B) Section 310 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437h), as amended by section 106(a) of this Act, is further amended—

(i) by striking out "(a)" after "SEC. 310."; and

(ii) by repealing subsection (c).

(2) Section 552(a)(4)(D) of title 5, United States Code, is repealed.

(3) Section 6(a) of the Commodity Exchange Act (7 U.S.C. 8(a)) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(4)(A) Section 6(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)(4)) is amended by striking out the second sentence.

(B) Section 10(d)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h(d)(3)) is amended by striking out "The court shall give expedited consideration to any such action.".

(C) Section 16(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136n(b)) is amended by striking out the last sentence.

(D) Section 25(a)(4)(E)(iii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(a)(4)(E)(iii)) is repealed.

(5) Section 204(d) of the Packers and Stockyards Act, 1921 (7 U.S.C. 194(d)), is amended by striking out the second sentence.

(6) Section 366 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1366) is amended in the fourth sentence by striking out "At the earliest convenient time, the court, in term time or vacation," and inserting in lieu thereof "The court".

(7)(A) Section 410 of the Federal Seed Act (7 U.S.C. 1600) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(B) Section 411 of the Federal Seed Act (7 U.S.C. 1601) is amended by striking out "The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.".

(8) Section 816(c)(4) of the Act of October 7, 1975, commonly known as the Department of Defense Appropriation Authorization Act of 1976 (10 U.S.C. 2304 note) is amended by striking out the last sentence.

(9) Section 5(d)(6)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)(A)) is amended by striking out "Such proceedings shall be given precedence over other cases pending in such courts, and shall be in every way expedited.".

(10)(A) Section 7A(f)(2) of the Clayton Act (15 U.S.C. 18a(f)(2)) is amended to read as follows: "(2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection, then upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes.".

(B) Section 11(e) of the Clayton Act (15 U.S.C. 21(e)) is amended by striking out the first sentence.

(11) Section 1 of the Act of February 11, 1903, commonly known as the Expediting Act (15 U.S.C. 28) is repealed.

(12) Section 5(e) of the Federal Trade Commission Act (15 U.S.C. 45(e)) is amended by striking out the first sentence.

(13) Section 21(f)(3) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1(f)(3)) is repealed.

(14) Section 11A(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(c)(4)) is amended—

(A) by striking out "(A)" after "(4)"; and

(B) by striking out subparagraph (B).

(15)(A) Section 309(e) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(e)) is amended by striking out the sixth sentence.

(B) Section 309(f) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(f)) is amended by striking out the last sentence.

(C) Section 311(a) of the Small Business Investment Act of 1958 (15 U.S.C.687c(a)) is amended by striking out the last sentence.

(16) Section 10(c)(2) of the Alaska Natural Gas Transportation Act (15 U.S.C. 719h(c)(2)) is repealed.

(17) Section 155(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1415(a)) is amended by striking out "(1)" and by striking out paragraph (2).

(18) Section 503(b)(3)(E) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(3)(E)) is amended by striking out clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(19) Section 23(d) of the Toxic Substances Control Act (15 U.S.C. 2622(d)) is amended by striking out the last sentence.

(20) Section 12(e)(3) of the Coastal Zone Management Improvement Act of 1980 (16 U.S.C. 1463a(e)(3)) is repealed.

(21) Section 11 of the Act of September 28, 1976 (16 U.S.C. 1910), is amended by striking out the last sentence.

(22)(A) Section 807(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3117(b)) is repealed.

(B) Section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168) is amended to read as follows:

"INJUNCTIVE RELIEF

"SEC. 1108. No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this title except in conjunction with a final judgment entered in a case involving an action pursuant to this title.".

(23)(A) Section 10(b)(3) of the Central Idaho Wilderness Act of 1980 (Public Law 96-312; 94 Stat. 948) is repealed.

(B) Section 10(c) of the Central Idaho Wilderness Act of 1980 is amended to read as follows:

"(c) Any review of any decision of the United States District Court for the District of Idaho shall be made by the Ninth Circuit Court of Appeals of the United States.".

(24)(A) Section 1964(b) of title 18, United States Code, is amended by striking out the second sentence.

