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97TH CONGRESS 2d Session | HOUSE OF REPRESENTATIVES | REPORT 97-824 Part 1

FEDERAL COURT REFORM ACT OF 1982

SEPTEMBER 16, 1982.—Ordered to be printed

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

REPORT

[To accompany H.R. 6872 which, on July 27, 1982, was referred jointly to the Committee on the Judiciary and the Committee on Education and Labor]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary to whom was referred the bill (H.R. 6872) to provide greater discretion to the Supreme Court in selecting the cases it will review, to extend all Federal jurors eligibility for Federal workers' 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, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.*

SUMMARY OF THE PROVISIONS OF H.R. 6872, THE FEDERAL COURT REFORM ACT OF 1982

The bill contains three titles. Each of the titles relates to a different topic and is derived from separate predecessor bills (H.R. 2406, 4395 and 4396). The bill has the strong support of the Judicial Conference of the United States and the Administration. In addition, portions of the bill are also supported by the American Bar Association and the Association of the Bar of the City of New York. There is no known opposition to the bill.

*The Committee on Education and Labor has waived its jurisdiction. (Appendix C)

TITLE I

This title 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, certiorari approach.

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 of oral argument or a seventy-five percent increase in the argument calendar.[1]

Moreover, even though the summary dispositions of the Court are binding on the lower Federal courts and state courts, such decisions, according to the Court, "sometimes create more confusion than they seek to resolve." [2]

TITLE II

This title relating to jurors' rights contains three subparts. The first—and least controversial—portion of the bill provides that attorneys' fees may be provided to persons whose claims for compensation are handled by a court-appointed attorney. Under current law,[3] the award of attorneys' fees can only be made to retained attorneys. The claims involved in these cases are suits against employers who have discriminated against persons because of jury service.

The second change made by this title of the bill is to authorize the use of regular mail to notify prospective jurors of jury service. Adoption of this technique will save hundreds of thousands of dollars. In addition, it is likely that the response rate to regular mail will be greater than with registered or certified mail.

The third portion of the bill provides that persons who are serving as Federal jurors are eligible for workers' compensation for jury related injuries. Under current law, only Federal employees on jury services are eligible for such compensation.[4]

The primary question about this provision during the hearing concerned the cost of such a proposal. In sum, while there are no accurate statistics available (because such claims are not allowed under current Federal law) it appears that jury injuries are rare and that the amount of any claims is very small. The Administrative Office and the Congressional Budget Office estimate a yearly cost of less than $100,000.

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[1] Letter from Justices of the Supreme Court to Robert W. Kastenmeier, June 18, 1982. Reprinted as Appendix A.

[2] *Ibid.*

[3] 28 U.S.C. 1987.

[4] Letter from William E. Foley, Director. Administrative Office of the United States Courts, to Speaker of the United States House of Representatives, Thomas P. O'Neil, May 20, 1981.

A Library of Congress survey of state statutes with respect to the workers' compensation coverage of jurors discloses that only one state—Maryland—specifically covers jurors.[5] One other state court has found that jurors are state employees and, therefore, are covered by the compensation law. On the other hand, nine state courts have rejected the employee compensation claims of jurors under state law. It is probable, however, that the change in law urged by this bill will provide an incentive for state law reform. In addition, the cost associated with such coverage is more than offset by the savings effected by the change in the mail notification system.

TITLE III

This title of the bill has the net effect of eliminating most of the existing civil priorities. Over the past two hundred 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 the bill that preceded this title was introduced (H.R. 4396), approximately forty expediting provisions had been located. As a result of a further computer-assisted search by the Library of Congress and the Federal Judicial Center, an additional forty 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.

The Committee accepted the recommendations of the Judicial Conference and the Administration to eliminate all of the remaining priorities. These witnesses argued persuasively that it was impossible to categorize types of cases (e.g., mandamus actions against the Interior Department or actions brought under the Federal Rodenticide, Pesticide and Insecticide Act) that should always be granted priority. 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.

The Committee adopted two amendments. First, as a result of the aforementioned survey, an additional forty expediting provisions were eliminated. Second, the Committee bill authorizes each court and circuit to establish priorities. The Committee adopted an amendment, suggested by the Judicial Conference, to permit it to reconcile any possibly conflicting priorities established by individual courts or circuits.

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[5] Deborah Lerner, "Survey of State Statutes and Case Law Concerning Workers' Compensation for Jurors", July 16, 1982, American Law Division, Congressional Research Service, Library of Congress.

LEGISLATIVE BACKGROUND

As indicated earlier, this bill is the result of combining a series of three bills introduced earlier in the Congress. On June 22, 1982, the Subcommittee on Courts, Civil Liberties and the Administration of Justice held one day of hearings on these bills. The Subcommittee heard testimony from representatives of the Judicial Conference of the United States, the United States Department of Justice, the American Bar Association and the Association of the Bar of the City of New York. The first three organizations endorsed [6] all three of the bills; while the Association of the Bar of the City of New York supported only the bill relating to civil priorities, because it had no formal position on the other two measures.

In addition to receiving testimony, the Subcommittee received a letter from all nine Justices of the Supreme Court urging adoption of the bill curtailing the mandatory appellate jurisdiction of the Supreme Court. The letter is reproduced in whole in Appendix B to this Report.

Shortly after the hearing, the Subcommittee met and marked up these three bills, H.R. 2406, 4395 and 4396. Certain technical changes were made in the bill relating to jurors' rights. H.R. 2406 was amended so as to curtail the direct appellate jurisdiction of the Supreme Court with respect to certain decisions of the Railroad Reorganization Court. These amendments had been suggested by the Administration and the American Bar Association in their oral presentation. The Subcommittee also consulted with the Chief Judge of the Railroad Reorganization Court, Hon. Henry J. Friendly. Judge Friendly concurred in the aforementioned recommendation.[7]

During the Subcommittee mark-up, the bill relating to civil priorities was modified in several respects. First, the Judicial Conference was given authority to reconcile any apparent differences between circuits with respect to what types of cases should be granted priority treatment. Second, the Subcommittee deleted, as overly broad, the authority found in H.R. 4396 which had granted automatic priority status to any case that involved an application for an injunction. All of the witnesses before the Subcommittee recommended that only those cases involving applications for temporary restraining orders or preliminary injunctions receive priority treatment relative to other civil cases. The Subcommittee adopted this recommendation.

The final set of amendments adopted by the Subcommittee relates to the discovery of new civil priority provisions. At the time H.R. 4396 was introduced, approximately thirty civil priority provisions had been located by the Committee staff and the Federal Judicial Center. After the bill's introduction, the Committee requested the American Law Division, Congressional Research Service, Library of Congress, to conduct further examination of all titles of the United States Code for similar provisions. As the direct result of the diligent work done by Lee Beck of that office, an additional forty priority provisions were identified. The Subcommittee con-

[6] The endorsement of the juror compensation provisions of the bill by the American Bar Association occurred after the hearing at the 1982 Annual Meeting.

[7] See Appendix A.

cluded the mark-up by deleting the newly discovered civil priority provisions.

After the bill was reported by the Subcommittee, it was taken up and ordered favorably by the full Committee by voice vote. The only non-technical amendment considered and adopted by the Committee concerned the right of jurors to be eligible for coverage under the Federal Workers' Compensation program. Mr. Frank offered an amendment that will permit jurors who are injured during the course of jury duty to be eligible to receive benefits at a more equitable rate. Under the provisions of the bill as reported by the Subcommittee, these injured jurors—who are non-Federal employees—would have been eligible to receive compensation at the rate allowed for a GS-2 (approximately $30/day), regardless of their actual salary or income. On the other hand, current law permits Federal employees who are injured while on Federal jury duty to be compensated at the same level as their ordinary salary. The Frank Amendment, adopted by the Committee, provides that Federal workers and non-Federal workers who are injured during the course of their jury service shall be eligible for compensation in essentially the same fashion.

BACKGROUND OF TITLE I

The general effect of this title of the bill is to convert the mandatory or obligatory jurisdiction of the Supreme Court to jurisdiction for review by certiorari, except for a narrow range of cases involving decisions by three-judge district courts.

This legislation has its Congressional roots in proposals of Senator Bumpers (S. 83, 95th Congress) and Senator DeConcini (S. 3100, 95th Congress; S. 450, 96th Congress). The later of these bills passed the Senate during the last Congress, only to expire because of the addition of a non-germane, controversial amendment. (S. 450, 96th Congress, S. Rep. 96-35 (1979)); *see also* Hearings before the Subcommittee on Improvements in Judicial Machinery of the Senate Committee on the Judiciary, Supreme Court Jurisdiction Act of 1978, 95th Congress 2d Sess., (1981) (hereinafter 1981 Senate Hearings).

In many ways this legislation is the logical culmination of a series of legislative steps over the past century that have transformed the nature of the Supreme Court as an institution. In order to understand the nature of this transformation it is necessary to review the history of Supreme Court appellate jurisdiction. *See generally* Simpson, "Turning Over the Reins: The Abolition of the Mandatory Appellate Jurisdiction of the Supreme Court", 6 Hastings L. Q. 297 (1978) (hereinafter *Simpson*) Wechsler, "The Appellate Jurisdiction of the Supreme Court: Reflections on the Law and logistics of Direct Review," 34 WASH. AND LEE L. REV. 1043 (1977).

From the time of the very first Congress the Supreme Court has had appellate authority over state court cases. The Judiciary Act of 1789, section 25, 1 Stat. 73, 85-87, provided that specified types of Federal and state cases could be reviewed only "upon a writ of error". This "writ of error" procedure made virtually all cases subject to the possibility of obligatory appellate review by the Supreme Court. *See Simpson, supra,* at 301-307. Thus, for the first century

the Supreme Court docket was largely made up of cases within the Court's obligatory jurisdiction.

The first erosion of the practice of mandatory appellate jurisdiction by the Supreme Court took place in 1891 with the passage of the Evarts, or Circuit Court of Appeals, Act. 26 Stat. 826. This act provided for the first time in Federal law that the Supreme Court would have control over its docket to the extent that it had discretion to decide whether to hear certain cases (relating to diversity, revenue laws, patent laws, Federal criminal laws, and admiralty) decided by the newly created circuit courts of appeal. P. Bator, P. Mishkin, D. Shapiro, and H. Wechsler, Hart and Wechsler's THE FEDERAL COURTS AND THE FEDERAL SYSTEM AT 40–41 (2D ED. 1973).

Many proponents of the 1981 Act felt that the creation of a new tier of Federal appellate courts would eliminate the caseload pressures on the Supreme Court. Yet despite this ameliorative action the growth of the Supreme Court caseload continued unabated. Finally, in 1925 Congress responded. In the Judges Act of 1925, 43 Stat. 936, the scope of mandatory appellate review was narrowed and the role of certiorari or discretionary review expanded. Thus, for the vast majority of cases the Court obtained the authority to select for review and disposition those cases it considers of national importance.

Unfortunately a significant set of categories of cases requiring the exercise of mandatory appellate jurisdiction remained after 1925. Some of the types of cases that provided for mandatory appellate review have been changed to discretionary review within the last twelve years.[8] However, several significant categories of cases remain subject to mandatory appellate review. This bill serves to convert these types of cases to review by certiorari. The four categories of cases are set forth below:

28 U.S.C. 1257 (1)-(2)

Subsection 1 of this section authorizes review by district appeal of a decision of the highest state court in which a decision could be had where the validity of a federal law is drawn into question and the decision is against its validity. Subsection (2) provides similarly for review of state court decisions where the validity of "a statute of any state" is drawn in question on federal grounds and the decision is in favor of its validity.

The apparent reason for authorizing such appeals is to assure supremacy and uniformity of Federal law. Perpetuation of a mandated system of appellate review represents an unfortunate and erroneous view of the sensitivity of state courts to constitutional issues. To the extent that issues of paramount Federal importance are raised by state court decisions the Supreme Court is capable of picking these cases through the certiorari review mechanism.

As the Department of Justice witness told the Committee:

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[8] In 1970 Congress provided for certiorari-type review of criminal cases under 18 U.S.C. 3731. In 1974 Congress abolished virtually all direct appeals to the Supreme Court from district court determinations in civil actions brought to enforce the antitrust laws and the Interstate Commerce Act. 88 Stat. 1706. In 1975 Congress transferred from the Supreme Court to various Courts of Appeals appellate jurisdiction over certain cases involving orders of the Interstate Commerce Commission. Finally, and most importantly, in 1976 Congress repealed most of the requirements for convening three-judge district courts, thereby eliminating the need for direct mandatory appellate review for this category of cases. 90 Stat. 1119.

As a practical matter, the categories defined by section 1257 do not restrict appeal to cases of general import or unusual significance. The term "statute of any state", as used in section 1257(2), is not confined to laws of statewide applicability, but includes municipal ordinances *See,* e.g. *Coates* v. *City of Cincinnati,* 402 U.S. 611 (1971); *Jamison* v. *Texas,* 318 U.S. 413 (1943) and all administrative rules and orders of a "legislative" character. *See Lathrop* v. *Donohue,* 367 U.S. 820, 824-27 (1961). In light of the doctrine of *Dahnke-Walker Milling Co.* v. *Bondurant,* 257 U.S. 282 (1921), qualification for appeal under this provision does not require that a challenge be rejected to the general validity of a state law. It is sufficient if a claim was rejected that the application of the state law under the facts of the particular case was barred on federal grounds. Hence, the ablity of a litigant to obtain review on appeal depends to a very large degree on his attorney's ability to describe the outcome of the case as a rejection of a challenge to the validity of a state law as applied, rather than on any substantive difference between his case and state cases falling under the certiorari jurisdiction of the Supreme Court described in section 1257(3). See Hart & Wechsler, *The Federal Courts and the Federal System* 631-40 (2d ed 1973).

Testimony of Timothy J. Finn, Deputy Assistant Attorney General, Office of Legal Policy, before the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the Committee on the Judiciary, United States House of Representatives on H.R. 2406, 4395, 4396, 97th Congress, 2d Sess. (1982) at 6 (unpublished) (hereinafter 1982 Hearings).

28 U.S.C. 1254(2)

This section authorizes appeal by a party relying on a state statute held to be invalid on Federal grounds by a Federal Court of Appeals. The category of cases specified in this provision does not define a class of cases of unique importance either to individual States or to the nation. Just as with 28 U.S.C. 1257, this provision has been construed to include within the ambit of the term "statute" municipal ordinances, *City of New Orleans* v. *Dukes,* 427 U.S. 297 301 (1976), and administrative orders, *Public Service Comm'n of Indiana* v. *Batesville,* 284 U.S. 6 (1931). In addition, the term "statute" as used in this section has been held to include a state statute, as applied, rather than a holding with respect to the mere facial validity of the statute. *Dutton* v. *Evans,* 400 U.S. 74, 76 n.6 (1970).

As with 28 U.S.C. 1257 (a) and (2) there is no rational basis for an assumption that the Supreme Court will not be sensitive to the need to preserve the delicate balance between the Federal and State government in selecting which cases to review. The provisons of 28 U.S.C. 1254(2) inappropriately force the Supreme Court to hear cases of less constitutional importance merely because of tangential involvement of a State statute. The interests of justice and judicial efficiency will be far better served by giving the Supreme Court the discretion to decide when and whether to give plenary consideration to the types of cases that arise under this section.

28 U.S.C. 1252

This section provides for direct appeal to the Supreme Court of decisions of the lower courts holding acts of Congress unconstitutional in proceedings in which the United States or its agencies, officers, or employees are parties. Under usual circumstances any lower Federal court decision invalidating an act of Congress presents issues of great public importance warranting Supreme Court review. It is unlikely, however, that if a discretionary type of review mechanism is substituted for the direct appellate review that the Supreme Court would deny review to this class of cases. In addition, for cases requiring expedited treatment, it is also possible for the litigants to apply to the Supreme Court for a writ of certorari before final judgment in the court of appeals. *See, e.g., Dames + Moore* v. *Reagan* U.S. , No. 80-2078 (July 2, 1981). Therefore, the removal of direct appeal authority should not create an obstacle to the expeditious review of cases of great importance.

In sum, the Committee concluded that the Supreme Court should be granted greater authority to determine its docket. The existing provisions of law that mandate Supreme Court review are outmoded and unnecessary. As the American Bar Association concluded in testimony before the Committee.

> The Court should be able to control its own docket and in its discretion provide further review, by certiorari when appropriate, for such cases in which there has already been an appeal in another court. The public generally, as well as legal professionals, has learned to accept the proposition that our Supreme Court must pick and choose those cases it considers appropriate for the highest court in our land to review. No current public policy or public interest suggests that the present congressional mandates for appellate review by the Court should be preserved, except in those few instances involving three-judge federal district courts, whose decisions may not be otherwise reviewable by appeal in any other appellate court. *1982 Hearing.*

There are two additional reasons for eliminating the vast majority of mandatory appellate jurisdiction cases in the Supreme Court. First, the Supreme Court has come to treat cases that require Supreme Court review as the functional equivalent of cases that are reviewed on a discretionary basis.[9] Second, the precedental value of summary dispositions by the Court on cases that it is obligated to hear are murky at best.[10]

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[9] *Ohio ex. Rel. Eaton* v. *Price,* 364 U.S. 263 (1960); *Simpson, supra,* at 315-320 (authorities cited therein); *Hogge* v. *Johnson,* 536 F2d 833, 836 (1975) (Clark, J. concurring)

[10] For example, in *Edelman* v *Jordan,* 415 U.S. 651 (1974), the Court held that a summary disposition carries less precedential weight than a full opinion on the merits. The very next year in *Hicks v. Miranda,* 422 U.S. 332 (1975), the Court held that the dismissal of case for lack of a substantial Federal question that was before the Court because of mandated appellate jurisdiction is a decision on the merits whose precendental value is unclear. Then in *Mandel* v. *Bradley,* 432 U S. 173 (1977), the Court held that a summary affirmance of a case before the Court because of an obligatory appeal provision merely rejects the arguments for reversal but is not binding beyond those points necessarily rejected The net effect of the *Mandel*-type approach is to require lower courts and the parties to examine, in infinite detail, the papers filed with the Supreme Court in order to determine the precedential effect of a summary disposition. This lack of clarity is not a desirable state of the law. *See Simpson, supra,* at 320-328.

BACKGROUND OF TITLE II

The provisions of title II are derived from H.R. 4395, a bill previously introduced by Mr. Kastenmeier at the request of the Judicial Conference of the United States. The basis for the requested introductions are set forth in a letter to the Honorable Thomas P. O'Neill, Speaker of the House. The text of this letter is set forth below:

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS,
Washington, D.C., May 20, 1981.

Hon. THOMAS P. O'NEILL,
Speaker, U.S. House of Representatives, Washington, D.C. 20515

DEAR MR. SPEAKER: On behalf of the Judicial Conference of the United States, I am transmitting for the consideration of the Congress a draft bill to improve the conditions of federal jury administration and service in three major respects: (1) by extending statutory compensation for work injuries to all persons rendering federal jury service; (2) by making a technical amendment to 28 U.S.C. § 1875(d) to clarify the payment and taxation of attorneys' fees expended on behalf of jurors who are the object of discharge, intimidation, or coercion by employers arising from their jury service; and (3) by expanding the methods of serving jury summonses under 28 U.S.C. § 1866 to include regular first class mail, as well as personal service and registered or certified mail.

COMPENSATION FOR INJURY TO JURORS

The first section of this draft bill would provide Federal Employees' Compensation Act coverage under chapter 81 of title 5, United States Code, to all persons serving as jurors in the United States district courts and bankruptcy courts. Such coverage would thus become applicable not only to federal employees serving as federal jurors, as at present, but as well for all other persons performing jury duty in federal courts in fulfillment of a basic obligation of citizenship.

Although coverage for federal employees who are serving as jurors was provided in the Act of September 7, 1974, Public Law No. 93-416, 88 Stat. 1143, adding 5 U.S.C. § 8101(1)(F), the extension of such benefits to private citizens who are injured while serving as federal jurors was not provided in that legislation. Nevertheless, the legislative history of this law in Senate Report No. 93-1081, 93rd Congress, 2d Sess., evidenced agreement at that time with a similar resolution of the Judicial Conference adopted in March, 1974 (*See* 1974 U.S. Code Cong. and Admin. News 5341, 5347) with respect to private citizens on federal jury duty.

