Supersedes H.R. 2406,
H.R. 4395,
H.R. 4396.

I

97TH CONGRESS
2D SESSION

H. R. 6872

To provide greater discretion to the Supreme Court in selecting the cases it will review, to extend to all Federal jurors eligibility for Federal worker's compensation, to provide for the taxing of attorney fees in certain actions brought by jurors, to authorize the service of jury summonses by ordinary mail, to permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 1982

Mr. RAILSBACK (for himself, Mr. KASTENMEIER, Mr. BUTLER, Mr. SAWYER, and Mr. FRANK) introduced the following bill; which was referred jointly to the Committees on the Judiciary and Education and Labor

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A BILL

To provide greater discretion to the Supreme Court in selecting the cases it will review, to extend to all Federal jurors eligibility for Federal worker's compensation, to provide for the taxing of attorney fees in certain actions brought by jurors, to authorize the service of jury summonses by ordinary mail, to permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes.

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

SHORT TITLE

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

TITLE I—SUPREME COURT REVIEW

REVIEW OF DECISIONS INVALIDATING ACTS OF CONGRESS

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28, United States Code, and the item relating to that section in the section analysis of chapter 81 of such title, are repealed.

REVIEW OF DECISIONS INVALIDATING STATE STATUTES

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

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

REVIEW OF STATE COURT DECISIONS INVOLVING VALIDITY OF STATUTES

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

"§ 1257. State courts; certiorari

"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 repug-

nant 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.

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

REVIEW OF DECISIONS FROM SUPREME COURT OF PUERTO RICO

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

"§ 1258. Supreme Court of Puerto Rico; certiorari

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

CONFORMING AMENDMENT

SEC. 105. The section analysis of chapter 81 of title 28, United States Code, is amended by amending the items relating to sections 1257 and 1258 to read as follows:

"1257. State courts; certiorari.
"1258. Supreme Court of Puerto Rico; certiorari.".

AMENDMENTS TO OTHER LAWS

SEC. 106. (a) Section 310 of the Federal Election Campaign Act (2 U.S.C. 437h) is amended by striking out subsection (b) and redesignating subsection (c) as subsection (b).

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

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

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

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

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

thereof "such petition shall be filed in the Supreme Court".

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

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

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

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

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

EFFECTIVE DATE

SEC. 107. The amendments made by this title shall take effect ninety days after the date of the enactment of this Act, except that such amendments shall not apply to cases pend-

ing in the Supreme Court on the effective date of such amendments or affect the right to review or the manner of reviewing the judgment or decree of a court which was entered before such effective date.

TITLE II—JURORS AND SUMMONS FOR JURY SERVICE

INJURY COMPENSATION FOR JURORS

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

"§ 8141a. Federal petit and grand jurors

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

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

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

"(1) a Federal petit or grand juror is deemed to receive monthly pay at the minimum rate for grade

GS–2 of the General Schedule, except that in any case in which the actual pay of any such juror who is otherwise an employee for purposes of this subchapter serving on court leave is higher, monthly pay is determined in accordance with section 8114 of this title, and

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

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

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

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

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

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

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

TAXATION OF JUROR ATTORNEY'S FEES

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

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

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

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

SERVICE OF SUMMONS FOR JURY SERVICE

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

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

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

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

TITLE III—CIVIL PRIORITIES

ESTABLISHMENT OF PRIORITY OF CIVIL ACTIONS

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

"§ 1657. Priority of civil actions

"(a) Notwithstanding any other 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.".

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

"1657. Priority of civil actions.".

AMENDMENTS TO OTHER LAWS

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

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

(B) Section 310(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437h(c)) is repealed.

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

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

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

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

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

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

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

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

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

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

(8) Section 816(c)(4) of the Act of October 7, 1975, commonly known as the Department of Defense

Appropriation Authorization Act of 1976 (10 U.S.C. 2304 note) is amended by striking out the last sentence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"INJUNCTIVE RELIEF

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

final judgment entered in a case involving an action pursuant to this title.".

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

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

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

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

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

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

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

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

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

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

(B) Section 6110(f)(5) of the Internal Revenue Code of 1954 is amended by striking out "and the Court of Appeals shall expedite any review of such decision in every way possible".

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

(D) Section 7609(h) of the Internal Revenue Code of 1954 is amended by striking out "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, take precedence on the docket over all cases and shall be assigned for hearing and decided at the earliest practicable date.".

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

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

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

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

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

(D) Section 1364(c) of title 28, United States Code, is repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) by striking out the third paragraph.

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

(B) Section 301(a)(2) of the Voting Rights Act of 1965 (42 U.S.C. 1973bb(a)(2)) is amended by striking

out ", and to cause the case to be in every way expedited".

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

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

(ii) by striking out the last paragraph.

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

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

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

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

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

(ii) by striking out the last paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE

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

O