(B) Section 1966 of title 18, United States Code, is amended by striking out the last sentence.

(25)(A) Section 408(l)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(l)(5)) is amended by striking out the last sentence.

(B) Section 409(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(g)(2)) is amended by striking out the last sentence.

(26) Section 8(f) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 618(f)) is amended by striking out the last sentence.

(27) Section 4 of the Act of December 22, 1974 (25 U.S.C. 640d-3), is amended by striking out "(a)" and by striking out subsection (b).

(28)(A) Section 3310(e) of the Internal Revenue Code of 1954 is repealed.

(B) Section 6110(f)(5) of the Internal Revenue Code of 1954 is amended by striking out "and the Court of Appeals shall expe-

dite any review of such decision in every way possible".

(C) Section 6363(d)(4) of the Internal Revenue Code of 1954 is repealed.

(D) Section 7609(h)(3) of the Internal Revenue Code of 1954 is repealed.

(E) Section 9010(c) of the Internal Revenue Code of 1954 is amended by striking out the last sentence.

(F) Section 9011(b)(2) of the Internal Revenue Code of 1954 is amended by striking out the last sentence.

(29)(A) Section 596(a)(3) of title 28, United States Code, is amended by striking out the last sentence.

(B) Section 636(c)(4) of title 28, United States Code, is amended in the second sentence by striking out "expeditious and".

(C) Section 1296 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 83 of that title, are repealed.

(D) Subsection (c) of section 1364 of title 28, United States Code, the section heading of which reads "Senate actions", is repealed.

(E) Section 2284(b)(2) of title 28, United States Code, is amended by striking out the last sentence.

(F) Section 2349(b) of title 28, United States Code, is amended by striking out the last two sentences.

(G) Section 2647 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 169 of that title, are repealed.

(30) Section 10 of the Act of March 23, 1932, commonly known as the Norris-LaGuardia Act (29 U.S.C. 110), is amended by striking out "with the greatest possible expedition" and all that follows through the end of the sentence and inserting in lieu thereof "expeditiously".

(31) Section 10(i) of the National Labor Relations Act (29 U.S.C. 160(i)) is repealed.

(32) Section 11(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660(a)) is amended by striking out the last sentence.

(33) Section 4003(e)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(4)) is repealed.

(34) Section 106(a)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 816(a)(1)) is amended by striking out the last sentence.

(35) Section 1016 of the Impoundment Control Act of 1974 (31 U.S.C. 1406) is amended by striking out the second sentence.

(36) Section 2022 of title 38, United States Code, is amended by striking out "The court shall order speedy hearing in any such case and shall advance it on the calendar.".

(37) Section 3628 of title 39, United States Code, is amended by striking out the fourth sentence.

(38) Section 1450(l)(4) of the Public Health Service Act (42 U.S.C. 300j-9(i)(4)) is amended by striking out the last sentence.

(39) Section 304(e) of the Social Security Act (42 U.S.C. 504(e)) is repealed.

(40)(A) Section 2004(e) of the Revised Statutes of the United States (42 U.S.C. 1971(e)) is amended—

(i) in the third paragraph, by striking out "An application for an order pursuant to this subsection shall be heard within ten days, and the execution of any order disposing of such application" and inserting in lieu thereof "The execution of an order disposing of an application pursuant to this subsection"; and

(ii) in the eighth paragraph, by striking out the first sentence.

(B) Section 2004(g) of the Revised Statutes of the United States (42 U.S.C. 1971(g)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the third paragraph.

(41)(A) Section 10(c) of the Voting Rights Act of 1965 (42 U.S.C. 1973h(c)) is amended by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited".

(B) Section 301(a)(2) of the Voting Rights Act of 1965 (42 U.S.C. 1973bb(a)(2)) is amended by striking out ", and to cause the case to be in every way expedited".

(42)(A) Section 206(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-5(b)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the last paragraph.

(B) Section 706(f)(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(f)(2)) is amended by striking out the last sentence.

(C) Section 706(f)(5) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(f)(5)) is amended to read as follows:

"(5) The judge designated to hear the case may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.".

(D) Section 707(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-6(b)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the last paragraph.

(43) Section 814 of the Act of April 11, 1968 (42 U.S.C. 3614), is repealed.