Serious problems can arise when federal jurors who do not happen to be employed by the United States Government are injured or disabled while in the performance of jury service. On several occasions prior to and since the enactment of Public Law 93-416, the United States Department of Labor has rejected federal jurors' claims for injury compensation on the basis that jurors were not defined as "employees" of the federal government within the meaning of 5 U.S.C. § 8101(1). Since the enactment of Public Law

No. 93-416, nothing has happened to indicate any change in this administrative interpretation relating to persons, not federally employed, who are serving as jurors in the courts of the United States. The purpose of this bill is to provide remedial legislation to specify that compensation benefits shall apply to *all* persons injured while serving as federal jurors.

Strong policy reasons exist for bringing all federal jurors within the coverage of the Federal Employees' Compensation Act. Jurors provide a valuable service to the government. While in actual service as a petit or grand juror, the citizen-juror should rationally be accorded the benefit of protection in case of a "job-related" mishap. What begins as the fulfillment of a high duty of citizenship through public service to the government could be turned into an economic catastrophe for the juror in the event of an accident or injury while serving. Presently a person injured while serving as a juror cannot recover compensation unless he can bring his case under the Federal Tort Claims Act by proving negligence on the part of the government or its agent, a difficult burden. Moreover, this inequity is compounded by the fact that a federal employee in the same circumstances would not be covered by these compensation acts. it would also contribute to the juror's peace of mind, especially in a protracted case or in a situation where he must be transported to make a site inspection, to know that this benefit is available. This aspect of the proposal might be especially reassuring to the head of a family or to the timorous juror sitting in a sensational criminal trial. While jurors are not frequently injured, we do have a number of such instances on record.

Section one of the enclosed draft bill would add new section 8142a to chapter 81 of title 5. Proposed section 8142a(a) and (b) define the protected juror to be one who is in actual attendance at court and specify when payments can commence. Proposed section 8142a(c)(1) defines the rate of pay that a federal juror is *deemed* to be receiving for purposes of the compensation scheme provided in chapter 81. This subsection also takes into account the situation of the federal employee-juror and defines his compensation to be his normal, actual rate of pay while on court leave pursuant to 5 U.S.C. §§ 5537 and 6322. Section 8142a(c)(2) limits and defines when the juror is deemed to be in the performance of duty, ensuring that claims for compensation shall not be granted except for strictly duty-related mishaps. Federal jurors would not by virtue of this legislation become actual employees of the federal government. This amendment is not to be construed to characterize jurors as employees for any other purpose than their compensation for injuries resulting from jury service. Existing section 8116(c) of title 5 would make recovery under the Federal Employees Compensation Act the exclusive remedy of the juror against the United States for such injuries.

In view of the fact that the provisions of the Federal Employees Compensation Act presently extend via 5 U.S.C. § 8101(1)(B) to "an individual rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay," it appears appropriate as a matter of fairness to offer this same financial protection to persons summoned by the United States district courts and required to per-

form jury service as an obligation imposed upon them by the Jury Selection and Service Act of 1968, 28 U.S.C. § 1861. Such a provision was passed by the United States Senate in the 95th Congress on April 27, 1978, as Title III of S. 2074, but this portion of the bill was not acted upon by the House of Representatives.

TAXATION OF JUROR ATTORNEY'S FEES

Section 2 of the draft bill which I am submitting would make a technical amendment to section 1875(d) of title 28, United States Code. Section 1875 was recently added to title 28 by the Jury System Improvements Act of 1978, § 6, Public Law No. 95-572, 92 Stat. 2456.

Section 6 of the Jury System Improvements Act of 1978, enacting 28 U.S.C. § 1875, was passed by the 95th Congress after having been strongly recommended by the Judicial Conference. Its purpose was to provide statutory assurance to federal jurors that they would not be dismissed from their employment as a result of being called for jury service and that they would be protected from harassment, intimidation, or other interference by their employers with their right to serve as jurors when called upon to do so.

It is now provided by 28 U.S.C. § 1875 that an employer who violates the basic duty imposed upon him by this section shall be subject to legal action for damages, injunctive relief, and a civil penalty. The United States district courts are afforded original jurisdiction over civil actions brought for this purpose. Subsection (d) of section 1875 now provides that a juror claiming a violation of this section by his employer may apply to the district court for the appointment of an attoney to represent him in the redress of such a grievance and that the court, upon finding probable merit in such claim, shall appoint counsel for this purpose. Subsection (d)(2) further provides that, where the juror has retained his own attorney to pursue legal action against an employer instead of seeking court-appointed counsel, the court may award such an employee who ultimately prevails in the action a reasonable attorney's fee as part of the costs. This subsection in its present form fails to make provision for the taxing of attorney's fees against an employer in a situation where the juror's lawyer has been appointed by the court and compensated from government funds, as authorized by section 1875(d) to the extent provided by 18 U.S.C. § 3006A.

Subsequent to their enactment, the Judicial Conference Committee on the Operation of the Jury System had occasion to review these statutory provisions on juror employment protection in order to advise the United States district courts on problems likely to be encountered in their implementation. On the basis of this review, it is the position of the Judical Conference that the courts should be authorized to tax juror attorney's fees against employers where the juror is proceeding by appointed counsel paid from government funds, as well as where the juror has retained an attorney at his own expense. The prospect of being taxed an attoney's fee as part of the costs under this section would be a strong deterrent against employer misconduct and violation of his employees' rights. Such a sanction should logically be available whether the juror has retained his own attorney or has been granted a court-appointed

counsel. Nevertheless the prevailing view has been that the courts do not have discretion to tax attorney's fees as part of an award of costs except where there has been a specific legislative authorization to do so. *Alyeska Pipeline Service Co.* v. *Wilderness Society et al.,* 421 U.S. 240 (1975).

Where an attorney's fees are being taxed against an employer in a situation in which the attorney has been compensated from government funds rather than being paid by the juror himself, this bill provides that such fees shall be taxed as costs payable to the court rather than to be awarded to the juror. This bill further makes a minor change in the numbering of the subsections in section 1875(d) by correctly designating the first paragraph thereof as subsection (d)(1). The number (1) was inadvertently omitted from this paragraph when the Jury System Improvements Act of 1978 was enacted.

SERVICE OF SUMMONS FOR JURY SERVICE

Section 3 of the draft bill being submitted would amend the second and fourth paragraphs of 28 U.S.C. § 1866(b) with respect to the manner of serving a summons upon prospective jurors, summoning them to court for jury service. This subsection presently requires that these jury summonses shall be served personally or by registered or certified mail. In practice, such summonses are now served nearly always by mail rather than by personal service.

The Judicial Conference Committee on the Operation of the Jury System has now recommended, and the Conference has agreed, that it would improve the efficiency of federal jury selection if section 1866(b) were amended to provide added flexibility through permitting the service of such summonses by regular, first class mail as well as by the methods of service presently authorized.

In arriving at this recommendation the Jury Committee received a survey of clerks to United States district courts which indicated their substantial support for this amendment. Many of the clerks and others familiar with the day-to-day demands of jury administration believe that service of jury summonses by ordinary mail would reduce mailing costs, would lessen the clerical burden of readying such summonses for service, and would improve the delivery rate of jury summonses by avoiding the reluctance of some persons to accept and sign for a registered or certified letter.

In recommending this legislation to add regular mail as a means of serving federal jury summonses, the Judicial Conference is not necessarily urging that all district courts should adopt this practice. The draft bill preserves the discretion of the courts to continue to require service of such summonses personally or by registered or certified mail, as at present. Those courts which face a substantial problem in achieving voluntary compliance with the summons by prospective jurors will undoubtedly wish to adhere to the present practice in order to have proof of the summons' delivery in the event that its recipient must be ordered to show cause for failure to appear under 28 U.S.C. § 1866(g). Likewise, individual jurors who fail to respond to the initial summons could, under this bill, still be served personally or by registered mail with a follow-up summons as a prelude to any order to show cause for nonappearance.

Nevertheless it appears desirable to accord enhanced discretion to the district courts to select the manner of service of their jury summonses which appears most efficient in view of local practices and circumstances. The Judicial Conference accordingly recommends the enactment of section 3 of the enclosed draft bill.

It is the view of the Judicial Conference that the adoption of this bill is an important and needed step toward improving the efficiency of jury selection and the conditions of service imposed upon federal jurors. The Administrative Office of the U.S. Courts will be pleased to provide any further information necessary to the consideration of this draft bill, and representatives of the Judiciary and of this office will be available to testify before the committee to which the bill may be referred.

Sincerely,

WILLIAM E. FOLEY, *Director.*

Enclosure.

BACKGROUND OF TITLE III

This title alters the method of analyzing which civil cases should be given priority or expedited status on the dockets of the various Federal courts. The fundamental reform worked by this title is to remove the existing statutory authority for expediting the treatment of over eighty different types of cases and replace it with a set of general rules. *See infra* (sectional analysis in connection with proposed section 1657 of title 28, section 301 of the bill).

The impetus for reform in this area came from suggestions first made by the American Bar Association. They concluded, after an extensive study of expediting provisions, that a reform of the way Congress dealt with the questions of civil priorities was called for. *See* American Bar Association Special Committee on Coordination of Judicial Improvements, Report to the House of Delegates (1977). In addition, the Judicial Conference of the United States suggested that action on this topic was imperative. Finally, the Association of the Bar of the City of New York conducted an extensive survey of the practices and problems associated with the use of existing civil priorities for cases in the various Courts of Appeals. 37 *Rec. Assn. B.C.N.Y.* 19 (1982).

These suggestions for reform were originally embodied in H.R. 4396 by Mr. Kastenmeier. After the legislation was introduced, the Department of Justice was asked to submit formal comments on it. After consulting with the affected divisions and sub-units, the Justice Department concluded that the approach taken in the legislation was a sound one.

During the hearings on this bill, the Judicial Conference made a number of suggestions for minor amendments, as did the American Bar Association and the Department of Justice. All of these suggestions were adopted by the Committee, as explained in greater detail in the sectional analysis.

RATIONALE FOR GENERAL CIVIL PRIORITY RULES

Under current Federal law, there are so many civil priorities that in some cases those cases with such priorities cannot be reached at all. *See* Federal Judicial Center, "Priorities for the Han-

dling of Litigation in the United States District Courts" (FJC No. 76-2, April, 1976); Federal Judicial Center, "Priorities for Handling Litigation in the United States Courts of Appeals," (FJC R-77-1, May 1977). In addition, due to the sheer number of priorities, it is ". . . impossible to literally comply with the statutory requirements," *Impact, supra.*

As Deputy Assistant Attorney General Timothy J. Finn, Office of Legal Policy, Department of Justice, put it in the Committee hearings:

> We believe that the approach taken by H.R. 4396 to this problem is fundamentally correct. We believe that all but the most clearly necessary and justifiable priority provisions should be revoked and replaced with a single standard which the courts can apply to all cases to determine the need for expedition. The courts are, in general, in the best position to determine the need for expedition in the circumstances of any particular case, to weigh the relative needs of various cases on their dockets, and to establish an order of hearing that treats all litigants most fairly. Litigants who can persuasively assert that there is a special public or private interest in expeditious treatment of their case will be able to use the general expedition provision provided in H.R. 4396 to the same effect as existing priority provisions.

The Committee believes that title III of the bill improves the efficiency of Federal courts. In addition, this portion of the bill should discourage the creation of any new civil priorities unless there has been a strong and compelling case made for such a provision.

SECTION-BY-SECTION ANALYSIS

Section 1.—This section provides that this act may be cited as the Federal Court Reform Act of 1982. This title was chosen because the bill relates to three different topics. The net result of the bill, however, is to improve the operations of all levels of the Federal Courts.

Section 101.—This section repeals section 1252 of title 28. This section is no longer necessary in light of the changes made elsewhere in the bill that provide for Supreme Court review based on a certiorari mechanism. *See* 28 U.S.C. 1291.

Section 102.—This section repeals paragraph (2) of 28 U.S.C. 1254. This section is no longer necessary in light of other changes in the bill converting mandatory appellate review by the Supreme Court to certiorari-type review.

Section 103.—This section amends section 1257 to provide the only means for obtaining Supreme Court review of state court decisions on constitutional questions—that is, certiorari-type review. This change does not affect any of the underlying jurisdictional definitions.

Section 104.—This section converts the appellate mechanism for decisions of the Supreme Court of Puerto Rico into a certiorari-type review.

Section 105.—This section makes technical amendments to the sectional analysis of title 28.

Section 106.—This section amends various provisions of the United States Code wherein the Supreme Court had previously been obligated to hear appeals directly. All of these categories of cases will now be heard by the Supreme Court under its discretionary certiorari authority.

Subsection (a) of this section relates to actions brought under the Federal Election Campaign Act.[11]

Subsection (b) of this section relates to cases involving certain dormant California Indian Land claims.

Subsection (c) of this section relates to actions brought under the Alaska Pipeline Authorization Act. Because this Act had also required that any actions brought pursuant to that act had to have been commenced within a short period of time after enactment, this provision, relating to a dormant claim, is obsolete.

Subsections (d), (e) and (f) all relate to decisions of the Special Railroad Reorganization Court. These provisions were modified in accordance with the suggestions of Judge Friendly. *See, supra,* at 4.

Section 107.—This section provides that the effective date of the Supreme Court-related amendments is 90 days after the enactment of the Act, except that these amendments do not apply to cases pending in the Supreme Court or affect the rights to review or the manner of reviewing the judgment or decree of a court which was entered before the effective date.

Section 201.—This section amends chapter 81 of title 5 to provide that persons who serve on Federal juries and who are not otherwise Federal employees are eligible to receive Federal Workers' Compensation if they are injured during the performance of jury duty.

Subsection (a) of this section adds a new section 8141a to title 5. This new section of title 5 has three subsections. Proposed Subsection (a) provides a definition of a person who is a Federal petit or grand juror for purposes of this section. Proposed Subsection (b) provides that any compensation shall not commence until the day after the injured person has stopped serving as a juror. Proposed Subsection (c) provides: (1) that the level of possible compensation shall be at least equivalent to GS-2, but may be higher if the injured juror has an actual pay level that is higher; and (2) provides for a definition of when a person is serving as a juror. This proposed subsection also limits the maximum pay rate of a non-Federal employee who is injured as a juror to a maximum provided in 5 U.S.C. 8114 (currently GS-15).

Subsection (b) of this section makes a technical amendment to chapter analysis of title 5.

Subsection (c) amends section 8101(1) of title 5 by striking out subparagraph (F).

Subsection (d) provides that these amendments shall take effect during the next fiscal year.

Section 202.—This corrects a technical error made in the Jury System Improvement Act of 1978. Public Law 95-572, 92 Stat. 2456.

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[11] After the Supreme Court decision in *Buckley* v. *Valeo,* 424 U.S. 1 (1976) authority for direct appellate review by the Supreme Court is not necessary.

Under current law, attorneys may be appointed to represent persons who have employment discrimination claims against employers who have discriminated against them on the basis of jury service. In addition, the current law provides that a successful plaintiff-juror may recover attorneys' fees if such person has retained counsel. This amendment permits the court to award attorneys' fees in cases involving appointed counsel. Because this amendment confers a procedural benefit it applies to pending cases. The amendment is drawn to preclude double recovery. If the employer is found liable, then the attorneys' fees are awarded as costs to the court. Then, in turn, the court would compensate the attorney who had been appointed.

This amendment to section 1875(d) of title 28 has the net result of placing retained counsel and appointed counsel in parity with respect to the liability of defendants who have been found to have discriminated against employees because of jury duty.

Section 203.—This section amends section 1866(b) of title 28 to provide that persons may be notified of jury service by registered, certified or first class mail. Under current law, first class mail is not a permissible method of notification.

Section 301

Section 301(a) adds a new section to title 28, to be numbered 1657. This new section establishes for the first time in Federal law a general rule with respect to the expedition (or priority status) of civil actions in the Federal courts.

The new section has two subsections. The first subsection has six elements. First, the phrase "notwithstanding any other provision of law" generally eliminates civil [12] expediting requirements, including those which are not explicitly repealed in section 302 of the bill. *See, e.g.,* 15 U.S.C. 78K(c)(4)(B); Fed. R. App. P. 21(b). Second, it automatically requires expedition in actions under chapter 153 of 28 U.S.C. This perpetuates existing rules requiring prompt consideration and hearing in habeas corpus and other collateral proceedings,[13] notwithstanding the bill's general repeal of civil priorities. Third, it automatically requires expedition in actions under section 1826 of title 28. This preserves section 1826(b)'s 30-day time limit on concluding appeals of civil contempt commitments, again notwithstanding the bill's general repeal of civil priorities. Fourth, it automatically requires expedition of any action for temporary or preliminary injunctive relief.[14] Fifth, it requires expedition of any

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[12] The bill does not affect criminal cases, which are processed under the rules of the Speedy Trial Act, 18 U S.C 3161-74. In addition to having no effect on statutes governing the timing or priority of criminal cases, the bill does not affect Rules of Procedure relating to criminal proceedings. *See, e.g.,* Fed. R App. P. 9(b) (prompt determination of motions relating to conditional release).

[13] *See* Rules 4, 8(c) of the Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254; Rules 4, 8(c) of the Rules Governing Section 2255 Proceedings for the United States District Courts, 28 U.S.C. foll. § 2255; 28 U.S.C § 2255 (first sentence of third paragraph).

[14] Subsection (a) of proposed section 1657 in the original bill H.R. 4396, would have provided expediting requirements for any actions seeking an injunction of any sort. Many of the witnesses who testified before the Subcommittee suggested that this phrase was too broad and should be narrowed to the formulation found in the reported bill.

There is currently no comparable codified priority, but it is the general practice of the courts to give expedited consideration to applications for temporary restraining orders and preliminary

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other action if "good cause" for expedition is shown. The "good cause" standard could properly come into play, for example, in a case in which failure to expedite would result in mootness or deprive the relief requested of much of its value,[15] in a case in which failure to expedite would result in extraordinary hardship to a litigant,[16] or actions where the public interest in enforcement of the statute is particularly strong.[17]

Outside of the specific expediting requirements discussed above, the bill provides that each court of the United States shall determine the order in which civil actions are heard and determined. Thus, the Judicial Councils of the various Circuits will be able to issue rules that require expedited treatment of general classes of cases by the Circuit Court itself or by the District Courts within the Circuit.[18] The Judicial Councils will, moreover, be able to resolve unwarranted discrepancies between expediting or priority rules adopted by the District Courts within their Circuits in the same way that the Judicial Conference will be able to resolve unwarranted inter-circuit differences under subsection (b) of proposed section 1657. While the bill allows the courts to establish general rules of expedition, nothing in it requires that such rules be established.

Subsection (b) of proposed section 1657 provides that the Judicial Conference of the United States may modify the civil priority rules adopted by the courts in order to establish consistency among the circuits. This provision was added at the suggestion of the Judicial Conference.

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injunctions since such applications by their nature require speedy judicial response. The bill's expedition requirement for actions for temporary or preliminary injunctive relief is intended to perpetuate the general practice of the courts in this area.

While the requirement that such actions be "expedited" does not impose any specific time limit, it should, of course, be understood to mean that applications for temporary restraining orders and preliminary injunctions must at least be heard and decided in time to prevent the harm threatened if the relief requested is found to be warranted. For example, 15 U.S.C. § 18a(f) establishes a categorical priority for requests for preliminary injunctions against acquisitions and mergers in violation of the Sherman or Clayton Acts. While the specific priority established by 15 U.S.C. §18a(f) would be repealed by section 302 of the bill, it would remain incumbent on the courts to hear and decide such a meritorious application in time to prevent the challenged acquisition or merger from being carried out.

[15] *E.g.*, a case relating to voting rights which would be mooted or partially mooted by an upcoming election.

[16] *E.g.*, a case challenging denial of disability benefits on which the plaintiff is dependent for subsistence.

