OISS FORM 51 (12/80)

CONGRESSIONAL RECORD
PROCEEDINGS AND DEBATES OF THE 97TH CONGRESS

SENATE

BILL	DATE	PAGE(S)
H.R. 6872	Dec. 13, 1982	S14484

Action:

Amendment No. 4982 submitted by Mr. Heflin

FEDERAL COURT REFORM ACT OF 1982

AMENDMENT NO. 4982

(Ordered to be printed and lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill (H.R. 6872) 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.

● Mr. HEFLIN. Mr. President, today, I offer an amendment to H.R. 6872 to deal with the bankruptcy jurisdiction problems raised by the Northern Pipeline decision of the U.S. Supreme Court.

Many varied solutions have been discussed in recent months. But due to the nature of a lameduck session, I am not optimistic of solving this problem by agreement, with the proposal that has been suggested. But I am hopeful that we can resolve this matter in a bipartisan manner a consensus approach.

My amendment would provide an interim solution to a problem which requires careful and thoughtful deliberation by Congress before any fundamental revamping of our bankruptcy system is made.

The Northern Pipeline decision struck down the present bankruptcy jurisdiction statute in our United States Code, section 1471(c) of title 28. That provision was viewed as constitutionally objectionable because it granted article I bankruptcy judges the power to decide traditional causes of action arising under State law. The Supreme Court held that such ancillary matters could only be decided by those life-tenured judges appointed by Congress under article III of the Constitution.

Basic to the bankruptcy reforms made by Congress in 1978 was the idea of a single forum for disposing of bankruptcy cases and related issues. The need for efficiency, economy, and timeliness motivated the creation of the single forum and the vesting of broad jurisdiction in article I judges.

The history and experience behind the 1978 Bankruptcy Reform Act strongly suggests that Congress carefully and thoughtfully study this area, before any major overhaul of the system.

But the Supreme Court decision in Northern Pipeline requires some timely modifications to prevent our bankruptcy process from stopping dead.

My amendment will address both these concerns by immediately limiting the power of bankruptcy judges for a period of transition, while basically leaving our present structure intact.

My measure will authorize article I bankruptcy judges to handle all aspects of "pure" bankruptcy cases, subject to appellate review, but would withdraw the jurisdiction of a bankruptcy judge to conduct jury trials or final judgments on "related cases."

"Related cases" are defined in my proposal as those "civil proceedings, that, in the absence of a petition in bankruptcy could have been brought in a district court or a State court." An article I bankruptcy judge could submit proposed findings of fact, conclusions of law and a proposed final judgment to a district judge, but, the article III district judge need not give deference to the recommendations of the bankruptcy judge. The district judge may hold a hearing and take additional evidence.

I believe that removing the power of the bankruptcy court to enter final judgment in related cases, and authorizing the district court to conduct an independent review of the findings of fact and conclusions of law involved, will remedy the constitutional flaws identified by the Supreme Court in Northern Pipeline.

As my amendment also provides that the parties could consent to entry of final judgment by a bankruptcy judge in a related case, the goals of efficiency, timeliness, and economy are preserved. The parties would so consent without waiving their right to traditional appellate review.

Finally, my amendment applies to the remaining transition period left under the 1978 act, that is, from now until April 1984. Such an interim measure will allow Congress to reexamine this issue with all its complexities without making rash and radical changes in the structure of our judicial system. It will permit the continued orderly disposition of bankruptcy petitions while avoiding the inevitable gaps and delay involved in the nominations process of some 200 article III judges.

I ask that my colleagues examine this measure and consider its impact on our judicial system. Congress is responsible for providing an efficient and constitutional mechanism for resolving bankruptcy matters. I hope that the Senate can act in a positive nonpartisan way to correct our system's present flaws.

Thank you, Mr. President.●