(44) The matter under subheading "EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA" under the headings "ENERGY AND MINERALS" and "GEOLOGICAL SURVEY" in title I of the Act of December 12, 1980 (94 Stat. 2964; 42 U.S.C. 6508), is amended in the third paragraph by striking out the last sentence.

(45) Section 214(b) of The Emergency Energy Conservation Act of 1979 (42 U.S.C. 8514(b)) is repealed.

(46) Section 2 of the Act of February 25, 1885 (43 U.S.C. 1062), is amended by striking out "; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day".

(47) Section 23(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(d)) is repealed.

(48) Section 511(c) of the Public Utilities Regulatory Policies Act of 1978 (43 U.S.C. 2011(c)) is amended by striking out "Any such proceeding shall be assigned for hearing at the earliest possible date and shall be expedited by such court.".

(49) Section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended by striking out the fourth sentence.

(50) Section 5(f) of the Railroad Unemployment Insurance Act (45 U.S.C. 355(f)) is amended by striking out ", and shall be given precedence in the adjudication thereof over all other civil cases not otherwise entitled by law to precedence".

(51) Section 305(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(d)(2)) is amended—

(A) in the first sentence by striking out "Within 180 days after" and inserting in lieu thereof "After"; and

(B) in the last sentence by striking out "Within 90 days after" and inserting in lieu thereof "After".

(52) Section 124(b) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1018(b)) is amended by striking out ", and shall render a final decision no later than 60 days after the date the last such appeal is filed".

(53) Section 402(g) of the Communications Act of 1934 (47 U.S.C. 402(g)) is amended—

(A) by striking out "At the earliest convenient time the" and inserting in lieu thereof "The"; and

(B) by striking out "10(e) of the Administrative Procedure Act" and inserting in lieu thereof "706 of title 5, United States Code".

(54) Section 13A(a) of the Subversive Activities Control Act of 1950 (50 U.S.C. 792a note) is amended in the third sentence by striking out "or any court".

(55) Section 12(a) of the Military Selective Service Act of 1967 (50 U.S.C. App. 462(a)) is amended by striking out the last sentence.

(56) Section 4(b) of the Act of July 2, 1948 (50 U.S.C. App. 1984(b)), is amended by striking out the last sentence.

EFFECTIVE DATE

SEC. 305. The amendments made by this title shall not apply to cases pending on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. RAILSBACK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

(Mr. KASTENMEIER asked and was given permission to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, H.R. 6872, the Federal Court Reform Act of 1982 is a noncontroversial measure that has the strong support of the administration, the Judicial Conference of the United States and the organized bar, including the American Bar Association.

Title I of the bill represents an attempt to bring rationality to the method by which the Supreme Court selects which cases to hear. Under current law there are esentially two ways in which cases can be appealed to the Supreme Court:

First, cases can be chosen by the Court upon an application by a party for a writ of certiorari; or second, in certain narrow circumstances the Supreme Court is obligated by statue to hear the case. The vast majority of cases are heard through the certioari type mechanism. The Supreme Court under this approach can pick out the cases that are of the greatest national importance. This bill expands this practice to virtually all cases. Under current law there are three types of cases that require the Supreme Court to dispose of appeals on the merits. Unfortunately this congressional mandate has not produced the desired

result. The Supreme Court workload is so great that these cases cannot be given plenary consideration. Thus, most of the cases end up being given only a cursory review. Because of the nature of the review of these mandatory appeals, the precedential effect of such decisions is murky at best.

I should note the importance of title I of this bill to the Supreme Court. During the deliberations on this bill in my subcommittee we received a letter signed by all nine Justices of the Supreme Court supporting these provisions. Not only is a unanimous Supreme Court unusual; in my time in Congress, I cannot recall any other similar letter to this House on any legislation.

The second part of this bill relates to various features of Federal law that relate to jurors. Title II of the bill has three parts; the first part corrects an oversight in the 1978 Jury System Improvement act by permitting the assessment of attorneys fees in cases involving the appointment of counsel. This provision will affect relatively few cases, but will save the courts and the Government some money.