[17] *See e.g.*, 26 U.S.C. 7609(h) (actions to enforce IRS summonses). See *United States v. Davey*, 426 F. 2d 842, 845 (2nd Cir. 1970); *United States v. Hodgson*, 492 F. 2d 1175, 1178 (10th Cir. 194); *see also United States v. Kis*, 658 F. 2d 526, 535–6 (7th Cir. 1981) (discusses rationale for existing expediting rule).

[18] The authority of the Judicial Councils to make such rules is clear in existing law. See 28 U.S.C. 332(d)(1) ("each judicial council shall make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit."); *In re Imperial "400" National, Inc.*, 481 F.2d 41, 45–46 (3d Cir. 1973). The use of the phrase "court of the United States" in the proposed section is not intended to limit in any way the authority of the Judicial Councils. In addition to acting through the Judicial Councils, the Circuit Courts sometimes adopt rules for the District Courts or the conduct of their own business in the course of deciding particular cases. There is also no purpose in the bill to limit the existing authority of the Circuit Courts to adopt rules in this manner. In general, the bill's repeal of categorical priorities is not meant to limit the powers of the courts, but simply to restore to them the control over their calendars that was withdrawn by the repealed priority provisions. The repeal of statutory priorities by the bill is not intended to eliminate, or to discourage the continuation of, priorities in such situations, or to prevent the creation by the courts of new priorities which experience shows to be warranted. *See, e.g.*, n. 6, supra.

Section (b) of Section 302 of the bill amends the sectional analysis to add a new caption for proposed section 1657 (Priority of Civil Actions).

Section 302

This section amends over eighty priority or expediting provisions relating to civil actions in Federal District Courts, the Courts of Appeal or various specialized courts. *See* L. Beck, Library of Congress, Congressional Research Service, American Law Division, "Priorities in Deciding Cases before United States Courts." June 17, 1982 (the single most comprehensive discussion of the topic currently available).

Section 302(1)(A) strikes out an expediting requirement with respect to certain actions under the Federal Election Campaign Act with respect to the non-disclosure of campaign funds. This provision, 2 U.S.C. 437(g)(10), had required that all actions of this type be advanced on the dockets of the District Courts ahead of all other actions. Obviously it is difficult—if not impossible—to achieve this result when there are numerous other similar provisions of law with respect to other types of actions. The removal of this expediting provision—or any other found in this section—does mean that such cases will be heard more slowly. Rather the Committee expects and intends that each civil action will be handled in such a way as to bring a just and rapid disposition to the matter. The general rules set forth in proposed section 1657 of 28 provide the courts with sufficient flexibility to decide which cases should be heard first.

Section 302(1)(B) deletes an expediting provision with respect to certain actions challenging the constitutionality of the Federal Election Campaign Act. 2 U.S.C. 437(h)(c).

Section 302(2) deletes the priority handling requirement for cases brought to seek the disclosure of certain governmental records. 5 U.S.C. 552(a)(4)(D).

Section 302(3) removes an expediting requirement with respect to actions brought in the Court of Appeals to challenge the suspension of licenses issued by the Commodity Futures Trading Commission. 7 U.S.C. 8(a).

Section 302(4)(A) eliminates the expedition requirement with respect to actions brought to challenge the suspension of the registration of certain pesticides by the Administrator of the Environmental Protection Agency. 7 U.S.C. 136d(c)(4).

Section 302(4)(B) removes an expediting provision with respect to actions to enjoin the disclosure of information that had been submitted by a person or organization with a registered pesticide. 7 U.S.C. 136h(d)(3).

Section 302(4)(C) removes the expedited treatment afforded to civil actions challenging the actions of EPA with respect to the registration of pesticides. 7 U.S.C. 136n(b).

Section 302(4)(D) removes an expediting provision with respect to actions challenging the constitutionality of a legislative veto provision that was added by P.L. 95–396. 7 U.S.C. W(a)(4)(E)(iii).

Section 302(5) strikes out the expediting provisions with respect to actions challenging the issuance of cease and desist orders by

the Secretary of Agriculture with respect to violations of the Packers and Stockyard Act. 7 U.S.C. 194(d).

Section 302(6) removes a requirement that District Courts hear at the earliest convenient time actions contesting the issuance of farm marketing quotas by the Secretary of Agriculture under the Agriculture Adjustment Act of 1938. 7 U.S.C. 1366.

Section 302(7)(A) strikes an expediting provision with respect to Court of Appeals review of decisions by the Secretary of Agriculture to issue a cease and desist order for violations of the Federal Seed Act. 7 U.S.C. 1601.

Section 302(7)(B) repeals the existing expediting provision with respect to enforcement actions by the Secretary of Agriculture under the Federal Seed Act. 7 U.S.C. 1601.

Section 302(8) removes an expediting requirement with respect to actions brought in District Court to restrain discrimination in the procurement of petroleum supplies by the armed forces. 10 U.S.C. 2304 note.

Section 302(9) removes an expediting provision with respect to actions brought in District Court to challange the appointment of a conservator for associations regulated in the context of Federal Savings and Loan activities. 12 U.S.C. 1464(d)(6)(A).

Section 302(10)(A) removes the expediting provision with respect to actions by the Federal Trade Commission to enjoin the acquisition of another person's voting securities or assets in violation of the Clayton Antitrust Act. 15 U.S.C. 18a(f)(2)(B). Of course, such actions may be eligible for priority treatment under the general provisions of proposed section 1657 of title 28, with respect to actions seeking temporary or preliminary injunctive relief. Thus, it remains the duty of the courts to take necessary actions to prevent the challenged merger or acquistion from being carried out, if the requisite proofs are made.

Section 302(10)(B) removes the requirement that the Courts of Appeals give expedited treatment to cases challenging the issuance of cease and desist orders by the Federal Trade Commission with respect to alleged violations of the Clayton Act. 15 U.S.C. 21(e).

Section 302(11) removes the expediting requirements with respect to actions brought by the FTC against persons who allegedly violate the Clayton Act. 15 U.S.C. 28.

Section 302(12) removes the expediting provisions with respect to actions contesting the issuance of cease and desist orders by the FTC against alleged unfair trade practices. 15 U.S.C 45(e).

Section 302(13) removes an expediting provision with respect to actions challenging the constitutionality of legislative veto provisions contained in legislation that authorizes the Federal Trade Commission to issue rules. 15 U.S.C. 57a-1(f)(3).

Section 302(14)(A) removes the expediting requirement for actions in the Courts of Appeals challenging the revocation of certain licenses issued by the Small Business Administration. 15 U.S.C. 687a(e).

Section 302(14)(B) removes an expediting provision with respect to actions contesting the issuance of either cease and desist orders or license revocation actions by the SBA. 15 U.S.C. 687a(f).

Section 302(14)(C) removes the expediting provisions with respect to actions to enforce orders issued against small business investment companies. 15 U.S.C. 687c(a).

Section 302(15) removes an expediting provision relating to actions brought under the Alaska Natural Gas Transportation Act of 1976. Such actions had to have been filed within 60 days of the effective date of the act, thus rendering the provision obsolete. 15 U.S.C. 719h.

Section 302(16) removes the expediting provision that related to certain actions in District Court to enforce motor vehicle safety standard violations. 15 U.S.C. 1415(a)(2).

Section 302(17) removes the expediting provision with respect to challenges of the decisions of the Secretary of Energy with respect to exemptions from average fuel economy standards. 15 U.S.C. 2003(b)(3)(g)(ii).

Section 302(18) removes the expediting provisions with respect to actions in Federal District Court concerning the discharge or discrimination against an employee who blew the whistle to EPA relative to violations of the Toxic Substance Control Act. 15 U.S.C. 2622(d).

Section 302(19) removes the expediting provision with respect to challenges to the constitutionality of legislative veto provisions of legislation relating to coastal zone management. 15 U.S.C 1463a(e)(3).

Section 302(20) removes an expediting provision with respect to actions seeking compensation by persons who allegedly have mining claims in the National Park system that they are not permitted to pursue because of Federal law. 16 U.S.C. 1910.

Section 302(21)(A) removes the expediting provision with respect to actions that seek to continue subsistence usage of certain public lands in Alaska. 16 U.S.C. 3117(b).

Section 302(21)(B) removes the expediting provisions with respect to challenges to certain administrative decisions relating to Alaska lands and the transportation and utility systems thereon. 16 U.S.C. 3168(a).

Section 302(22)(A) removes a requirement that the Federal District Court in Idaho expedite certain actions brought under the Central Idaho Wilderness Act of 1980. Decisions of this nature are better made by that court on a case-by-case basis, depending on the facts of the case and the other civil caseload. P.L. 96–312, section 10(b)(3).

Section 302(22)(B) removes the parallel expediting provision to those cited above with respect to actions in the 9th Circuit. P.L. 96–312 section 10(c).

Section 302(23)(A) removes the expediting provisions with respect to actions by the Attorney General under the civil law portions of the Racketeer Influences and Corrupt Organizations Act. (RICO) 18 U.S.C. 1964(b).

Section 302(23)(B) removes the expediting provisions with respect to civil actions brought by private parties seeking treble damages for alleged violations of RICO. 18 U.S.C. 1966.

Section 302(24)(A) removes expediting provisions with respect to actions brought in the Courts of Appeals to contest decisions of the

Secretary of Agriculture concerning the use of pesticides. 21 U.S.C 346(a)(i)(5).

Section 302(24)(B) removes the expediting provision with respect to actions contesting the decisions of the Secretary of Agriculture in issuing regulations on the topic of food additives. 21 U.S.C. 348(g)(2).

Section 302(25) removes the expediting provision with respect to actions by the Attorney General to prevent an unregistered foreign agent from doing certain publicity-related activity. 22 U.S.C. 6 18(f). Of course, proposed section 1657 of title 28 may provide expedited treatment in many of these cases.

Section 302(26) removes expediting provisions with respect to actions in Federal District Court relative to the partition of lands between the Hopi and Navajo Indians. 25 U.S.C. 640d–3(b).

Section 302(27)(A) removes the expediting provisions for actions ion the Courts of Appeals challenging the refusal of the Secretary of Labor to certify additional tax credit allowances for States out of compliance with certain Unemployment Compensation amendments. 26 U.S.C. 3310(e).

Section 302(27)(B) removes the requirement that the Tax Court must expedite the treatment of cases brought to prevent the disclosure of information submitted to the Secretary of the Treasury and the IRS in connection with a request for a tax ruling. 26 U.S.C. 6110f(5). Of course, actions that seek preliminary or temporary injunctive relief will be given expedited treatment under the terms of proposed section 1657 of title 28.

Section 302(27)(C) removes an expediting provision with respect to actions by a state to terminate the services of the Federal government with respect to the collection and administration of taxes in connection with certain qualifying state individual income tax plans. 26 U.S.C. 6363(d)(4) See, pg. , *supra.*

Section 302(27)(D) removes an expediting provision with respect to actions on District Court that involve the issuance of "John Doe" summonses. 26 U.S.C. 7609(h).

Section 302(27)(E) removes the requirement that actions brought by the Federal Election Commission receive expedited treatment. 26 U.S.C. 9010(c).

Section 302(27)(F) removes the expediting requirement for cases involving challenges to decisions of the Federal Election Commission with respect to entitlements to receive Presidential Campaign funding. 26 U.S.C. 9011(b).

Section 302(28)(A) removes the expediting provisions with respect to actions brought by the Special Prosecutor to challenge his or her removal. 28 U.S.C. 596(a)(3).

Section 302(28)(B) removes a requirement that any appeal from a United States magistrate to the District Court be expedited. 28 U.S.C. 636c(4).

Section 302(28)(C) deletes as unnecessary the authority for the newly created Court of Appeals for the Federal Circuit to set rules relative to the priority to give certain cases, Section 1296 of Title 28 (eff. Oct. 1, 1982). This authority is unnecessary in light of the general authority granted in proposed section 1657 of Title 28.

Section 302(28)(D) removes a requirement that actions by the Senate of the United States, or any of its committees or subcom-

mittees, brought in the District Court of the District of Columbia for either contempt of Congress or the enforcement of subpoenas, be given expedited treatment, 28 U.S.C. 1364(c). It is virtually certain that all of these cases will qualify for expedited treatment under the "good cause shown" standard set forth in proposed section 1657 of Title 28.

Section 302(28)(E) removes an expediting provision with respect to reapportionment actions against state or local officials before three judge District Court panels. 28 U.S.C. 2284.

Section 302(28)(F) removes as redundant the expediting provisions of 28 U.S.C. 2349 relating to interlocutory injunctive actions against the orders of certain Federal agencies. This provision is unnecessary in light of the general rules with respect to injunctions found in proposed section 1657 of Title 28.

Section 302(28)(G) has the net effect of providing that the Court of International Trade (formerly the Customs Court) may set, by court rule (under proposed section 1657 of Title 28) the order of priorities to give to the categories of cases it hears. Under the current law certain categories of cases are given statutory priority. Deletion of these provisions does not reflect on the relative importance of these types of cases. Rather the Committee believes that the Court itself is in a better position to establish priority rules for its own operations.

Section 302(29) removes the expediting requirements found in 29 U.S.C. 110 relative to actions challenging the denial of a temporary injunction in a labor dispute.

Section 302(30) removes the expediting requirements with respect to enforcement actions in the Court of Appeals brought by the National Labor Relations Board relative to unfair labor practices. 29 U.S.C. 160(i).

Section 302(31) removes the expediting provisions with respect to actions brought to contest the issuance of a citation to an employer for a violation of occupational, safety and health standards. 29 U.S.C. 660(a).

Section 302(32) removes the expediting provision with respect to actions brought by the Pension Benefit Guaranty Corporation relative to the regulation of employee pension plans. 29 U.S.C. 1303(e)(4).

Section 302(33) removes the expediting provision relative to challenges to decisions of the Labor Secretary with respect to questions about the health and safety operations of coal mines. Such cases are brought in the Court of Appeals in the District of Columbia. 30 U.S.C. 816(a). Nothing in this section prevents that Court from granting, by court rule, priority to these cases.

Section 302(34) removes the priority or expediting provision with respect to certain actions by the Comptroller General of the United States under the Congressional Budget and Impoundment Control Act of 1974. P.L. 93-344. 31 U.S.C. 1406. Such actions will likely qualify for expedited treatment under the "good cause shown" standard of proposed section 1657 of Title 28.

Section 302(35) removes the expediting provisions of 38 U.S.C. 2022 relative to actions by persons claiming a violation of law with respect to the failure of an employer to reemploy a person who has been previously inducted into the armed forces.

Section 302(36) removes the expediting provision with respect to actions by aggreived parties in the Courts of Appeals contesting the decisions of the Postal Rates Commission and the Board of Governors of the Postal Service with respect to mail classification. 39 U.S.C. 3628.

Section 302(37) removes the expedited treatment of cases brought by an employee who has been aggrieved because of actions taken as a result of whistle blowing concerning violations of drinking water regulations. 42 U.S.C. 300i-9(i)(4).

Section 302(38) removes the expediting provison relating to actions by States relative to the denial or revocation of certification under the Federal unemployment compensation law. 42 U.S.C. 504(e).

Section 302(39)(A) removes an expediting provision with respect to actions brought in District Court seeking an order to qualify such person to vote. 42 U.S.C. 1971(e). Under the provisions of proposed section 1657, such actions would be expedited if they involved applications for temporary or preliminary relief. In addition, because of the nature of the fundamental right involved—that is, the right to vote—it is very likely that such actions would meet the "good cause shown" test for expeditious treatment.

Section 302(39)(B) removes the expediting feature of 42 U.S.C. 1971(g) with respect to actions in the District Court brought by the Attorney General when a person has been denied the right to vote.

Section 302(40)(A) removes the expediting provision with respect to actions brought by the Attorney General in District Court with respect to the use of a poll tax to discourage or prevent persons from voting. 42 U.S.C. 1973h(c).

Section 302(40)(B) removes the expediting requirement found in 42 U.S.C. 1973bb(a)(2) with respect to actions to enforce the right of eighteen year old persons to vote.

Section 302(41)(A) removes the expediting provisions of 42 U.S.C. 2000a-5(b) that relate to actions by the Attorney General in District Court to enforce the features of the 1964 Civil Rights Act relative to racial discrimination in public accommodations.

Section 302(41)(B) removes the expediting provisions in 42 U.S.C. 2000e-5(f)(2) with respect to actions brought in the District Court by the Equal Employment Opportunity Commission (EEOC) to redress employment discrimination.

Section 302(41)(C) repeals the portions of 42 U.S.C. 2000e-5(f)(5) that require the District Courts to hear certain cases brought by the EEOC within certain time limits.

Section 302(41)(D) removes the expediting provisions of 42 U.S.C. 2000e-6(b) relating to actions by the Attorney General with respect to discrimination in the hiriny of workers.

Section 302(42) deletes the expediting provisions relative to actions by the Attorney General in the District Courts to remedy discriminatory housing practices. 42 U.S.C. 3614.

Section 302(43) removes an expediting provision with respect to actions brought in the District Court under 42 U.S.C. 6508 relating to certain actions (including challenges to the adequacy of environmental impact statements) arising out of the exploration of oil and gas in Alaska.

Section 302(44) removes the requirement that the various Courts of Appeals expedite the treatment of actions by the States to challenge the determinations of the Secretary of Energy with respect to State energy conservation plans. 42 U.S.C. 8514(b).

Section 302(45) removes the expediting provisions with respect to actions in the District Courts relative to enclosures or occupancy of public lands. 43 U.S.C. 1063.

Section 302(46) removes the expediting requirement with respect to actions brought in the District Courts under the Outer Continental Shelf Lands Act. 43 U.S.C. 1349(d).

Section 302(47) removes the expediting provisions found in 43 U.S.C. 2011(c) relative to actions challenging decisions of the Executive Branch with respect to decisions made on the application for crude oil transportation systems (i.e., pipelines).

Section 302(48) removes an obsolete provision found in 43 U.S.C. 1652(d). Under the terms of P.L. 93-153, the United States was granted rights of way with respect to the construction of the pipeline for Alaskan North Slope oil. Persons opposing these permits were given access—and expedited treatment—in District Courts to challenge such rights of way.

Section 302(49) removes the expediting provision with respect to actions in the Courts of Appeals relative to actions to contest the determinations of the Railroad Retirement Board. 45 U.S.C. 355(f).

Section 302(50) removes an expediting provision relating to certain actions in the Railroad Reorganization Court. 45 U.S.C. 745 (d)(2).

Section 302(51) removes the expediting provisions with respect to actions of two types in the Courts of Appeals. (First, with respect to actions challenging the constitutionality of parts of the new 1978 Bankruptcy Act and, second, with respect to actions arising out of the reorganization of the Milwaukee Railroad system.) 45 U.S.C. 1018(b).

Section 302(52) removes an expediting provision relating to actions in the Court of Appeals for the District of Columbia arising out of the orders of the Federal Communications Commission.

Section 302(53) removes the expediting provisions found in 50 U.S.C. 792a note, relating to actions by the Subversive Activities Control Board when dissolution of certain organizations is being sought.

Section 302(54) removes the expediting provisions found in 50 U.S.C. App. 462(a) relating to civil actions arising out of draft registration.

Section 302(55) removes the expediting provisions for actions in the Counts of Claims with respect to claims arising out of the internment of displacement of Japanese-Americans during the Second World War. 50 U.S.C. App. 1984(b).

Section 305 provides that the amendments made by title III of the bill do not apply to case pending at the time of the enactment of the legislation.

Oversight Findings

Pursuant to House Rule , the Committee makes certain oversight findings with respect to the establishment of priorities for the

handling of civil cases in Federal District Courts and in the Courts of Appeals. The Committee finds that such provisions have been added in an *ad hoc,* haphazard manner over the years. The Committee further finds that because these priority provisions arise from bills ordered reported by different committees that there is no method of either centralizing or rationalizing them. Moreover, the Committee finds that frequently the addition of such expediting provisions appears to be the result of a less than complete policy analysis.[19]

The Committee considered and rejected as unwieldy the adoption of a House Rule that would have required the referral of every bill that contained a priority provision to the Committee on the Judiciary. The preferable solution appears to be a request that the Speaker take into account the need to rationally deal with these provisions in making decisions with respect to joint or sequential referral of bills.

It should also be noted that the Committee is troubled by the proliferation of provisions found in recent enactments relating to the treatment to be afforded to constitutional challenges to legislative veto. These provisions were first used in the Federal Election Campaign Act, and have become known as *Buckley*-type reviews after a case spawned by that Act. *Buckley* v. *Valeo,* 424 U.S. 1 (1976). Typically these provisions call for an expedited treatment in the District Court and Court of Appeals. Frequently these bills also provide that the Courts of Appeals must hear the case *en banc.* These bills also provide for a direct appeal to the Supreme Court. Notwithstanding the apparent desire for a rapid resolution of these constitutional cases, provisions of the type outlined above have serious procedural deficiencies.

First, *Buckley*-type review procedures may not provide for enough time at the lower court level to assure adequate fact finding. Second, the required use of *en banc* procedures fails to take into account the differences in structure and caseload of the various circuits.[20] In many circuits—like the District of Columbia Circuit and the Ninth Circuit—use of an *en banc* procedure will only serve to delay the disposition of the case. Finally, the use of a mandatory direct appeal to the Supreme Court does not guarantee the type of full consideration that motivated the adoption of such a procedure in the first place. *See, supra,* at 5-7.

In light of the increased use of *Buckley*-type review requirements, it is likely that subsequent legislation will be necessary to address these problems in a comprehensive fashion. In the meantime, the aforementioned referral mechanism should be used to rationalize this type of procedure.

In regard to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Operations.

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[19] Note: "The Impact of Civil Expediting Provisions on the United States Courts of Appeals," 37 *Record Assoc. B.C.N.Y.* 19 (1982) (hereinafter *Impact*).

[20] *See* Letter from Collins T. Fitzpatrick, Circuit Executive of The Seventh Circuit to Senator Warren G. Magnuson, Nov. 3, 1980, Reprinted, in part, in *Impact, supra,* at 24 n. 59.

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NEW BUDGET AUTHORITY

In regard to clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the bill creates no new budget authority on increased tax expenditures for the Federal judiciary.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee feels that the bill will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

FEDERAL ADVISORY COMMITTEE ACT OF 1972

The Committee finds that this legislation does not create any new advisory committees within the meaning of the Federal Advisory Committee Act of 1972.

COST ESTIMATE

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the committee estimates that no costs will be incurred in carrying out the provisions of the reported bill.

STATEMENT OF THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, and section 403 of the Congressional Budget Act of 1974, the following is the cost estimate on H.R. 9622 prepared by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., August 20, 1982.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 6872, the Federal Court Reform Act of 1982, as ordered reported by the House Committee on the Judiciary, August 10, 1982.

Title I of the bill would allow the Supreme Court greater discretion in selecting cases it will review. Title II would extend to all federal jurors eligibility for worker's compensation, would provide for thel awarding of attorneys' fees in certain actions brought by jurors and would authorize the service of jury summonses by first class mail. Title III of the bill would permit each court of the United States to determine the order in which certain civil actions are heard and determined.

The major budget impact of this bill is the savings resulting from the use of first-class mail, rather than registered or certified mail, for notification of jury service. Based on information provided by the Administrative Office of the U.S. Courts, this provision is estimated to save between $0.4 million and $0.6 million per year. There will, on the other hand, be additional costs for workers' com-

pensation for jury-related injuries; however, these costs are estimated to be less than $0.1 million annually. Thus, enactment of H.R. 6872 is estimated to result in a net savings of at least $0.3 million to $0.5 million per year.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

COMMITTEE VOTE

H.R. 6816 was reported by voice vote.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 28, UNITED STATES CODE

* * * * * * *

PART II—DEPARTMENT OF JUSTICE

* * * * * * *

CHAPTER 39—SPECIAL PROSECUTOR

* * * * * * *

§ 596. Removal of a special prosecutor; termination of office

(a)(1) A special prosecutor appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for extraordinary impropriety, physical disability, mental incapacity, or any other condition that substantially impairs the performance of such special prosecutor's duties.

(2) If a special prosecutor is removed from office, the Attorney General shall promptly submit to the division of the court and the Committees on the Judiciary of the Senate and the House of Representatives a report specifying the facts found and the ultimate grounds for such removal. The committees shall make available to the public such report, except that each committee may, if necessary to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution, delete or postpone publishing any or all of the report. The division of the court may release any or all of such report in the same manner as a report released under section 595(b)(3) of this title and under the same limitations as apply to the release of a report under that section.

(3) A special prosecutor so removed may obtain judicial review of the removal in a civil action commenced before the division of the

court and, if such removal was based on error of law or fact, may obtain reinstatement or other appropriate relief. [The division of the court shall cause such an action to be in every way expedited.]

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PART III—COURT OFFICERS AND EMPLOYEES

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CHAPTER 43—UNITED STATES MAGISTRATES

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§ 636. Jurisdiction, powers, and temporary assignment

(a) * * *

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(c) Notwithstanding any provision of law to the contrary—

(1) Upon the consent of the parties, a full-time United States magistrate or a part-time United States magistrate who serves as a full-time judicial officer may conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case, when specially designated to exercise such jurisdiction by the district court or courts he serves. Upon the consent of the parties, pursuant to their specific written request, any other part-time magistrate may exercise such jurisdiction, if such magistrate meets the bar membership requirements set forth in section 631(b)(1) and the chief judge of the district court certifies that a full-time magistrate is not reasonably available in accordance with guidelines established by the judicial council of the circuit. When there is more than one judge of a district court, designation under this paragraph shall be by the concurrence of a majority of all the judges of such district court, and when there is no such concurrence, then by the chief judge.

(2) If a magistrate is designated to exercise civil jurisdiction under paragraph (1) of this subsection, the clerk of court shall, at the time the action is filed, notify the parties of their right to consent to the exercise of such jurisdiction. The decision of the parties shall be communicated to the clerk of court. Thereafter, neither the district judge nor the magistrate shall attempt to persuade or induce any party to consent to reference of any civil matter to a magistrate. Rules of court for the reference of civil matters to magistrates shall include procedures to protect the voluntariness of the parties' consent.

(3) Upon entry of judgment in any case referred under paragraph (1) of this subsection, an aggrieved party may appeal directly to the appropriate United States court of appeals from the judgment of the magistrate in the same manner as an appeal from any other judgment of a district court. In this circumstance, the consent of the parties allows a magistrate designated to exercise civil jurisdiction under paragraph (1) of this subsection to direct the entry of a judgment of the district court in accordance with the Federal Rules of Civil Procedure.

Nothing in this paragraph shall be construed as a limitation of any party's right to seek review by the Supreme Court of the United States.

(4) Notwithstanding the provisions of paragraph (3) of this subsection, at the time of reference to a magistrate, the parties may further consent to appeal on the record to a judge of the district court in the same manner as on an appeal from a judgment of the district court to a court of appeals. Wherever possible the local rules of the district court and the rules promulgated by the conference shall endeavor to make such appeal [expeditious and] inexpensive. The district court may affirm, reverse, modify, or remand the magistrate's judgment.

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PART IV—JURISDICTION AND VENUE

* * * * * * *

CHAPTER 81—SUPREME COURT

Sec.

1251. Original jurisdiction.
[1252. Direct appeals from decisions invalidating Acts of Congress.]
1253. Direct appeals from decisions of three-judge courts.
1254. Courts of appeals; certiorari; appeal; certified questions.
1255. Court of Claims; certiorari; certified questions.
1256. Court of Customs and Patent Appeals; certiorari.
1257. State courts; [appeal;] certiorari.
1258. Supreme Court of Puerto Rico; [appeal;] certiorari.

* * * * * * *

[§ 1252. Direct appeals from decisions invalidating Acts of Congress

[Any party may appeal to the Supreme Court from an interlocutory or final judgment, decree or order of any court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam and the District Court of the Virgin Islands and any court of record of Puerto Rico, holding an Act of Congress unconstitutional in any civil action, suit, or proceeding to which the United States or any of its agencies, or any officer or employee thereof, as such officer or employee, is a party.

[A party who has received notice of appeal under this section shall take any subsequent appeal or cross appeal to the Supreme Court. All appeals or cross appeals taken to other courts prior to such notice shall be treated as taken directly to the Supreme Court.]

* * * * * * *

§ 1254. Courts of appeals; certiorari; [appeal;] certified questions

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

[(2) By appeal by a party relying on a State statute held by a court of appeals to be invalid as repugnant to the Constitution, treaties or laws of the United States, but such appeal shall preclude review by writ of certiorari at the instance of such appellant, and the review on appeal shall be restricted to the Federal questions presented;]

[(3)] *(2)* By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.

* * * * * * *

[§ 1257. State courts; appeal; certiorari

[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 as follows:

[(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity.

[(2) By appeal, where is drawn in question the validity of a statute of any State on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

[(3) 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 State statute 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, treaties or statutes of, or commission held or authority exercised under, the United States.

[For the purposes of this section, the term "highest court of a State" includes the District of Columbia Court of Appeals.]

§ 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.

[§ 1258. Supreme Court of Puerto Rico; appeal; certiorari

[Final judgments or decrees rendered by the Supreme Court of the Commonwealth of Puerto Rico may be reviewed by the Supreme Court as follows:

[(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity.

[(2) By appeal, where is drawn in question the validity of a statute of the Commonwealth of Puerto Rico on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of its validity.

[(3) 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, treaties, or statutes of, or commission held or authority exercised under, the United States.]

§ 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.

CHAPTER 83—COURTS OF APPEALS

Sec.
1291. Final decisions of district courts.
1292. Interlocutory decisions.

* * * * * * *

[1296. Precedence of cases in the United States Court of Appeals for the Federal Circuit.]

* * * * * * *

[§ 1296. Precedence of cases in the United States Court of Appeals for the Federal Circuit

[Civil actions in the United States Court of Appeals for the Federal Circuit shall be given precedence, in accordance with the law applicable to such actions, in such order as the court may by rule establish.]

* * * * * * *

CHAPTER 85—DISTRICT COURTS; JURISDICTION

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§ 1364. Senate actions

(a) * * *

* * * * * * *

[(c) In any civil action or contempt proceeding brought pursuant to this section, the court shall assign the action or proceeding for hearing at the earliest practicable date and cause the action or proceeding in every way to be expedited. Any appeal or petition for review from any order or judgment in such action or proceeding shall be expedited in the same manner.]

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PART V—PROCEDURE

* * * * * * *

CHAPTER 111—GENERAL PROVISIONS

Sec.
1651. Writs.
1652. State laws as rules of decision.
1653. Amendment of pleadings to show jurisdiction.
1654. Appearance personally or by counsel.
1655. Lien enforcement; absent defendants.
1656. Creation of new district or division or transfer of territory; lien enforcement.
1657. Priority of civil actions.

* * * * * * *

§ 1657. Priority of civil actions

(a) Notwithstanding any other provision 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.

* * * * * * *

CHAPTER 121—JURIES; TRIAL BY JURY

* * * * * * *

§ 1866. Selection and summoning of jury panels

(a) The jury commission, or in the absence thereof the clerk, shall maintain a qualified jury wheel and shall place in such wheel names of all persons drawn from the master jury wheel who are determined to be qualified as jurors and not exempt or excused pursuant to the district court plan. From time to time, the jury commission or the clerk shall publicly draw at random from the qualified jury wheel such number of names of persons as may be required for assignment to grand and petit jury panels. The jury

commission or the clerk shall prepare a separate list of names of persons assigned to each grand and petit jury panel.

(b) When the court orders a grand or petit jury to be drawn, the clerk or jury commission or their duly designated deputies shall issue summonses for the required number of jurors.

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

If such service is made personally, the summons shall be delivered by the clerk or the jury commission or their duly designated deputies to the marshal who shall make such service.

[If such service is made by registered or certified mail, the summons may be served by the clerk or jury commission or their duly designated deputies who shall make affidavit of service and shall file with such affidavit the addressee's receipt for the registered or certified summons. If such service is made by the marshal, he shall attach to his return the addressee's receipt for the registered or certified mail.]

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.

* * * * * * *

§ 1875. Protection of jurors' employment

(a) * * *

* * * * * * *

(d)*(1)* An individual claiming that his employer has violated the provisions of this section may make application to the district court for the district in which such employer maintains a place of business and the court shall, upon finding probable merit in such claim, appoint counsel to represent such individual in any action in the district court necessary to the resolution of such claim. Such counsel shall be compensated and necessary expenses repaid to the extent provided by section 3006A of title 18, United States Code.

[(2) In any action or proceeding under this section, the court may award a prevailing employee who brings such action by retained counsel a reasonable attorney's fee as part of the costs. The court may award a prevailing employer a reasonable attorney's fee as part of the costs if the court determines that the action is frivolous, vexatious, or brought in bad faith.]

(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.

* * * * * * *

CHAPTER 133—REVIEW—MISCELLANEOUS PROVISIONS

Sec.
2101. Supreme Court; time for appeal or certiorari; docketing; stay.
2102. Priority of criminal case on appeal from State court.
2103. Appeal from State court or from a United States court of appeals improvidently taken regarded as petition for writ of certiorari.
[2104. Appeals from State courts.]
2104. Reviews of State court decisions.

* * * * * * *

§ 2101. Supreme Court; time for appeal or certiorari; docketing; stay

(a) A direct appeal to the Supreme Court from any decision under [sections 1252, 1253 and 2282] *section 1253* of this title, holding unconstitutional in whole or in part, any Act of Congress, shall be taken within thirty days after the entry of the interlocutory or final order, judgment or decree. The record shall be made up and the case docketed within sixty days from the time such appeal is taken under rules prescribed by the Supreme Court.

* * * * * * *

[§ 2104. Appeals from State courts

[An appeal to the Supreme Court from a State court shall be taken in the same manner and under the same regulations, and shall have the same effect, as if the judgment or decree appealed from had been rendered in a court of the United States.]

§ 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.

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PART VI—PARTICULAR PROCEEDINGS

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CHAPTER 155—INJUNCTIONS; THREE-JUDGE COURTS

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§ 2284. Three-judge court; when required; composition; procedure

(a) A district court of three judges shall be convened when otherwise required by Act of Congress, or when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body.

(b) In any action required to be heard and determined by a district court of three judges under subsection (a) of this section, the composition and procedure of the court shall be as follows:

(1) Upon the filing of a request for three judges, the judge to whom the request is presented shall, unless he determines that three judges are not required, immediately notify the chief judge of the circuit, who shall designate two other judges, at least one of whom shall be a circuit judge. The judges so designated, and the judge to whom the request was presented, shall serve as members of the court to hear and determine the action or proceeding.

(2) If the action is against a State, or officer or agency thereof, at least five days' notice of hearing of the action shall be given by registered or certified mail to the Governor and attorney general of the State. [The hearing shall be given precedence and held at the earliest practicable day.]

* * * * * * *

CHAPTER 158—ORDERS OF FEDERAL AGENCIES; REVIEW

* * * * * * *

§ 2349. Jurisdiction of the proceeding

(a) The court of appeals has jurisdiction of the proceeding on the filing and service of a petition to review. The court of appeals in which the record on review is filed, on the filing, has jurisdiction to vacate stay orders or interlocutory injunctions previously granted by any court, and has exclusive jurisdiction to make and enter, on the petition, evidence, and proceedings set forth in the record on review, a judgment determining the validity of, and enjoining, setting aside, or suspending, in whole or in part, the order of the agency.

(b) The filing of the petition to review does not of itself stay or suspend the operation of the order of the agency, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition. When the petitioner makes application for an interlocutory injunction restraining or suspending the enforcement, operation, or execution of, or setting aside, in whole or in part, any order reviewable under this chapter, at least 5 days' notice of the hearing thereon shall be given to the agency and to the Attorney General. In a case in which irreparable damage would otherwise result to the petitioner, the court of appeals may, on hearing, after reasonable notice to the agency and to the Attorney General, order a temporary stay or suspension, in whole or in part, of the operation of the order of the agency for not more than 60 days from the date of the order pending the hearing on the application for the interlocutory injunction, in which case the order of the court of appeals shall contain a specific finding, based on evidence submitted to the court of appeals, and identified by reference thereto, that irreparable damage would result to the petitioner and specifying the nature of the damage. The court of appeals, at the time of hearing the application for an interlocutory injunction, on a like finding, may continue the temporary stay or suspension, in whole or in part, until decision on the application. [The hearing

on an application for an interlocutory injunction shall be given preference and expedited and shall be heard at the earliest practicable date after the expiration of the notice of hearing on the application. On the final hearing of any proceeding to review any order under this chapter, the same requirements as to precedence and expedition apply.]

§ 2350. Review in Supreme Court on certiorari or certification

(a) An order granting or denying an interluctory injunction under section 2349(b) of this title and a final judgment of the court of appeals in a proceeding to review under this chapter are subject to review by the Supreme Court on a writ of cetiorari as provided by section 1254(1) of this title. Application for the writ shall be made within 45 days after entry of the order and within 90 days after entry of the judgment, as the case may be. The United States, the agency, or an aggrieved party may file a petition for a writ of certiorari.

(b) The provisions of section 1254[(3)] *(2)* of this title, regarding certification, and of section 2101(f) of this title, regarding stays, also apply to proceedings under this chapter.

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CHAPTER 169—COURT OF INTERNATIONAL TRADE PROCEDURE

Sec.
2631. Persons entitled to commence a civil action.
2632. Commencement of a civil action.
2633. Procedure and fees.
2634. Notice.
2635. Filing of official documents.
2636. Time for commencement of action.
2637. Exhaustion of administrative remedies.
2638. New grounds in support of a civil action.
2639. Burden of proof; evidence of value.
2640. Scope and standard of review.
2641. Witnesses; inspection of documents.
2642. Analysis of imported merchandise.
2643. Relief.
2644. Interest.
2645. Decisions.
2646. Retrial or rehearing.
[2647. Precedence of cases.]

* * * * * * *

[§ 2647. Precedence of cases

[The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

[(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

[(2) Second, a civil action for the review of a determination under section 516A(a)(1)(B) (i) or (ii) of the Tariff Act of 1930.

[(3) Third, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

[(4) Fourth, a civil action commenced under section 516 or 516A of the Tariff Act of 1930, other than a civil action described in paragraph (2) of this section.]

* * * * * * *

FEDERAL ELECTION CAMPAIGN ACT OF 1971

ENFORCEMENT

SEC. 309. (a)(1) * * *

* * * * * * *

[(10) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 310 of this Act).]

* * * * * * *

JUDICIAL REVIEW

SEC. 310. [(a)] The Commission, the national committee of any political party, or any individual eligible to vote in any election for the office of President may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this Act. The district court immediately shall certify all questions of constitutionality of this Act to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

[(b) Notwithstanding any other provision of law, any decision on a matter certified under subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the court of appeals.

[(c) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under subsection (a).]

SECTION 2 OF THE ACT OF MAY 18, 1928

AN ACT Authorizing the attorney general of the State of California to bring suit in the Court of Claims on behalf of the Indians of California

* * * * * * *

SEC. 2. All claims of whatsoever nature the Indians of California as defined in section 1 of this Act may have against the United States by reason of lands taken from them in the State of California by the United States without compensation, or for the failure or refusal of the United States to compensate them for their interest in lands in said State which the United States appropriated to

its own purposes without the consent of said Indians, may be submitted to the United States Claims Court by the attorney general of the State of California acting for and on behalf of said Indians for determination of the equitable amount due said Indians from the United States; and jurisdiction is hereby conferred upon the United States Claims Court[, with the right of either party to appeal to the United States Court of Appeals for the Federal Circuit], to hear and determine all such equitable claims of said Indians against the United States and to render final decree thereon.

It is hereby declared that the loss to the said Indians on account of their failure to secure the lands and compensation provided for in the eighteen unratified treaties is sufficient ground for equitable relief.