The second part of title II provides that persons who are injured are eligible for workers' compensation. Under current law only persons who are Federal employees are eligible for such coverage. This bill ends this irrational discrimination against non-Federal employees. While the number of injuries that arise out of jury service are few and relatively nonserious, this measure has a larger symbolic importance. This bill means that persons called upon to serve their fellow citizens and the justice system will not be impaired because of any injury that arises out of such service.

The third part of the second title provides that the courts may use first class mail to effect service of a notification of the person's jury duty. Under current law these notices must be made by certified or registered mail. The new system will save between $400,000 and $600,000, according to the Congressional Budget Office. This savings offsets the costs associated with any expenses that may be incurred by the juror compensation provisions.

Title III of the bill gives back to the courts an appropriate amount of discretion with respect to cases that require expeditious handling. Under current law there are over 85 different provisions of law that require the courts to give expedited treatment to different types of cases. Among the cases that are required to receive expedited treatment are actions to enforce the Federal Seed Act and challenges to certain administrative actions that are now time barred. This welter of conflicting priorities is irrational and not susceptible of implementation. Quite obviously 85 types of cases cannot all be first on the docket.

This bill replaces the existing ad hoc set of civil priorities with a set of general rules. Three types of cases are given statutory priority status: First, cases that involve issues of personal liberty, such as habeas corpus claims and recalcitrant witnesses; second, cases involving applications for temporary restraining orders or preliminary injunctions; and third, cases where good cause has been shown. In addition, the bill authorizes—and in some ways encourages—the Federal courts to establish court rules on this subject.

The Subcommittee on Courts, Civil Liberties and the Administration of Justice has been able to move this legislation forward because of the bipartisan, even nonpartisan nature of the support for the bill. The Department of Justice—especially the Office of Legal Policy—has been most supportive of our efforts. The Judicial Conference of the United States through the Federal Judicial Center and the Administrative Office of the United States has been very helpful in our work. Finally, we all owe a great debt to the American Bar Association and its Committee on Coordination of Judicial Improvements for acting as a catalyst for reform in all three of the areas affected by this bill.

Let me close by calling to the attention of my colleagues some remarks made on September 9 of this year by Justice Brennan that are most important to this bill.

> Congress could afford the Court substantial assistance by repealing to the maximum extent possible the Court's mandatory appellate jurisdiction and shifting those cases to the discretionary certiorari docket. A bill to this end is pending in the Congress and every member of the Court devoutly hopes it will be adopted. Cases on appeal consume a disproportionate amount of the limited time available for oral argument. That's because time and again a Justice who would conscientiously deny review of an issue presented on certiorari cannot conscientiously say that when presented on appeal the issue is insubstantial, the test on appeal. Policy considerations that gave rise to the distinction between review by appeal and review by writ of certiorari have long since lost their force and abandonment of our appellate jurisdiction, (leaving a writ of certiorari as the only means of obtaining Supreme Court review) is simply recognition of reality.

Before yielding the floor to my colleague from Illinois, I should correct an erroneous reference in the committee report 97-284 on this bill. On page 17 of the bill the reference in footnote 18 should be to footnote 17, rather than what appears in the printed committee report. In addition, the footnote should contain an additional reference to 7 U.S.C. 8(a) (actions by commodity exchanges to the Court of Appeals if the Commodity Futures Trading Commission fails to approve a new futures contract or suspends or revokes the designation of an existing contract).

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Mr. Speaker, let me conclude by saying that we all owe a great debt to the American Bar Association and to its Committee on Coordination of Judicial Improvements for acting as a catalyst for reform in these three areas affected by the bill.

I particularly want to pay my respects to the members of the subcommittee, and in particular the author of the bill, the gentleman from Illinois (Mr. RAILSBACK). It is his bill. He, however, is just as much the author of many, many, many other bills we have produced in the past that have perhaps just by reason of his being a member of the minority or perhaps for other reasons that do not justify it, not been mentioned as the primary author. He is of this particular bill, and I want to pay my respects to him as a person for whom I have had the greatest pleasure working with over many, many years on the subcommittee.

This alone cannot be a testament to his service, but surely in some small way pays a sort of a debt we have to TOM RAILSBACK for his contributions certainly in the area of this subcommittee.

Mr. Speaker, I would also like to state that some Members or some committees may have reservations about the wisdom of repealing a priority provision with respect to a favored or preferred civil cause of action. For example, some Members may be concerned about the deletion of an expediting provision with respect to cases brought under the Freedom of Information Act. As a person who was long supported the underlying principles regarding citizen access to Government information, I share your concern.

I must say, however, that the existence of over 85 civil priority provisions precludes their rational application by the courts. During the hearings before the subcommittee the representative of the Judicial Conference all but admitted that because of the large number of civil priorities that congressional directives of this type are virtually ignored. It is impossible to place first on the court calendar FOIA cases, for example, when tens of statutes passed before, and since, require that other types of civil actions are also placed first on the calendar.

The repeal of existing civil priorities is not intended in any way to lessen the substantive impact of a congressional determination that a particular right is of importance. Rather this bill establishes a general rule that can be easily applied by the courts. The general rule is that cases that involve liberty—other than criminal cases which are governed by the Speedy Trial Act—such as habeas corpus cases, will be given priority. In addition, the bill provides that cases that involve the threat of imminent injury shall be given expedited treatment. Finally, the bill provides that priority shall be given to cases where a party has demonstrated good cause. The committee concluded that an individualized assessment of the need for a speedy res-

olution of cases would produce results that are frankly more consistent with the original congressional intent. Frivolous cases that are brought under statutes that currently have priority status will no longer be given any advantage over other cases.

On the other hand the committee bill anticipates that the courts—ranging from the district courts to the courts of appeals to the Supreme Court—will establish by court rules which categories of cases shall be given expedited treatment. We anticipate that in many instances the existing statutory priorities will be continued by court rule. The advantage of the approach taken in the bill over current law is that modifications and reconciliations of overlapping civil priorities can be accomplished more easily and by judges more intimately familiar with the fact patterns common to particular types of cases.

In sum, while we can all agree that some cases are more important then others, the Judiciary Committee was not in a position—nor is any committee of the Congress—to reconcile all of the existing priorities. Thus, we choose to adopt a set of general rules that would serve to bring before the courts for rapid resolution those cases that involve the most fundamental liberties or the most pressing need for action.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I simply want to join in the remarks of my colleague from Wisconsin in commendation of my colleague from Illinois, who really has made substantial contributions. The decision made by the people in his district to go elsewhere is a decision that this body will live with, but we shall always be grateful for the contributions that he made. I am pleased that the gentleman from Wisconsin paid that tribute to our colleague.

Mr. KASTENMEIER. Mr. Speaker, I thank the gentleman from Illinois.

Mr. Speaker, I reserve the balance of my time.

Mr. RAILSBACK. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. McCLORY).

(Mr. McCLORY asked and was given permission to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, I rise in strong support of this measure and wish first of all to commend the chairman of the subcommittee and ranking member, Mr. RAILSBACK, for their diligent and skillful work in developing and presenting this measure to the House of Representatives today. I also certainly want to join in commenting on the highly valuable work of my colleague from Illinois (Mr. RAILSBACK). Mr. RAILSBACK and I both are leaving the Congress at the end of this session, and I do want to say in my own behalf that TOM RAILSBACK's service has been exemplary. It has been of the highest quality of service in this body, and he has brought to the Congress and to the Judiciary Committee his vast experience and knowledged of the law and in the practice of law.

Consequently, the other members of the committee and all the Members of this body as well as the people of this Nation have benefited from his major contributions.

Mr. Speaker, I rise in support of H.R. 6872, the Federal Court Reform Act of 1982. I want to commend my colleague from Illinois (Mr. RAILSBACK), the primary sponsor of this legislation. I believe this is a real tribute to him, because during his 16 years in this body he has made substantial contributions to revising and modernizing our Federal court system and this will be an area wherein he will be sorely missed.

As has been pointed out, H.R. 6872 contains three titles. Each of the titles relates to a different topic. Title I substantially eliminates the mandatory or obligatory jurisdiction of the Supreme Court. This change in appellate review is supported by all nine Justices of the Supreme Court. As their letter of June 18, 1982, points out:

> It is impossible for the Court to give plenary consideration to all the mandatory appeals it receives, . . . to have done so during the 1980 term would have required at least nine additional weeks . . .