SECTION 203 OF THE TRANS-ALASKA PIPELINE AUTHORIZATION ACT

TITLE II

* * * * * * *

CONGRESSIONAL AUTHORIZATION

SEC. 203. (a) * * *

* * * * * * *

(d) The actions taken pursuant to this title which relate to the construction and completion of the pipeline system, and to the applications filed in connection therewith necessary to the pipeline's operation at full capacity, as described in the Final Environmental Impact Statement of the Department of the Interior, shall be taken without further action under the National Environmental Policy Act of 1969; and the actions of the Federal officers concerning the issuance of the necessary rights-of-way, permits, leases, and other authorizations for construction and initial operation at full capacity of said pipeline system shall not be subject to judicial review under any law except that claims alleging the invalidity of this section may be brought within sixty days following its enactment, and claims alleging that an action will deny rights under the Constitution of the United States, or that the action is beyond the scope of authority conferred by this title, may be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hearinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of the enactment of this Act. Any such proceeding shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except

in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. [Any review of an] *An* interlocutory or final judgment, decree, or order of such district court may be [had only upon direct appeal] *reviewed only upon petition for a writ of certiorari* to the Supreme Court of the United States.

* * * * * * *

REGIONAL RAIL REORGANIZATION ACT OF 1973

* * * * * * *

TITLE II—UNITED STATES RAILWAY ASSOCIATION

* * * * * * *

JUDICIAL REVIEW

SEC. 209. (a) GENERAL.—* * *

* * * * * * *

(e) ORIGINAL AND EXCLUSIVE JURISDICTION.—(1) * * *

* * * * * * *

(3) A final order or judgment of the special court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States[, except that any order or judgment enjoining the enforcement, or declaring or determining the unconstitutionality or invalidity, of this Act, in whole or in part, or of any action taken under this Act, shall be reviewable by direct appeal to the Supreme Court of the United States in the same manner that an injunctive order may be appealed under section 1253 of title 28, United States Code.]. Such review is exclusive and any [petition or appeal shall be filed] *such petition shall be filed in the Supreme Court* not more than 20 days after entry of such order or judgment.

* * * * * * *

TITLE III—CONSOLIDATED RAIL CORPORATION

* * * * * * *

VALUATION AND CONVEYANCE OF RAIL PROPERTIES

SEC. 303. (a) DEPOSIT WITH COURT.—* * *

* * * * * * *

[(d) APPEAL.—A finding or determination entered by the special court pursuant to subsection (c) of this section or section 306 of this title may be appealed directly to the Supreme Court of the United States in the same manner that an injunction order may be appealed under section 1253 of title 28, United States Code: *Provided,* That such appeal is exclusive and shall be filed in the Supreme Court not more than 20 days after such finding or determination is entered by the special court. The Supreme Court shall dismiss any such appeal within 7 days after the entry of such an appeal if it determines that such an appeal would not be in the interest of an

expeditious conclusion of the proceedings and shall grant the highest priority to the determination of any such appeals which it determines not to dismiss.]

(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 or 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.

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CONTINUING REORGANIZATION; SUPPLEMENTAL TRANSACTIONS

SEC. 305. (a) PROPOSALS.—* * *

* * * * * * *

(d) SPECIAL COURT PROCEEDINGS.—(1) If the Association has made the determination pursuant to subsection (b) of this section that a proposal for supplemental transactions is in the public interest and consistent with the purposes of this Act and the goals of the final system plan, and is fair and equitable, the Association shall, within 40 days after the date of the Commission's determination under subsection (c) of this section, or after the expiration of the 90-day period referred to in such subsection (c), whichever is applicable, petition the special court for an order of such court finding that such proposal for supplemental transactions is in the public interest and consistent with the purposes of this Act and the goals of the final system plan, and is fair and equitable, and directing the Corporation to carry out the supplemental transactions specified in such proposal. If the Association has determined, pursuant to subsection (b) of this section that a proposal made by the Secretary is not in the public interest or is not consistent with the purposes of this Act and the goals of the final system plan or is not fair and equitable, the Secretary may, if he determines that such proposal is in the public interest and consistent with the purposes of this Act and the goals of the final system plan and is fair and equitable, petition the special court for an order of such court finding that such proposal for supplemental transactions is in the public interest and consistent with the purposes of this Act and the goals of the final system plan and is fair and equitable, and directing the Corporation to carry out any supplemental transactions specified in such proposal. Such a petition shall be submitted to the special court within 90 days after the date of the Commission's determination under such subsection (c), or after the expiration of the 90-day period referred to in such section (c), whichever is applicable.

(2) [Within 180 days after] *After* the filing of a petition under paragraph (1) of this subsection, the special court shall decide, after a hearing whether the proposed supplemental transactions contained in such petition, considered in their entirety, are in the public interest and consistent with the purposes of this Act and the goals of the final system plan and are fair and equitable. If the special court determines that such proposed supplemental transactions, considered in their entirety are in the public interest and consistent with the purposes of this Act and the goals of the final

system plan and are fair and equitable, it shall, upon making such determination, issue such orders as may be necessary to direct the Corporation to consummate the transactions. If the special court determines that such proposed supplemental transactions, considered in their entirety, are not in the public interest or not consistent with the purposes of this Act and the goals of the final system plan, or are not fair and equitable, it shall file an opinion stating its conclusion and the reasons therefor. In such event the Association (in the case of a proposal developed by the Association) or the Secretary (in the case of a proposed development by the Secretary) may, within 120 days after the filing of such opinion, certify to the special court that the terms and conditions of the proposal have been modified consistent with the opinion of the court and are acceptable to each proposed transferor (other than the Corporation) or transferee, and may petition the special court for reconsideration of the proposal as so modified. [Within 90 days] *After* the filing of such petition, the special court shall decide, after a hearing, whether the proposal as modified by the certification is in the public interest and consistent with the purposes of this Act and the goals of the final system plan and is fair and equitable, and shall enter such further orders as are consistent with its determination.

* * * * * * *

SECTION 1152 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981

JUDICIAL REVIEW

SEC. 1152. (a) Notwithstanding any other provision of law, the special court shall have original and exclusive jurisdiction over any civil action—

(1) for injunctive, declaratory, or other relief relating to the enforcement, operation, execution, or interpretation of any provision of or amendment made by this subtitle, or administrative action taken thereunder to the extent such action is subject to judicial review;

(2) challenging the constitutionality of any provision of or amendment made by this subtitle;

(3) to obtain, inspect, copy, or review any document in the possession or control of the Secretary, Conrail, the United States Railway Association, or Amtrak that would be discoverable in litigation under any provision of or amendment made by this subtitle; or

(4) seeking judgment upon any claim against the United States founded upon the Constitution and resulting from the operation of any provision of or amendment made by this subtitle.

(b) A judgment of the special court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States[, except that any order or judgment enjoining the enforcement, or declaring or determining the unconstitutionality or invalidity, of any provision of this subtitle shall be reviewable by direct appeal to the Supreme Court of the United States]. Such review is exclusive and any [pe-

tition or appeal shall be filed] *such petition shall be filed in the Supreme Court* not more than 20 days after entry of such order or judgment.

* * * * * * *

SECTION 206 OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949

SEC. 206. The district courts of the United States are given jurisdiction to make and enter all such rules as to notice and otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce the provisions of this title, with a right of appeal from the final order or decree of such court as provided in sections [1252, 1254, 1291,] *1291* and 1292 of title 28, United States Code.

SECTION 12 OF THE ACT OF MAY 13, 1954

AN ACT Providing for creation of the Saint Lawrence Seaway Development Corporation to construct part of the Saint Lawrence Seaway in United States territory in the interest of national security; authorizing the Corporation to consummate certain arrangements with the Saint Lawrence Seaway Authority of Canada relative to construction and operation of the seaway; empowering the Corporation to finance the United States share of the seaway cost on a self-liquidating basis; to establish cooperation with Canada in the control and operation of the Saint Lawrence Seaway; to authorize negotiations with Canada of an agreement on tolls; and for other purposes

* * * * * * *

RATES OF CHARGES OR TOLLS

SEC. 12. (a) The Corporation is further authorized and directed to negotiate with the Saint Lawrence Seaway Authority of Canada, or such other agency as may be designated by the Government of Canada, an agreement as to the rules for the measurement of vessels and cargoes and the rates of charges or tolls to be levied for the use of the Saint Lawrence Seaway, and for an equitable division of the revenues of the seaway between the Corporation and the Saint Lawrence Seaway Authority of Canada. Formula for a division of revenues which takes into consideration annual debt charges shall include the total cost, including both interest and debt principal, incurred by the United States in financing activities authorized by this Act, whether or not reimbursable by the Corporation. Such rules for the measurement of vessels and cargoes and rates of charges or tolls shall, to the extent practicable, be established or changed only after giving due notice and holding a public hearing. In the event that such negotiations shall not result in agreement, the Corporation is authorized and directed to establish unilaterally such rules of measurement and rates of charges or tolls for the use of the works under its administration: *Provided, however,* That the Corporation shall give three months' notice, by publication in the Federal Register, of any proposals to establish or change unilaterally the basic rules of measurement and of any proposals to establish or change unilaterally the rates of charges or

tolls, during which period a public hearing shall be conducted. Any such establishment of or changes in basic rules of measurement or rates of charges or tolls shall be subject to and shall take effect thirty days following the date of approval thereof by the President, and shall be final and conclusive, subject to review as hereinafter provided. Any person aggrieved by an order of the Corporation establishing or changing such rules or rates may, within such thirty-day period, apply to the Corporation for a rehearing of the matter upon the basis of which the order was entered. The Corporation shall have power to grant or deny the application for rehearing and upon such rehearing or without further hearing to abrogate or modify its order. The action of the Corporation in denying an application for rehearing or in abrogating or modifying its order shall be final and conclusive thirty days after its approval by the President unless within such thirty-day period a petition for review is filed by a person aggrieved by such action in the United States Court of Appeals for the circuit in which the works to which the order applies are located or in the United States Court of Appeals for the District of Columbia. The court in which such petition is filed shall have the same jurisdiction and powers as in the case of petitions to review orders of the Federal Power Commission filed under section 313(b) of the Federal Power Act (16 U.S.C. 825l). The judgment of the court shall be final subject to review by the Supreme Court upon certiorari or certification as provided in sections 1254(1) and [1254(3)] *1254(2)* of title 28 of the United States Code. The filing of an application for rehearing shall not, unless specifically ordered by the Corporation, operate as a stay of the Corporation's order. The filing of a petition for review shall not, unless specifically ordered by the court, operate as a stay of the Corporation's order.

TITLE 5, UNITED STATES CODE

PART I—THE AGENCIES GENERALLY

* * * * * * *

CHAPTER 5—ADMINISTRATIVE PROCEDURE

* * * * * * *

SUBCHAPTER II—ADMINISTRATIVE PROCEDURE

* * * * * * *

§ 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) * * *

* * * * * * *

(4)(A) * * *

* * * * * * *

[(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.]

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PART III—EMPLOYEES

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Subpart G—Insurance and Annuities

CHAPTER 81—COMPENSATION FOR WORK INJURIES

SUBCHAPTER I—GENERALLY

Sec.

8101. Definitions.
8102. Compensation for disability or death of employee.
8103. Medical services and initial medical and other benefits.
8104. Vocational rehabilitation.
8105. Total disability.
8106. Partial disability.
8107. Compensation schedule.
8108. Reduction of compensation for subsequent injury to same member.
8109. Beneficiaries of awards unpaid at death; order of precedence.
8110. Augmented compensation for dependents.
8111. Additional compensation for services of attendants or vocational rehabilitation.
8112. Maximum and minimum monthly payments.
8113. Increase or decrease of basic compensation.
8114. Computation of pay.
8115. Determination of wage-earning capacity.
8116. Limitations on right to receive compensation.
8117. Time of accrual of right.
8118. Continuation of pay; election to use annual or sick leave.
8119. Notice of injury or death.
8120. Report of injury.
8121. Claim.
8122. Time for making claim.
8123. Physical examinations.
8124. Findings and award; hearings.
8125. Misbehavior at proceedings.
8126. Subpenas; oaths; examination of witnesses.
8127. Representation; attorneys' fees.
8128. Review of award.
8129. Recovery of overpayments.
8130. Assignment of claim.
8131. Subrogation of the United States.
8132. Adjustment after recovery from a third person.
8133. Compensation in case of death.
8134. Funeral expenses; transportation of body.
8135. Lump-sum payment.
8136. Initial payments outside the United States.
8137. Compensation for noncitizens and nonresidents.
8138. Minimum limit modification for noncitizens and aliens.
8139. Employees of the District of Columbia.

8140. Members of the Reserve Officers' Training Corps.
8141. Civil Air Patrol volunteers.
8141a. Federal petit and grand jurors.

* * * * * * *

SUBCHAPTER I—GENERALLY

§ 8101. Definitions

For the purpose of this subchapter—

(1) "employee" means—

(A) a civil officer or employee in any branch of the Government of the United States, including an officer or employee of an instrumentality wholly owned by the United States;

(B) an individual rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service, or authorizes payment of travel or other expenses of the individual;

(C) an individual, other than an independent contractor or an individual employed by an independent contractor, employed on the Menominee Indian Reservation in Wisconsin in operations conducted under a statute relating to tribal timber and logging operations on that reservation;

(D) an individual employed by the government of the District of Columbia; and

(E) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);

but does not include—

(i) a commissioned officer of the Regular Corps of the Public Health Service;

(ii) a commissioned officer of the Reserve Corps of the Public Health Service on active duty;

(iii) a commissioned officer of the Environmental Science Services Administration; or

(iv) a member of the Metropolitan Police or the Fire Department of the District of Columbia who is pensioned or pensionable under sections 521-535 of title 4, District of Columbia Code[; and

[(F) an individual selected pursuant to chapter 121 of title 28, United States Code, and serving as a petit or grand juror and who is otherwise an employee for the purposes of this subchapter as defined by paragraphs (A), (B), (C), (D), and (E) of this subsection].

* * * * * * *

§ 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.

* * * * * * *

SECTION 6 OF THE COMMODITY EXCHANGE ACT

SEC. 6. Any board of trade desiring to be designated a "contract market" shall make application to the Commission for such designation and accompany the same with a showing that it complies with the above conditions, and with a sufficient assurance that it will continue to comply with the above requirements. In the event of a refusal to designate as a "contract market" any board of trade that has made application therefor, such board of trade shall be afforded an opportunity for a hearing on the record before the Commission, with the right to appeal an adverse decision after such hearing to the court of appeals as provided for in other cases in paragraph (a) of this section.

(a) The commission is authorized to suspend for a period not to exceed six months or to revoke the designation of any board of trade as a "contract market" upon a showing that such board of trade is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 5 of this Act or that such board of trade, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of this Act or any of the rules, regulations, or orders of the Secretary of Agriculture or the commission thereunder. Such suspension or revocation shall only be after a notice to the officers

of the board of trade affected and upon a hearing on the record: *Provided,* That such suspension or revocation shall be final and conclusive, unless within fifteen days after such suspension or revocation by the commission such board of trade appeals to the court of appeals for the circuit in which it has its principal place of business, by filing with the clerk of such court a written petition praying that the order of the commission be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such board of trade will pay the costs of the proceedings if the court so directs. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Secretary of Agriculture, who shall thereupon notify the other members of the commission and file in the court the record in such proceedings, as provided in section 2112 of title 28, United States Code. The testimony and evidence taken or submitted before the commission, duly filed as aforesaid as a part of the record, shall be considered by the court of appeals as the evidence in the case. [The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.] Such a court may affirm or set aside the order of the commission or may direct it to modify its order. No such order of the commission shall be modified or set aside by the court of appeals unless it is shown by the board of trade that the order is unsupported by the weight of the evidence or was issued without due notice and a reasonable opportunity having been afforded to such board of trade for a hearing, or infringes the Constitution of the United States, or is beyond the jurisdiction of the commission.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

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SEC. 6. ADMINISTRATIVE REVIEW; SUSPENSION.

(a) CANCELLATION AFTER FIVE YEARS.—

* * * * * * *

(c) SUSPENSION.—

(1) * * *

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(4) JUDICIAL REVIEW.—A final order on the question of suspension following a hearing shall be reviewable in accordance with Section 16 of this Act, notwithstanding the fact that any related cancellation proceedings have not been completed. [Petitions to review orders on the issue of suspension shall be advanced on the docket of the courts of appeals.] Any order of suspension entered prior to a hearing before the Administrator shall be subject to immediate review in an action by the registrant or other interested person with the concurrence of the registrant in an appropriate district court, solely to determine whether the order of suspension was arbitrary, capricious or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. The effect of

any order of the court will be only to stay the effectiveness of the suspension order, pending the Administrator's final decision with respect to cancellation or change in classification. This action may be maintained simultaneously with any administrative review proceeding under this section. The commencement of proceedings under this paragraph shall not operate as a stay of order, unless ordered by the court.

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SEC. 10. PROTECTION OF TRADE SECRETS AND OTHER INFORMATION.

(a) IN GENERAL.—* * *

* * * * * * *

(d) LIMITATIONS.—

(1) * * *

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(3) If the Administrator proposes to disclose information described in clause (A), (B), or (C) of paragraph (1) or in paragraph (2) of this subsection, the Administrator shall notify by certified mail the submitter of such information of the intent to release such information. The Administrator may not release such information, without the submitter's consent, until thirty days after the submitter has been furnished such notice: *Provided,* That where the Administrator finds that disclosure of information described in clause (A), (B), or (C) of paragraph (1) of this subsection is necessary to avoid or lessen an imminent and substantial risk of injury to the public health, the Administrator may set such shorter period of notice (but not less than ten days) and such method of notice as the Administrator finds appropriate. During such period the data submitter may institute an action in an appropriate district court to enjoin or limit the proposed disclosure. [The court shall give expedited consideration to any such action.] The court may enjoin disclosure, or limit the disclosure or the parties to whom disclosure shall be made, to the extent that—

(A) in the case of information described in clause (A), (B), or (C) of paragraph (1) of this subsection, the proposed disclosure is not required to protect against an unreasonable risk of injury to health or the environment; or

(B) in the case of information described in paragraph (2) of this subsection, the public interest in availability of the information in the public proceeding does not outweigh the interests in preserving the confidentiality of the information.

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SEC. 16. ADMINISTRATIVE PROCEDURE; JUDICIAL REVIEW.

(a) * * *

(b) REVIEW BY COURT OF APPEALS.—In the case of actual controversy as to the validity of any order issued by the Administrator following a public hearing, any person who will be adversely affected by such order and who had been a party to the proceedings may obtain judicial review by filing in the United States court of ap-

peals for the circuit wherein such person resides or has a place of business, within 60 days after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by him for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which he based his order, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The court shall consider all evidence of record. The order of the Administrator shall be sustained if it is supported by substantial evidence when considered on the record as a whole. The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. [The court shall advance on the docket and expedite the disposition of all cases filed therein pursuant to this section.]

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SEC. 25. AUTHORITY OF ADMINISTRATOR.

(a)(1) * * *

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(4) RULE AND REGULATION REVIEW.—

(A) * * *

* * * * * * *

(E) JUDICIAL REVIEW.—

(i) Any interested party, including any person who participated in the rulemaking involved, may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this paragraph. The district court immediately shall certify all questions of the constitutionality of this paragraph to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(ii) Notwithstanding any other provision of law, any decision on a matter certified under clause (i) of this subparagraph shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

[(iii) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under clause (i) of this subparagraph.]

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SECTION 204 OF THE PACKERS AND STOCKYARDS ACT, 1921

SEC. 204. (a) * * *

* * * * * * *

(d) The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. [The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.]

* * * * * * *

SECTION 366 OF THE AGRICULTURAL ADJUSTMENT ACT OF 1938

COURT REVIEW

SEC. 366. The review by the court shall be limited to questions of law, and the findings of fact by the review committee, if supported by evidence, shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the review committee, the court may direct such additional evidence to be taken before the review committee in such manner and upon such terms and conditions as to the court may may seem proper. The review committee may modify its findings of fact or its determination by reason of the additional evidence so taken, and it shall file with the court such modified findings or determination, which findings of fact shall be conclusive. [At the earliest convenient time, the court, in term time or vacation,] *The Court* shall hear and determine the case upon the original record of the hearings before the review committee and upon such record as supplemented if supplemented, by further hearing before the review committee pursuant to direction of the court. The court shall affirm the review committee's determination, or modified determination, if the court determines that the same is in accordance with law. If the court determines that such determination or modified determination is not in accordance with law, the court shall remand the proceeding to the review committee with direction either to make such determination as the court shall determine to be in accordance with law or to take such further proceedings as, in the court's opinion, the law requires.

SECTION 411 OF THE FEDERAL SEED ACT

SEC. 411. If any person against whom an order is issued under section 409 fails to obey the order, the Secretary of Agriculture, or the United States, by its Attorney General, may apply to the court of appeals of the United Sttes, within the circuit where the person against whom the order was issued resides or has his principal place of business for the enforcement of the order, and shall file the record in such proceedings, as provided in section 2112 of title 28, United States Code. Upon such filing of the application the

court shall cause notice thereof to be served upon the person against whom the order was issued. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as provided in section 410 for applications to set aside or modify orders.

[The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.]

SECTION 816 OF THE ACT OF OCTOBER 7, 1975

SEC. 816. (a) * * *

* * * * * * *

(c)(1) * * *

* * * * * * *

(4) In any proceeding brought in any district court of the United States pursuant to this section, the Attorney General may file with the clerk of such court a certificate of the Secretary of Defense that, in his opinion, the proceeding is of critical importance to the effective operation of the Armed Forces of the United States and that immediate relief from the discrimination is necessary, a copy of which shall be immediately furnished by such clerk to the chief judge of the circuit (or, in his absence, the presiding circuit judge) in which the proceeding is pending. Upon receipt of the copy of such certificate, it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge, to hear and determine such proceeding. [Except as to causes which the court considers to be of greater urgency, proceedings before any district court under this section shall take precedence over all other causes and shall be assigned for hearing and trail at the earliest practicable date and expedited in every way.]

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SECTION 5 OF THE HOME OWNERS' LOAN ACT OF 1933

FEDERAL SAVINGS AND LOAN ASSOCIATIONS

SEC. 5. (a) * * *

* * * * * * *

(d)(1) * * *

* * * * * * *

(6)(A) The grounds for the appointment of a conservator or receiver for an association shall be one or more of the following: (i) insolvency in that the assets of the association are less than its obligations to its creditors and others, including its members; (ii) substantial dissipation of assets or earnings due to any violation or violations of law, rules, or regulations, or to any unsafe or unsound practice or practices; (iii) an unsafe or unsound condition to transact business; (iv) willful violation of

a cease-and-desist order which has become final; (v) concealment of books, papers, records, or assets of the association or refusal to submit books, papers, records, or affairs of the association for inspection to any examiner or to any lawful agent of the Board. The Board shall have exclusive power and jurisdiction to appoint a conservator or receiver. If, the opinion of the Board, a ground for the appointment of a conservator or receiver as herein provided exists, the Board is authorized to appoint ex parte and without notice a conservator or receiver for the association. In the event of such appointment, the association may, within thirty days thereafter, bring an action in the United States district court for the judicial district in which the home office of such association is located, or in the United States District Court for the District of Columbia, for an order requiring the Board to remove such conservator or receiver, and the court shall upon the merits dismiss such action or direct the Board to remove such conservator or receiver. [Such proceedings shall be given precedence over other cases pending in such courts, and shall be in every way expedited.] Upon the commencement of such an action, the court having jurisdiction of any other action or proceeding authorized under this subsection to which the association is a party shall stay such action or proceeding during the pendency of the action for removal of the conservator or receiver.

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CLAYTON ACT

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SEC. 7A. (a) * * *

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(f) If a proceeding is instituted or an action is filed by the Federal Trade Commission, alleging that a proposed acquisition violates section 7 of this Act or section 5 of the Federal Trade Commission Act, or an action is filed by the United States, alleging that a proposed acquisition violates such section 7 or section 1 or 2 of the Sherman Act, and the Federal Trade Commission or the Assistant Attorney General (1) files a motion for a preliminary injunction against consummation of such acquisition pendente lite, and [(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—

[(A) 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; and

[(B) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters

except older matters of the same character and trials pursuant to section 3161 of title 18, United States Code, and shall be in every way expedited.] *(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.*

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SEC. 11. (a) * * *

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(e) [Such proceedings in the court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited.] No order of the commission or board or judgment of the court to enforce the same shall in anywise relieve or absolve any person from any liability under the antitrust laws.

* * * * * * *

SECTION 1 OF THE ACT OF FEBRUARY 11, 1903

AN ACT To expedite the hearing and determination of suits in equity pending or hereafter brought under the Act of July second, eighteen hundred and ninety, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, or any other Acts having a like purpose that may be hereafter enacted

* * * * * * *

[SECTION 1. In any civil action brought in any district court of the United States under the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, or any other Acts having like purpose that have been or hereafter may be enacted, wherein the United States is plaintiff and equitable refief is sought, the Attorney General may file with the court, prior to the entry of final judgment, a certificate that, in his opinion, the case is of a general public importance. Upon filing of such certificate, it shall be the duty of the judge designated to hear and determine the case, or the chief judge of the district court if no judge has as yet been designated, to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.]

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SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

SEC. 5. (a)(1) * * *

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(e) [Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited.] No order of the commission or judgment of court to enforce the same shall in anywise relieve or absolve any person, partnership, or corporation from any liability under the Antitrust Acts.

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SECTION 21 OF THE FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1980

CONGRESSIONAL REVIEW OF RULES

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(f)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

[(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).]

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SECTION 11A OF THE SECURITIES EXCHANGE ACT OF 1934

NATIONAL MARKET SYSTEM FOR SECURITIES; SECURITIES INFORMATION PROCESSORS

SEC. 11A. (a) * * *

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(c)(1) * * *

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(4)[(A)] The Commission is directed to review any and all rules of national securities exchanges which limit or condition the ability of members to effect transactions in securities otherwise than on such exchanges. On or before the ninetieth day following the day of enactment of the Securities Acts Amendments of 1975, the Commission shall (i) report to the Congress the results of its review, including the effects on competition of such rules, and (ii) commence a proceeding in accordance with the provisions of section 19(c) of this title to amend any such rule imposing a burden on competition which does not appear to the Commission to be necessary or appro-

priate in furtherance of the purposes of this title. The Commission shall conclude any such proceeding within ninety days of the date of publication of notice of its commencement.

[(B) Review pursuant to section 25(b) of this title of any rule promulgated by the Commission in accordance with any proceeding commenced pursuant to subparagraph (A) of this paragraph shall, except as to causes the court considers of greater importance, take precedence on the docket over all causes and shall be assigned for consideration at the earliest practicable date and expedited in every way.]

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SMALL BUSINESS INVESTMENT ACT OF 1958

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TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

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REVOCATION AND SUSPENSION OF LICENSES; CEASE AND DESIST ORDERS

SEC. 309. (a) * * *

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(e) An order issued by the Administration under this section shall be final and conclusive unless within thrity days after the service thereof the licensee, or other person against whom an order is issued, appeals to the United States court of appeals for the circuit in which such licensee has its principal place of business by filing with the clerk of such court a petition praying that the Administration's order be set aside or modified in the manner stated in the petition. After the expiration of such thirty days, a petition may be filed only by leave of court on a showing of reasonable grounds for failure to file the petition theretofore. The clerk of the court shall immediately cause a copy of the petition to be delivered to the Administration, and the Administration shall thereupon certify and file in the court a transcript of the record upon which the order complained of was entered. If before such record is filed the Administration amends or sets aside its order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Administration. The filing for review shall not of itself stay or suspend the operation of the order of the Administration, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition. [The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.] The court may affirm, modify, or set aside the order of the Administration. If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the Administration to reopen the hearing for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Administration may

modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file its modified or new findings and the amendments, if any, of its order, with the record of such additional evidence. No objection to an order of the Administration shall be considered by the court unless such objection was urged before the Administration or, if it was not so urged, unless there were reasonable grounds for failure to do so. The judgment and decree of the court affirming, modifying, or setting aside any such order of the Administration shall be subject only to review by the Supreme Court of the United States upon certification or certiorari as provided in section 1254 of title 28, United States Code.

(f) If any licensee or other person against which or against whom an order is issued under this section fails to obey the order, the Administration may apply to the United States court of appeals, within the circuit where the licensee has its principal place of business, for the enforcement of the order and shall file a transcript of the record upon which the order complained of was entered. Upon the filing of the application the court shall cause notice thereof to be served on the licensee or other person. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as is provided in subsection (e) for applications to set aside or modify orders. [The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.]

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INJUNCTIONS AND OTHER ORDERS

SEC. 311. (a) Whenever, in the judgment of the Administration, a licensee or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, or of any rule or regulation under this Act, or of any order issued under this Act, the Administration may make application to the proper district court of the United States or a United States court of any place subject to the jurisdiction of the United States for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, rule, regulation, or order, and such courts shall have jurisdiction of such actions and, upon a showing by the Administration that such licensee or other person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order, shall be granted without bond. [The proceedings in such a case shall be made a preferred cause and shall be expedited in every way.]

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SECTION 10 OF THE ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976

JUDICIAL REVIEW

SEC. 10. (a) Notwithstanding any other provision of law, the actions of Federal officers or agencies taken pursuant to section 9 of this Act, shall not be subject to judicial review except as provided in this section.

(b)(1) Claims alleging the invalidity of this Act may be brought not later than the 60th day following the date a decision takes effect pursuant to section 8 of this Act.

(2) Claims alleging that an action will deny rights under the Constitution of the United States, or that an action is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right may be brought not later than the 60th day following the date of such action, except that if a party shows that he did not know of the action complained of, and a reasonable person acting in the circumstances would not have known, he may bring a claim alleging the invalidity of such action on the grounds stated above not later than the 60th day following the date of his acquiring actual or constructive knowledge of such action.

(c)(1) A claim under subsection (b) shall be barred unless a complaint is filed prior to the expiration of such time limits in the United States Court of Appeals for the District of Columbia acting as a Special Court. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim in any proceeding instituted prior to or on or after the date of enactment of this Act.

[(2) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court and such court shall render its decision relative to any claim within 90 days from the date such claim is brought unless such court determines that a longer period of time is required to satisfy requirements of the United States Constitution.]

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SECTION 155 OF THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966

ENFORCEMENT OF NOTIFICATION AND REMEDY ORDERS

SEC. 155. (a)[(1)] An action under section 110(a) to restrain a violation of an order issued under section 152(b), or under section 109 to collect a civil penalty with respect to a violation of such an order, or any other civil action with respect to such an order, may be brought only in the United States district court for the District of Columbia or the United States district court for a judicial dis-

trict in the State of incorporation (if any) of the manufacturer to which the order applies; unless on motion of any party the court orders a chance of venue to any other district court for good cause shown. All actions (including enforcement actions) brought with respect to the same order under section 152(b) shall be consolidated in an action in a single judicial district, in accordance with an order of the court in which the first such action is brought (or if such first action is transferred to another court, by order of such other court).

[(2) The court shall expedite the disposition of any civil action to which this subsection applies.]

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SECTION 503 OF THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

DETERMINATION OF AVERAGE FUEL ECONOMY

SEC. 503. (a) * * *
(b)(1) * * *

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(3)(A) * * *

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(E)(i) Any person adversely affected by a decision of the Secretary denying or granting an exemption pursuant to this paragraph may, not later than 30 days after publication of the notice of such decision, file a petition of review of such decision in the United States Court of Appeals for the District of Columbia. Such court shall have exclusive jurisdiction to review such decision, in accordance with section 706(2) (A) through (D) of title 5, of the United States Code, and to affirm, remand, or set aside the decision of the Secretary.

[(ii) Any such proceeding shall be assigned for a hearing and completed at the earliest possible date and shall be expedited in every possible way by such court. The court shall render its decision in any such proceeding within 60 days after the date of filing the petition for review unless the court determines that a longer period of time is necessary to satisfy the requirements of the Constitution of the United States.]

[(iii)] *(ii)* The judgment of the court affirming, remanding, or setting aside, in whole or in part, any such decision shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code. Application therefor shall be made within 30 days after entry of such judgment.

[(iv)] *(iii)* Notwithstanding any other provision of law, a decision of the Secretary on an exemption pursuant to this paragraph shall not be subject to judicial or administrative review except as provided in this paragraph.

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SECTION 23 OF THE TOXIC SUBSTANCES CONTROL ACT

SEC. 23. EMPLOYEE PROTECTION.

(a) IN GENERAL.—* * *

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(d) ENFORCEMENT.—Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages. [Civil actions brought under this subsection shall be heard and decided expeditiously.]

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SECTION 12 OF THE COASTAL ZONE MANAGEMENT IMPROVEMENT ACT OF 1980

SEC. 12. CONGRESSIONAL DISAPPROVAL PROCEDURE.

(a) * * *

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(e)(1) * * *

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[(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).]

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SECTION 11 OF THE ACT OF SEPTEMBER 28, 1976

AN ACT To provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes

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SEC. 11. The holder of any patented or unpatented mining claim subject to this act who believes he has suffered a loss by operation of this Act, or by orders or regulations issued pursuant thereto, may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution. [The court shall expedite its consideration of any claim brought pursuant to this section.]

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

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TITLE VIII—SUBSISTENCE MANAGEMENT AND USE

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JUDICIAL ENFORCEMENT

SEC. 807. (a) * * *

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[(b) A civil action filed pursuant to this section shall be assigned for hearing at the earliest possible date, shall take precedence over other matters pending on the docket of the United States district court at that time, and shall be expedited in every way by such court and any appellate court.]

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TITLE XI—TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS

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[EXPEDITED JUDICIAL REVIEW

[SEC. 1108. (a) It is the intent of Congress that any judicial review of any administrative actions, including compliance with the National Environmental Policy Act of 1969, pursuant to this title shall be expedited to the maximum extent possible.

[(b) Any proceeding before a Federal court in which an administrative action, including compliance with the National Environmental Policy Act of 1969, pursuant to this title is challenged shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way by such court, and such court shall render its final decision relative to any challenge within one hundred and twenty days from the date such challenge is brought unless such court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

[(c) 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.]

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.

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SECTION 10 OF THE CENTRAL IDAHO WILDERNESS ACT OF 1980

SEC. 10. (a) * * *

(b)(1) Any petition for review of the decision of the Secretary with regard to any of the plans and environmental statements referenced in this section, shall be filed in the United States District Court for the District of Idaho (hereinafter referred to as "the court") within thirty days after the final adminstrative decision of the Secretary required by this section, or the petition shall be barred. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with standard procedures as supplemented by procedures hereinafter provided and no other district court of the United States shall have jurisdiction over any such challenge in any proceeding instituted prior to, on, or after the date of enactment of this Act.

(2) Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding which set page limits on briefs and time limits for filing briefs and motions and other actions which are shorter than the limits specified in the Federal Rules of Civil or Appellate Procedure.

[(3) Any such proceeding before the court shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way. The court shall render its final decision relative to any challenge within one hundred and eighty days from the date such challenge is brought unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

[(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 and shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every possible way.]

(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.

TITLE 18, UNITED STATES CODE

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PART I—CRIMES

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CHAPTER 96—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

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§ 1964. Civil remedies

(a) * * *

(b) The Attorney General may institute proceedings under this section. [In any action brought by the United States under this section, the court shall proceed as soon as practicable to the hearing and determination thereof.] Pending final determination thereof, the court may at any time enter such restraining orders or

prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

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§ 1966. Expedition of actions

In any civil action instituted under this chapter by the United States in any district court of the United States, the Attorney General may file with the clerk of such court a certificate stating that in his opinion the case is of general public importance. A copy of that certificate shall be furnished immediately by such clerk to the chief judge or in his absence to the presiding district judge of the district in which such action is pending. Upon receipt of such copy, such judge shall designate immediately a judge of that district to hear and determine action. [The judge so designated shall assign such action for hearing as soon as practicable, participate in the hearings and determination thereof, and cause action to be expedited in every way.]

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FEDERAL FOOD, DRUG, AND COSMETIC ACT

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CHAPTER IV—FOOD

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TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

SEC. 408. (a) * * *

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(i)(1) In a case of actual controversy as to the validity of any order under subsection (d)(5), (e), or (l) any person who will be adversely affected by such order may obtain judicial review by filing in the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, within 60 days after entry of such order, a petition praying that the order be set aside in whole or in part.

* * * * * * *

(5) The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. [The court shall advance on the docket and expedite the disposition of all causes filed therein pursuant to this section.]

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FOOD ADDITIVES

Unsafe Food Additives

SEC. 409. (a) * * *

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Judicial Review

(g)(1) * * *

(2) A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose, and thereupon the Secretary shall file in the court the record of the proceedings on which he based his order, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm or set aside the order complained of in whole or in part. Until the filing of the record the Secretary may modify or set aside his order. The findings of the Secretary with respect to questions of fact shall be sustained if based upon a fair evaluation of the entire record at such hearing. [The court shall advance on the docket and expedite the disposition of all causes filed therein pursuant to this section.]

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SECTION 8 OF THE FOREIGN AGENTS REGISTRATION ACT OF 1938

ENFORCEMENT AND PENALTIES

SEC. 8. (a) Any person who—

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(f) Whenever in the judgment of the Attorney General any person is engaged in or about to engage in any acts which constitute or will constitute a violation of any provision of this Act, or regulations issued thereunder, or whenever any agent of a foreign principal fails to comply with any of the provisions of this Act or the regulations issued thereunder, or otherwise is in violation of the Act, the Attorney General may make application to the appropriate United States district court for an order enjoining such acts or enjoining such person from continuing to act as an agent of such foreign principal, or for an order requiring compliance with any appropriate provision of the Act or regulation thereunder. The district court shall have jurisdiction and authority to issue a temporary or permanent injunction, restraining order or such other which it may deem proper. [The proceedings shall be made a preferred cause and shall be expedited in every way.]

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SECTION 4 OF THE ACT OF DECEMBER 22, 1974

AN ACT To authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip

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SEC. 4. [(a)] If the negotiating teams fail to reach full agreement within the time period allowed in subsection (a) of section 3 or if one or both of the tribes are in default under the provisions of subsections (b) or (d) of section 2, the Mediator, within ninety days thereafter, shall prepare and submit to the District Court a report containing his recommendations for the settlement of the interests and rights set out in subsection (a) of section 1 which shall be most reasonable and equitable in light of the law and circumstances and consistent with the provisions of this Act. Following the District Court's review of the report and recommendations (which are not binding thereon) and any further proceedings which the District Court may schedule, the District Court is authorized to make a final adjudication, including partition of the joint use area, and enter the judgments in the supplemental proceedings in the Healing case.

[(b) Any proceedings as authorized in subsection (a) hereof shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the District Court at that time, and shall be expedited in every way by the Court.]

INTERNAL REVENUE CODE OF 1954

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Subtitle C—Employment Taxes

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CHAPTER 23—FEDERAL UNEMPLOYMENT TAX ACT

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SEC. 3310. JUDICIAL REVIEW.

(a) IN GENERAL.—* * *

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[(e) PREFERENCE.—Any judicial proceedings under this section shall be entitled to, and, upon request of the Secretary of Labor or the State, shall receive a preference and shall be heard and determined as expeditiously as possible.]

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Subtitle F—Procedure and Administration

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CHAPTER 61—INFORMATION AND RETURNS

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Subchapter B—Miscellaneous Provisions

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SEC. 6110. PUBLIC INSPECTION OF WRITTEN DETERMINATIONS.

(a) GENERAL RULE.—* * *

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(f) RESOLUTION OF DISPUTES RELATING TO DISCLOSURE.—

(1) * * *

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(5) EXPEDITION OF DETERMINATION.—The Tax Court shall make a decision with respect to any petition described in paragraph (3) at the earliest practicable date [and the Court of Appeals shall expedite any review of such decision in every way possible].

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CHAPTER 64—COLLECTION

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Subchapter E—Collection of State Individual Income Taxes

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SEC. 6363. STATE AGREEMENTS; OTHER PROCEDURES.

(a) STATE AGREEMENT.—* * *

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(d) JUDICIAL REVIEW.—

(1) IN GENERAL.—

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[(40 PREFERENCE.—Any judicial proceedings under this section shall be entitled to and, upon request of the Secretary or the State, shall receive a preference and shall be heard and determined as expeditiously as possible.]

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CHAPTER 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

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Subchapter A—Examination and Inspection

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SEC. 7609. SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.

(a) NOTICE.—* * *

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(h) JURISDICTION OF DISTRICT COURT; ETC.—

(1) JURISDICTION.—The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceeding brought under subsection (b)(2), (f), or (g). An order denying the petition shall be deemed a final order which may be appealed.