Because the proposal is precisely drafted, it may appear upon first impression to reach such a small spectrum of "classes of cases" that its impact upon the Court's business would be relatively slight. In fact, this bill would be of great value to the Court, to other courts in the Nation's Federal judicial system, to State courts, the bar—and, most of all, to the Nation's comprehensive body of jurisprudence.

Fortunately, full recognition of this proposal's great value appears to be universal, and appears to have been universal since the introduction of predecessor bills in the 95th Congress in 1977. At least since 1978, a broad consensus of support for this legislation has been obvious. It has been diverted from final passage in the past two Congresses only because it has been "linked" by amendments to controversial—and extraneous—issues.

It is a proposal in full conformity with the evolutionary "modernization" of the Federal judicial system, which realistically began in the second half of the 19th century and has accelerated in this century—in pace with the Nation's growth and rapidly developing demands upon all governmental institutions. In this century the Federal courts have been compelled to change their methods of conducting judicial business continuously to meet the people's expectations.

H.R. 6872 is merely another installment in a similar pattern of constructive reforms related to the adjudicatory elements of the system—reforms which have dramatically aided the system's ability to manage its workload burdens.

I urge my colleagues to vote in favor of this legislation.

Mr. RAILSBACK. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just want to rise in support of this legislation. For those Members who have read the latest edition of the Congressional Quarterly, they have seen the position espoused by some of the Justices of the Court with their work overload, and while this bill does not have a vast effect, it is a step in the right direction of tending to ease some of that workload.

On the other part, the priorities of cases or precedents, somewhere between 80 and 100 different sets of priorities, all purporting to be No. 1 in being expedited, is something that kind of grew like Topsy over years. I doubt that many, if any trial lawyers using the court are even aware of these priorities, and I am sure the district judges who administer them in large part are not. They have been rather hard to ferret out and recreate, and I think it is a great step toward cleaning up a ridiculous set of priorities that is honored in the breach in any event.

Mr. RAILSBACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me simply thank my colleagues for their very, very kind remarks, and I do rise in support of the bill.

Mr. Speaker, H.R. 6872 is important and noncontroversial legislation. It has the support of the administration, the Judicial Conference, all nine Justices of the U.S. Supreme Court, and the American Bar Association. I am not aware of any organized opposition to this bill. I introduced this legislation and it is cosponsored and supported by our Courts Subcommittee.

Mr. Speaker, this legislation is divided into three titles and at this time I would like to take a few minutes to explain these titles.

TITLE I

Title I substantially eliminates the mandatory or obligatory jurisdiction of the Supreme Court. Under current law, certain cases may be appealed directly to the Supreme Court and the Court is obligated to hear and decide those cases. In most instances, these cases do not involve important issues of Federal constitutional law. The net effect of these amendments is to convert the method of Supreme Court review to a discretionary rather than mandatory approach.

TITLE II

Title II of H.R. 6872 refers to Federal jurors' and makes adjustments re-

garding the manner in which they are notified of service.

TITLE III

Title III of the bill has the net effect of eliminating most of the existing civil priorities. Over the past 200 years various Congresses have acted in an ad hoc and random fashion to grant "priority" to particular and diverse types of civil cases. Unfortunately, so many expediting provisions have been added that it is impossible for the courts to intelligently categorize cases.

When this bill was introduced, approximately 40 expediting provisions had been located. As a result of a further computer-assisted search by the Library of Congress and Federal Judicial Center, an additional 40 priority provisions have been located.

This bill wipes the slate clean of such priorities with certain narrow exceptions. The courts are instructed under the bill to give appropriate priority to criminal cases and habeas corpus cases, because of the involvement of personal liberty. In addition, the courts are directed to give priority treatment to cases that involve either applications for temporary restraining orders or preliminary injunctions or to any other cases where good cause has been demonstrated. Moreover, because every congressional committee assumes that actions involving their jurisdiction are the most important, it is virtually impossible to reconcile competing priorities among the tens of provisions.

I am not aware of any organized opposition to this legislation and I urge the Members to vote favorably on H.R. 6872.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BENNETT). The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 6872, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.