(2) SPECIAL RULE FOR PROCEEDINGS UNDER SUBSECTIONS (f) AND (g).—The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely on the petition and supporting affidavits.

[(3) PRIORITY.—Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, takes precedence on the docket over all other cases and shall be assigned for hearing and decided at the earliest practicable date.]

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Subtitle H—Financing of Presidential Election Campaigns

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CHAPTER 95—PRESIDENTIAL ELECTION CAMPAIGN FUND

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SEC. 9010. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

(a) APPEARANCE BY COUNSEL.—* * *

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(c) DECLARATORY AND INJUNCTIVE RELIEF.—The Commission is authorized through attorneys and counsel described in subsection (a) to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter covered by the provisions of this subtitle or section 6096. Upon application of the Commission, an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. [It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.]

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SEC. 9011. JUDICIAL REVIEW.

(a) REVIEW OF CERTIFICATION, DETERMINATION, OR OTHER ACTION BY THE COMMISSION.—Any certification, determination, or other action by the Commission made or taken pursuant to the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia upon petition filed in such Court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after the certification,

determination, or other action by the Commission for which review is sought.

(b) SUITS TO IMPLEMENT CHAPTER.—

(1) The Commission, the national committee of any political party, and individuals eligible to vote for President are authorized to institute such actions, including actions for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provision of this chapter.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise the same without regard to whether a person asserting rights under provisions of this subsection shall have exhausted any administrative or other remedies that may be provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. [It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.]

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SECTION 10 OF THE ACT OF MARCH 23, 1932

AN ACT To amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes

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SEC. 10. Whenever any court of the United States shall issue or deny any temporary injunction in a case involving or growing out of a labor dispute, the court shall, upon the request of any party to the proceedings and on his filing the usual bond for costs, forthwith certify as in ordinary cases the record of the case to the circuit court of appeals for its review. Upon the filing of such record in the circuit court of appeals, the appeal shall be heard and the temporary injunctive order affirmed, modified, or set aside [with the greatest possible expedition, giving the proceedings procedence over all other matters except older matters of the same character] *expeditiously.*

SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT

PREVENTION OF UNFAIR LABOR PRACTICES

SEC. 10. (a) * * *

[(i) Petitions filed under this Act shall be heard expeditiously, and if possible within ten days after they have been docketed.]

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SECTION 11 OF THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

JUDICIAL REVIEW

SEC. 11. (a) Any person adversely affected or aggrieved by an order of the Commission issued under subsection (c) of section 10 may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or where the employer has its principal office, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within sixty days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to the other parties, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Commission. No objection that has not been urged before the Commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. [Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.]

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SECTION 4003 OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

INVESTIGATORY AUTHORITY; COOPERATION WITH OTHER AGENCIES; CIVIL ACTIONS

SEC. 4003. (a) * * *

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(e)(1) * * *

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[(4) Upon application by the corporation to a court of the United States for expedited handling of any case in which the corporation is a party, it is the duty of that court to assign such case for hearing at the earliest practical date and to cause such case to be in every way expedited.]

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SECTION 106 OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

JUDICIAL REVIEW

SEC. 106. (a)(1) Any person adversely affected or aggrieved by an order of the Commission issued under this Act may obtain a review of such order in any United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in the United States Court of Appeals for the District of Columbia Circuit, by filing in such court within 30 days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to the other parties, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have exclusive jurisdiction of the proceeding and of the questions determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside, in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be made a part of the record. The Commission may modify its findings as to the facts, or make new

findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Commission may modify or set aside its original order by reason of such modified or new findings of fact. Upon the filing of the record after such remand proceedings, the jurisdiction of the court shall be exclusive and its judgment and degree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. [Petitions filed under this subsection shall be heard expeditiously.]

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SECTION 1016 OF THE IMPOUNDMENT CONTROL ACT OF 1974

SUITS BY COMPTROLLER GENERAL

SEC. 1016. If, under section 1012(b) or 1013(b), budget authority is required to be made available for obligation and such budget authority is not made available for obligation, the Comptroller General is hereby expressly empowered, through attorneys of his own selection, to bring a civil action in the United States District Court for the District of Columbia to require such budget authority to be made available for obligation, and such court is hereby expressly empowered to enter in such civil action, against any department, agency, officer, or employee of the United States, any decree, judgment, or order which may be necessary or appropriate to make such budget authority available for obligation. [The courts shall give precedence to civil actions brought under this section, and to appeals and writs from decisions in such actions, over all other civil actions, appeals, and writs.] No civil action shall be brought by the Comptroller General under this section until the expiration of 25 calendar days of continuous session of the Congress following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated has been filed with the Speaker of the House of Representatives and the President of the Senate.

SECTION 2022 OF TITLE 38, UNITED STATES CODE

§ 2022. Enforcement procedures

If any employer, who is a private employer of a State or political subdivision thereof, fails or refuses to comply with the provisions of section 2021 (a), (b)(1), or (b)(3), or section 2024, the district court of the United States for any district in which such private employer maintains a place of business, or in which such State or political subdivision thereof exercises authority or carries out its functions, shall have the power, upon the filing of a motion, petition, or other appropriate pleading by the person entitled to the benefits of such provisions, specifically to require such employer to comply with such provisions and to compensate such person for any loss of

wages or benefits suffered by reason of such employer's unlawful action. Any such compensation shall be in addition to and shall not be deemed to diminish any of the benefits provided for in such provisions. [The court shall order speedy hearing in any such case and shall advance it on the calendar.] Upon application to the United States attorney or comparable official for any district in which such private employer maintains a place of business, or in which such State or political subdivision thereof exercises authority or carries out its functions, by any person claiming to be entitled to the benefits provided for in such provisions, such United States attorney or official, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the amicable adjustment of the claim or in the filing of any motion, petition, or other appropriate pleading and the prosecution thereof specifically to require such employer to comply with such provisions. No fees or court costs shall be taxed against any person who may apply for such benefits. In any such action only the employer shall be deemed a necessary party respondent. No State statute of limitations shall apply to any proceedings under this chapter.

SECTION 3628 OF TITLE 39, UNITED STATES CODE

§ 3628. Appellate review

A decision of the Governors to approve, allow under protest, or modify the recommended decision of the Postal Rate Commission may be appealed to any court of appeals of the United States, within 15 days after its publication by the Public Printer, by an aggrieved party who appeared in the proceedings under section 3624(a) of this title. The court shall review the decision, in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, except as otherwise provided in this section, on the basis of the record before the Commission and the Governors. The court may affirm the decision or order that the entire matter be returned for further consideration, but the court may not modify the decision. [The court shall make the matter a preferred cause and shall expedite judgment in every way.] The court may not suspend the effectiveness of the changes, or otherwise prevent them from taking effect until final disposition of the suit by the court. No court shall have jurisdiction to review a decision made by the Commission or Governors under this chapter except as provided in this section.

SECTION 1450 OF THE PUBLIC HEALTH SERVICE ACT

GENERAL PROVISIONS

SEC. 1450. (a) * * *

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(i)(1) * * *

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(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. [Civil actions filed under this paragraph shall be heard and decided expeditiously.]

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SECTION 304 OF THE SOCIAL SECURITY ACT

JUDICIAL REVIEW

SEC. 304. (a) * * *

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[(3) Any judicial proceedings under this section shall be entitled to, and, upon request of the Secretary or the State, shall receive a preference and shall be heard and determined as expeditiously as possible.]

SECTION 2004 OF THE REVISED STATUTES

VOTING RIGHTS

SEC. 2004. (a) * * *

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(e) In any proceeding instituted pursuant to subsection (c) in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a), the court shall upon request of the Attorney General and after each party has been given notice and the opportunity to be heard make a finding whether such deprivation was or is pursuant to a pattern or practice. If the court finds such pattern or practice, any person of such race or color resident within the affected area shall, for one year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote, upon proof that at any election or elections (1) he is qualified under State law to vote, and (2) he has since such finding by the court been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. Such order shall be effective as to any election held within the longest period for which such applicant could have been registered or otherwise qualified under State law at which the appication's qualifications would under State law entitle him to vote.

Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any such election. The Attorney General shall cause to be transmitted certified copies of such order to the appropriate election officers. The refusal by any

such officer with notice of such order to permit any person so declared qualified to vote to vote at an appropriate election shall constitute contempt of court.

[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] *the execution of an order disposing of an application pursuant to this subsection* shall not be stayed if the effect of such stay would be to delay the effectiveness of the order beyond the date of any election at which the applicant would otherwise be enabled to vote.

The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees, who shall subscribe to the oath of office required by Revised Statutes, section 1757; (5 U.S.C. 16) to serve for such period as the court shall determine, to receive such applications and to take evidence and report to the court findings as to whether or not at any election or elections (1) any such applicant is qualified under State law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. In a proceeding before a voting referee, the applicant shall be heard ex parte at such times and places as the court shall direct. His statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court.

Upon receipt of such report, the court shall cause the Attorney General to transmit a copy thereof to the State attorney general and to each party to such proceeding together with an order to show cause within ten days, or such shorter time as the court may fix, why an order of the court should not be entered in accordance with such report. Upon the expiration of such period, such order shall be entered unless prior to that time there has been filed with the court and served upon all parties a statement of exceptions to such report. Exceptions as to matters of fact shall be considered only if supported by a duly verified copy of a public record or by affidavit of persons having personal knowledge of such facts or by statements or matters contained in such report; those relating to matters of law shall be supported by an appropriate memorandum of law. The issues of fact and law raised by such exceptions shall be determined by the court or, if the due and speedy administration of justice requires, they may be referred to the voting referee to determine in accordance with procedures prescribed by the court. A hearing as to an issue of fact shall be held only in the event that the proof in support of the exception disclose the existence of a genuine issue of material fact. The appicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.

The court, or at its direction the voting referee, shall issue to each applicant so declared qualified a certificate identifying the holder thereof as a person so qualified.

Any voting referee appointed by the court pursuant to this subsection shall to the extent not inconsistent herewith have all the powers conferred upon a master by rule 53(c) of the Federal Rules of Civil Procedure. The compensation to be allowed to any persons appointed by the court pursuant to this subsection shall be fixed by the court and shall be payable by the United States.

[Applications pursuant to this subsection shall be determined expeditiously.] In the case of any application filed twenty or more days prior to an election which is undetermined by the time of such election, the curt shall issue an order authorizing the applicant to vote provisionally: *Provided, however,* That such applicant shall be qualified to vote under State law. In the case of an application filed within twenty days prior to an election, the court, in its discretion, may make such an order. In either case the order shall make appropriate provision for the impounding of the applicant's ballot pending determination of the application. The court may take any other action, and may authorize such referee or such other person as it may designate to take any other action, appropriate or necessary to carry out the provisions of this subsection and to enforce its decrees. This subsection shall in no way be construed as a limitation upon the existing powers of the court.

When used in the subsection, the word "vote" includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words "affected area" shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a); and the words "qualified under State law" shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

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(g) In any proceeding instituted by the United States in any district court of the United States under this section in which the Attorney General requests a finding of a pattern or practice of discrimination pursuant to subsection (e) of this section the Attorney General, at the time he files the complaint, or any defendant in the proceeding, within twenty days after service upon him of the complaint, may file with the clerk of such court a request that a court of three judges be convened to hear and determine the entire case. A copy of the request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the

duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted to hear and determine such case, and it shall be the duty of the judges so designated [to assign the case for hearing at the earliest practicalbe date,] to participate in the hearing and determination thereof[, and to cause the case to be in every way expedited]. An appeal from the final judgment of such court will lie to the Supreme Court.

In any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section, or in the event neither the Attorney General nor any defendant files a request for a three-judge court in any proceeding authorized by this subsection, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or, in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

[It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.]

VOTING RIGHTS ACT OF 1965

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TITLE I—VOTING RIGHTS

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SEC. 10. (a) * * *

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(c) The district courts of the United States shall have jurisdiction of such actions which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case[, to assign the case for hearing at the earliest practicable date,] and to participate in the hearing and determination thereof[, and to cause the case to be in every way expedited].

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TITLE III—EIGHTEEN-YEAR-OLD VOTING AGE

ENFORCEMENT OF TWENTY-SIXTH AMENDMENT

SEC. 301. (a)(1) The Attorney General is directed to institute, in the name of the United States, such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the twenty-sixth article of amendment to the Constitution of the United States.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted under this title, which shall be heard and determined by a court of three judges in accordance with section 2284 of title 28 of the United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof[, and to cause the case to be in every way expedited].

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CIVIL RIGHTS ACT OF 1964

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TITLE II—INJUNCTIVE RELIEF AGAINST DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION

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SEC. 206. (a) * * *

(b) In any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated[, to assign the case for hearing at the earliest practicable date,] to participate in the hearing and determination thereof[, and to cause the case to be in every way expedited]. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the dis-

trict, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

[It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.]

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TITLE VII—EQUAL EMPLOYMENT OPPORTUNITY

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PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 706. (a) * * *

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(f)(1) * * *

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(2) Whenever a charge is filed with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure. [It shall be the duty of a court having jurisdiction over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.]

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[(5) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. If such judge has not scheduled the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedures.]

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

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SEC. 707. (a) * * *

(b) The district courts of the United States shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, and in any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the cast is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately

furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated [to assign the case for hearing at the earliest practicable date,] to participate in the hearing and determination thereof[, and to cause the case to be in every way expedited]. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and detemine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

[It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.]

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SECTION 814 OF THE ACT OF APRIL 11, 1968

AN ACT To prescribe penalties for certain acts of violence or intimidation, and for other purposes

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[EXPEDITION OF PROCEEDINGS

[SEC. 814. Any court in which a proceeding is instituted under section 812 or 813 of this title shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.]

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ACT OF DECEMBER 12, 1980

AN ACT Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR LAND AND WATER RESOURCES

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ENERGY AND MINERALS

GEOLOGICAL SURVEY

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EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA

For necessary expenses of carrying out the provisions of section 104 of Public Law 94-258, and for conducting hereafter and with funds appropriated by this Act and by subsequent appropriation Acts, notwithstanding any other provision of law and pursuant to such rules and regulations as the Secretary may prescribe, an expeditious program of competitive leasing of oil and gas in the National Petroleum Reserve in Alaska, $107,001,000, to remain available until expended: *Provided,* That (1) activities undertaken pursuant to this Act shall include or provide for such conditions, restrictions, and prohibitions as the Secretay deems necessary or appropriate to mitigate reasonably forseeeable and significantly adverse effects on the surface resources of the National Petroleum Reserve in Alaska (the Reserve); (2) the provisions of section 202 and section 603 of the Federal Lands Policy and Management Act of 1976 (90 Stat. 2743) shall not be applicable to the Reserve; (3) the first lease sale shall be conducted within twenty months of the date of enactment of this Act: *Provided,* That the first lease sale shall be conducted only after publication of a final environmental impact statement if such is deemed necessary under the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4332); (4) the withdrawals established by section 102 of Public Law 94-258 are rescinded for the purposes of the oil and gas leasing program authorized herein; (5) bidding systems used in lease sales shall be based on bidding systems included in section 205(a)(1) (A) through (H) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629); (6) lease tracts may encompass identified geological structures; (7) the size of lease tracts may be up to sixty thousand acres, as determined by the Secretary; (8) each lease shall be issued for an initial period of up to ten years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities, or as drilling or reworking operations, as approved by the Secretary, are conducted thereon; and (9) all receipts from sales, rentals, bonuses, and royalties on leases issued pursuant to this Act shall be paid into the Treasury of the United States: *Provided,* That 50 per centum thereof shall be paid by the Secretary of the Treasury semiannually, as soon as practicable after March 30 and September 30 each year, to the State of Alaska for (a) planning, (b) construction, maintenance, and operation of essential public facilities, and (c) other necessary provisions of public service: *Provided further,* That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act.

Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the National Petroleum Reserve in Alaska which do not interfere with operations under any contract maintained or granted previously. Any information acquired in such explorations shall be subject to the conditions of 43 U.S.C. 1352(a)(1)(A).

Any action seeking judicial review of the adequacy of any program or site-specific environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) concerning oil and gas leasing in the National Petroleum Reserve-Alaska shall be barred unless brought in the appropriate District Court within 60 days after notice of the availability of such statement is published in the Federal Register. [Any proceeding on such action shall be assigned for hearing at the earliest possible date and shall be expedited by such Court.]

The detailed environmental studies and assessments that have been conducted on the exploration program and the comprehensive land-use studies carried out in response to sections 105 (b) and (c) of Public Law 94-258 shall be deemed to have fulfilled the requirements of section 102(2)(c) of the National Environmental Policy Act (Public Law 91-190), with regard to the first two oil and gas lease sales in the National Petroleum Reserve-Alaska: *Provided,* That not more than a total of 2,000,000 acres may be leased in these two sales: *Provided further,* That any exploration or production undertaken pursuant to this section shall be in accordance with section 104(b) of the Naval Petroleum Reserves Production Act of 1976 (90 Stat. 304; 42 U.S.C. 6504).

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SECTION 214 OF THE EMERGENCY ENERGY CONSERVATION ACT OF 1979

SEC. 214. JUDICIAL REVIEW.

(a) STATE ACTIONS.—* * *

[(b) COURT OF APPEALS DOCKET.—It shall be the duty of the court of appeals to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under subsection (a)(2).]

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SECTION 2 OF THE ACT OF FEBRUARY 25, 1885

AN ACT To prevent unlawful occupancy of the public lands

* * * * * * *

SEC. 2. That it shall be the duty of the district attorney of the United States for the proper district, on affidavit filed with him by any citizen of the United States that section one of this act is being violated showing a description of the land inclosed with reasonable certainty, not necessarily by metes and bounds nor by Governmental sub-divisions of surveyed lands, but only so that the inclosure may be identified, and the persons guilty of the violation as nearly

as may be, and by description, if the name cannot on reasonable inquiry be ascertained, to institute a civil suit in the proper United States district or circuit court, or territorial district court, in the name of the United States, and against the parties named or described who shall be in charge of or controlling the inclosure complained of as defendants; and jurisdiction is also hereby conferred on any United States district or circuit court or territorial district court having jurisdiction over the locality where the land inclosed, or any part thereof, shall be situated, to hear and determine proceedings in equity, by writ of injunction, to restrain violations of the provisions of this act; and it shall be sufficient to give the court jurisdiction if service of original process be had in any civil proceeding on any agent or employee having charge or control of the inclosure[; 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]. In any case if the inclosure shall be found to be unlawful, the court shall make the proper order, judgment, or decree for the destruction of the inclosure, in a summary way, unless the inclosure shall be removed by the defendant within five days after the order of the court.

SECTION 23 OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 23. CITIZEN SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—(a) * * *

* * * * * * *

[(d) Except as to causes of action which the court considers of greater importance, any action under this section shall take precedence on the docket over all other causes of action and shall be set for hearing at the earliest practical date and expedited in every way.]

SECTION 511 OF THE PUBLIC UTILITIES REGULATORY POLICIES ACT OF 1978

SEC. 511. JUDICIAL REVIEW.

(a) NOTICE.—The President or any other Federal officer shall cause notice to be published in the Federal Register and in newspapers of general circulation in the areas affected whenever he makes any decision described in subsection (b).

(b) REVIEW OF CERTAIN FEDERAL ACTIONS.—Any action seeking judicial review of an action or decision of the President or any other Federal officer taken or made after the date of the enactment of this Act concerning the approval or disapproval of a crude oil transportation system or the issuance of necessary rights-of-way, permits, leases and other authorizations for the construction, operation and maintenance of the Long Beach-Midland project or a crude oil transportation system approved under section 507(a) may only be brought within 60 days after the date on which notification of the action or decision of such officer is published in the Federal

Register, or in newspapers of general circulation in the areas affected whichever is later.

(c) JURISDICTION OF COURTS.—An action under subsection (b) shall be barred unless a petition is filed within the time specified. Any such petition shall be filed in the appropriate United States district court. A copy of such petition shall be transmitted by the clerk of such court to the Secretary. Notwithstanding the amount in controversy such court shall have jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided and to provide appropriate relief. No State or local court shall have jurisdiction of any such claim whether in a proceeding instituted before, on or after the date this title becomes effective. [Any such proceeding shall be assigned for hearing at the earliest possible date and shall be expedited by such court.] No court shall have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization in connection with a crude oil transportation system approved under section 507(a) or the Long Beach-Midland project, except as part of a final judgment entered in a case involving a claim filed pursuant to this section.

SECTION 203 OF THE TRANS-ALASKA PIPELINE AUTHORIZATION ACT

TITLE II

* * * * * * *

CONGRESSIONAL AUTHORIZATION

SEC. 203. (a) * * *

* * * * * * *

(d) The actions taken pursuant to this title which relate to the construction and completion of the pipeline system, and to the applications filed in connection therewith necessary to the pipeline's operation at full capacity, as described in the Final environmental Impact Statement of the Department of the Interior, shall be taken without further action under the National Environmental Policy Act of 1969; and the actions of the Federal officers concerning the issuance of the necessary rights-of-way, permits, leases, and other authorizations for construction and initial operation at full capacity of said pipeline system shall not be subject to judicial review under any law except that claims alleging the invalidity of this section may be brought within sixty days following its enactment, and claims alleging that an action will deny rights under the Constitution of the United States, or that the action is beyond the scope of authority conferred by this title, may be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of the enactment of this Act. [Any such

proceeding shall be assigned for hearing at the earliest possible date, shall take precedenace over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court.] Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

SECTION 5 OF THE RAILROAD UNEMPLOYMENT INSURANCE ACT

CLAIMS FOR BENEFITS

SEC. 5. (a) * * *

* * * * * * *

(f) Any claimant, or any railway labor organization organized in accordance with the provisions of the Railway Labor Act, of which claimant is a member, or any other party aggrieved by a final decision under subsection (c) of this section, may, only after all administrative remedies within the Board will have been availed of and exhausted, obtain a review of any final decision of the Board by filing a petition for review within ninety days after the mailing of notice of such decision to the claimant or other party, or within such further time as the Board may allow, in the United States court of appeals for the circuit in which the claimant or other party resides or will have had his principal place of business or principal executive office, or in the United States Court of Appeals for the Seventh Circuit or in the United States court of Appeals for the District of Columbia. A copy of such petition, together with initial process, shall forthwith be served upon the Board or any officer designated by it for such purpose. Service may be made upon the Board by registered mail addressed to the Chairman. Within thirty days after receipt of service, or within such additional time as the court may allow, the Board shall file with the court in which such petition has been filed the record upon which the findings and decision complained of are based, as provided in section 212 of title 28, United States Code. Upon the filing of such petition the court shall have exclusive jurisdiction of the proceding and of the question determined therein], and shall give precedence in the adjudication thereof over all other civil cases not otherwise entitled by a law to precedence]. It shall have power to enter a decree affirming, modifying, or reversing the decision of the Board, with or without remanding the cause for rehearing. The findings of the Board as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive. No additional evidence shall be received by the court, but the court may order additional evidence to be taken before the Board, and the Board may, after hearing such additional evidence, modify its findings of fact and conclusions and file such additional or modified findings and conclusions with the court, and the Board shall file with the court the additional record.

The judgment and decree of the court shall be final, subject to review as in equity cases.

An applicant for review of a final decision of the Board concerning a claim for benefits shall not be liable for costs, including costs of service, or costs of printing records, except the costs may be assessed by the court against such applicant if the court determines that the proceedings for such review have been instituted or continued without reasonable ground.

* * * * * * *

SECTION 124 OF THE ROCK ISLAND TRANSITION AND EMPLOYEE ASSISTANCE ACT

JUDICIAL REVIEW

SEC. 124. (a) Notwithstanding any other provision of law, any appeal from—

(1) any decision of the bankruptcy court with respect to the constitutionality of any provision of this Act; and

(2) any decision of the court having jurisdiction over the reorganization of the Milwaukee Railroad with respect to the constitutionality of the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.),

shall be taken to the United States Court of Appeals for the Seventh Circuit.

(b) If appeals are taken from decisions described in subsection (a) of this section involving section 106 or 110 of this title or section 9 or 15 of the Milwaukee Railroad Restructuring Act, the court of appeals shall determine such appeals in a consolidated proceeding, sitting en banc[, and shall render a final decision no later than 60 days after the date the last such appeal is filed.].

* * * * * * *

SECTION 402 OF THE COMMUNICATIONS ACT OF 1934

TITLE IV—PROCEDURAL AND ADMINISTRATIVE PROVISIONS

* * * * * * *

PROCEEDINGS TO ENJOIN, SET ASIDE, ANNUL, OR SUSPEND ORDERS OF THE COMMISSION

SEC. 402. (a) * * *

* * * * * * *

(g) [At the earliest convenient time the] *The* court shall hear and determine the appeal upon the record before it in the manner prescribed by section [10(e) of the Administrative Procedure Act.] 706 of title 5, United States Code.

* * * * * * *

SECTION 13A OF THE SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950

PROCEEDINGS WITH RESPECT TO COMMUNIST-INFILTRATED ORGANIZATIONS

SEC. 13A. (a) Whenever the Attorney General has reason to believe that any organization is a Communist-infiltrated organization, he may file with the Board and serve upon such organization a petition for a determination that such organization is a Communist-infiltrated organization. In any proceeding so instituted, two or more affiliated organizations may be named as joint respondents. Whenever any such petition is accompanied by a certificate of the Attorney General to the effect that the proceeding so instituted is one of exceptional public importance, such proceeding shall be set for hearing at the earliest possible time and all proceedings therein before the Board [or any court] shall be expedited to the greatest practicable extent. A dissolution of such organization subsequent to the date of the filing of any petition for a determination that it is Communist-infiltrated, shall not moot or abate the proceedings, but the Board shall receive evidence and proceed to a determination of the issues: *Provided, however,* That if the Board shall determine such organization to be a Communist-infiltrated organization as of the time of the filing of such petition and prior to its alleged dissolution, and shall find that a dissolution of the organization has in fact occurred, the Board shall enter an order determining such organization to be a Communist-infiltrated organization and the Board shall include it as such in the appropriate records maintained pursuant to section 9 of this title, together with a notation of its dissolution.

SECTION 12 OF THE MILITARY SELECTIVE SERVICE ACT OF 1967

PENALTIES

SEC. 12. (a) Any member of the Selective Service System or any other person charged as herein provided with the duty of carrying out any of the provisions of this title, or the rules or regulations made or directions given thereunder, who shall knowingly fail or neglect to perform such duty, and any person charged with such duty, or having and exercising any authority under said title, rules, regulations, or directions who shall knowingly make, or be a party to the making, of any false, improper, or incorrect registration, classification, physical or mental examination, deferment, induction, enrollment, or muster, and any person who shall knowingly, make, or be a party to the making of, any false statement or certificate regarding or bearing upon a classification or in support of any request for a particular classification, for service under the provisions of this title, or rules, regulations, or directions made pursuant thereto, or who otherwise evades or refuses registration or service in the armed forces or any of the requirements of this title, or who knowingly counsels, aids, or abets another to refuse or evade registration or service in the armed forces or any of the requirements of this title, or of said rules, regulations, or directions, or who in any manner shall knowingly fail or neglect to refuse to perform any duty required of him under or in the execution of this

title, or rules, regulations, or directions made pursuant to this title, or any person or persons who shall knowingly hinder or interfere to attempt to do so in any way, by force or violence or otherwise, with the administration of this title or the rules or regulations made pursuant thereto, or who conspires to commit any one or more of such offenses, shall, upon conviction in any district court of the United States of competent jurisdiction, be punished by imprisonment for not more than five years or a fine of not more than $10,000, or by both such fine and imprisonment, or if subject to military or naval law may be tried by court martial, and, on conviction, shall suffer such punishment as a court martial may direct. No person shall be tried by court martial, and, on conviction, shall suffer such punishment as a court martial may direct. No person shall be tried by court martial in any case arising under this title unless such person has been actually inducted for the training and service prescribed under this title or unless he is subject to trial by court martial under laws in force prior to the enactment of this title. [Precedence shall be given by courts to the trial of cases arising under this title, and such cases shall be advanced on the docket for immediate hearing, and an appeal from the decision or decree of any United States district court of United States court of appeals shall take precedence over all other cases pending before the court to which the case has been referred.]

* * * * * * *

SECTION 4 OF THE ACT OF JULY 2, 1948

AN ACT To authorize the Attorney General to adjudicate certain claims resulting from evacuation of certain persons of Japanese ancestry under military orders

* * * * * * *

SEC. 4. (a) * * *

(b) The Court of Claims shall have jurisdiction to determine any claim timely filed under this Act. A petition for the determination of a claim by the Court of Claims shall be filed with the clerk of the said court and a copy of the petition shall be served upon the Attorney General by registered mail. Such a petition may be filed at any time after enactment of this subsection except that it must be filed within ninety days after the date of a notice by the Attorney General served on the claimant by registered mail that no further consideration will be given to the compromise of the claim. Upon the timely filing and serving of such petition, the Court of Claims shall have jurisdiction to hear and determine said claim in the same manner and under the same rules as any other cause properly before it and applying rules of equity and justice. Upon being served with a copy of such petition, the Attorney General shall forthwith certify and transmit to the clerk of the Court of Claims the original statement of the claim and any requested amendments thereto for filing with the said clerk as a preliminary record in the case. [Such petition shall, to the fullest practicable extent, be treated for docketing, hearing, and determination as if the petition had been filed with the Court of Claims on the date the original claim was received by the Attorney General: *Provided, however,* That no such petition shall have precedence by reason

hereof over petitions involving interest-bearing obligations of the United States.]

* * * * * * *

Appendix A

SPECIAL COURT,
REGIONAL RAIL REORGANIZATION ACT OF 1973,
New York, N.Y., July 12, 1982.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN KASTENMEIER: I have been asked by Mr. David W. Beier of your subcommittee staff to comment regarding a bill you introduced (H.R. 2406) to convert the mandatory appellate jurisdiction of the Supreme Court to discretionary review by certiorari. As developed below, certain decisions of the Special Court established under the Regional Rail Reorganization Act of 1973 ("Rail Act") are reviewable by direct appeal to the Supreme Court. H.R. 2406 as it presently reads does not affect these provisions.

For some years, the Special Court has been comprised of Judge John Minor Wisdom, Judge Roszel C. Thomsen and myself. We have exercised the jurisdiction described in §§ 209, 303, 305, and 306 of the Rail Act, 45 U.S.C. §§ 719, 743, 745, and 746. In May of this year the Judicial Panel on Multidistrict Litigation assigned Judges Oliver Gasch, William B. Bryant and Charles R. Weiner as three additional judges to the Special Court to exercise the jurisdiction found in § 1152 of NRSA, 45 U.S.C. § 1105. The court is now divided into two separate panels of three judges each. The General Panel continues to exercise the jurisdiction established by the Rail Act while the § 1152 Panel exercises jurisdiction over cases arising under NRSA.

Actions of the Special Court are reviewable only by the Supreme Court. The provisions for review of final orders on most matters within the Court's jurisdiction are found in two separate statutory provisions, § 209(e)(3) of the Rail Act, 45 U.S.C. 719(e)(3) and § 1152(b) of the Northeast Rail Service Act of 1981 ("NRSA"), 45 U.S.C. 1105(b). Both of these subsections provide for review of a final order or judgment of the Special Court by certiorari except that review is by direct appeal where the court enjoins the enforcement of or determines that the Rail Act or NRSA, or any provision thereof, is unconstitutional. These provisions are generally in accord with the provisions of 28 U.S.C. § 1252 except that they are not limited to proceedings in which the United States, its officers, agencies or employees are parties. Since the United States almost always becomes party to such a proceeding as a result of action under 28 U.S.C. § 2403, the difference is not material. As your committee is proposing to repeal 28 U.S.C. § 1252, I assume that the

exceptions in § 209(e)(3) and § 1152(b) of the Rail Act should likewise be repealed in the interest of consistency, although the Special Court has not yet found an act of Congress unconstitutional.

A third statutory provision, § 303(d) of the Rail Act, 45 U.S.C. § 743(d), provides that a finding or determination of the Special Court regarding the valuation of rail properties conveyed pursuant to § 303 may be appealed directly to the Supreme Court. The second sentence of that subsection further provides that:

> The Supreme Court shall dismiss any such appeal within 7 days after the entry of such an appeal if it determines that such an appeal would not be in the interest of an expeditious conclusion of the proceedings and shall grant the highest priority to the determination of any such appeals which it determines not to dismiss.

There are many difficulties with this provision. One is that it is not limited to final judgments. Counsel have been fearful, unnecessarily in our view but understandably in light of the stakes, that failure to appeal an interlocutory order might preclude its later review on appeal from the final judgment. Hence in some instances they have taken appeals from interlocutory orders but have asked at the same time that the appeal be dismissed. A greater difficulty is the provision requiring the Supreme Court to act within 7 days if it thinks that an appeal would not be in the interest of an expeditious conclusion of the proceedings. I understand that the Chief Justice has established procedures in the office of the Clerk of the Supreme Court to spot such appeals as soon as they are entered. Still we have been concerned that 7 days might elapse, especially during the Court's summer recess, before a quorum of the Court could be assembled. Accordingly we have sometimes postponed the effective date of decisions that could have been rendered in July or August until September or October.

We see no reason why review under § 303(d) should not be by certiorari. These are essentially eminent domain proceedings; judgments of the courts of apeals in such proceedings are subject to Supreme Court review only by certiorari. To be sure, in such cases there has already been one review as of right, to wit, of the district judge by a three judge panel of a court of appeals. But here the initial determination has been made by three judges. If review is solely by certiorari it will be unnecessary to grapple with the interlocutory order problem, which can be left to the Supreme Court's discretion. In point of fact we are nearing the end of the valuation process with all but two of the transferor railroads now having settled as a result of the proceedings the Special Court has conducted. While this might suggest leaving things as they are, we believe that § 303(d) of the Rail Act, 45 U.S.C. 743(d) should be 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 writ of certiorari to the Supreme Court of the United States. Such review is exclusive and any petition

shall be filed not more than 20 days after entry of finding or determination.

Sincerely yours,

HENRY J. FRIENDLY.

Appendix B

SUPREME COURT OF THE UNITED STATES,
Washington, D.C., June 17, 1982.

Re H.R. 2406.

DEAR CONGRESSMAN KASTENMEIER: In response to your invitation, we write to express our complete support for the proposals contained in H.R. 2406 substantially to eliminate the Supreme Court's mandatory jurisdiction. A letter to this effect was signed by all the members of the Court on June 22, 1978. Your invitation enables us again to renew our request for elimination of the Court's mandatory jurisdiction.

We endorse H.R. 2406 without reservation and urge the Congress its prompt enactment. Our reasons are similar to those presented to the Senate on June 20, 1978 by Solicitor General Wade McCree, Assistant Attorney General Daniel J. Meador, Professor Eugene Gressman and others. We also agree with the Freund Committee's recommendation urging the elimination of the Supreme Court's mandatory jurisdiction; that report was presented to your subcommittee in the summer of 1977 during the hearings held on the State of the Judiciary. At those hearings Professor Leo Levin and former Solicitor General Robert Bork also testified in favor of the elimination of the Court's mandatory jurisdiction.

The present mandatory jurisdiction provisions permit litigants to require cases to be decided by the Supreme Court of the United States without regard to the importance of the issue presented or their impact on the general public. Unfortunately, there is no correlation between the difficulty of the legal issues presented in a case and the importance of the issue to the general public. For this reason, the Court must often call for full briefing and oral argument in difficult issues which are of little significance. At present, the Court must devote a great deal of its limited time and resources on cases which do *not,* in Chief Justice Taft's words, "involve principles, the application of which are of wide public importance or governmental interest, and which should be authoritatively declared by the final court."

This is acutely important as we close a Term with the highest number of filings in history. The more time the Court must devote to cases of this type the less time it has to spend on the more important cases facing the nation. Because the volume of complex and difficult cases continues to grow, it is even more important that the Court not be burdened by having to deal with cases that are of significance only to the individual litigants but of no "wide public importance."

Attached in the appendix is a table showing the recent growth of filings at the Supreme Court. Also attached are statistical tables covering the October 1976 and 1980 Terms. These tables reveal that during the 1980 Term, thirty-six percent of the cases decided by the Court were cases arising out of mandatory jurisdiction. The percentage of mandatory jurisdiction cases has decreased since 1976, chiefly because of the action taken by Congress to confine the jurisdiction of three-judge federal district courts. Further decline in the percentage of mandatory jurisdiction cases is not expected however, since the curtailment of three-judge court cases has by now been reflected in the Court's caseload. The remaining burdens posed by the mandatory jurisdiction provisions still on the books are nevertheless substantial and continue to cause the Court to expend its limited resources on cases that are better left to other courts.

It is impossible for the Court to give plenary consideration to all the mandatory appeals it receives; to have done so, for example, during the 1980 Term would have required at least 9 additional weeks of oral argument of a seventy-five percent increase in the argument calendar. To handle the volume of appeals presently being received, the Court must dispose of many cases summarily, often without written opinion. Unfortunately, these summary decisions are decisions on the merits which are binding on state courts and other federal courts. See *Mandel* v. *Bradley,* 432 U.S. 172 (1977); *Hicks* v. *Miranda,* 422 U.S. 332 (1975). Because they are summary in nature these dispositions often also provide uncertain guidelines for the courts that are bound to follow them and, not surprisingly, such decisions sometimes create more confusion than they seek to resolve. The only solution to the problem, and one that is consistent with the intent of the Judiciary Act of 1925 to give the Supreme Court discretion to select those cases it deems most important, is to eliminate or curtail the Court's mandatory jurisdiction.

Because the Court has to devote a great deal of time to deciding mandatory jurisdiction cases, it is imperative that mandatory jurisdiction of the Court be substantially eliminated. For these reasons we endorse H.R. 2406 and urge its immediate adoption.

Cordially and respectfully,

WARREN E. BURGER.
WILLIAM J. BRENNAN.
BYRON R. WHITE.
HARRY A. BLACKMUN.
WILLIAM H. REHNQUIST.
THURGOOD MARSHALL.
LEWIS F. POWELL.
JOHN P. STEVENS.
SANDRA D. O'CONNOR.

Supreme Court Filings

	Cases
October term 1981	[1] 4,400
October term 1980	4,174
October term 1979	3,985

[1] Estimated as of June 15, 1982 the actual figure was 4,209, which is 5 percent higher than last Term at the same time.

CASES DISPOSED OF IN OCTOBER 1976 AND 1980 TERMS

	October term 1976	October term 1980
(1) *Cases brought as appeals:*		
Properly brought as appeals	211	126
Improperly brought as appeals	94	91
Dismissed under rule 60	6	1
Total	311	218
(2) Cases properly brought as appeals:		
Decided with opinion after oral argument	56	27
Decided with opinion without oral argument	10	1
Decided without opinion	145	102
Affirmed	54	
Reversed	0	16
Vacated and remanded	26	
Dismissed for want of a substantial Federal question	65	86
Total	211	130
(3) Cases *decided on the merits:*		
Decided on appeal	211	130
Decided on certiorari	234	229
Total	445	[1] 359
Percentage decided on appeal (percent)	47.4	36 2
Percentage decided on certiorari (percent)	52.6	63.8

[1] Total does not include the one original case decided in October term 1980

Appendix C

CONGRESS OF THE UNITED STATES,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C., September 2, 1982.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Court, Civil Liberties, and the Administration of Justice,
Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: I am entirely sympathetic with your letter concerning H.R. 6872, the Federal Court Reform Act of 1982.

In the interest of expeditious action and in order to permit you to schedule this legislation for consideration under Suspension of the Rules and early passage, and because we are in sympathy with the purposes of the bill, including Title II, our Committee is prepared to waive jurisdiction without prejudice to any future legislative action with respect to the substance of that title. This waiver is made with the specific understanding that the bill will be acted upon under Suspension of the Rules and that this Committee may, in the event of Senate amendments to Title II, insist on its prerogatives as sole conferees on the subject of Federal employees' compensation involving Title II.

With best wishes,

Sincerely,

CARL D. PERKINS, *Chairman.*

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