EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–572 applicable with respect to any grand or petit juror serving on or after the sixtieth day following Nov. 2, 1978, see section 7(b) of Pub. L. 95–572, set out as an Effective Date note under section 1363 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–274 effective 270 days after Mar. 27, 1968, except as to cases in which an indictment has been returned or a petit jury empaneled prior to such effective date, see section 104 of Pub. L. 90–274, set out as a note under section 1861 of this title.

REFRESHMENT OF JURORS

Pub. L. 101–162, title IV, Nov. 21, 1989, 103 Stat. 1012, provided: ''That for fiscal year 1990 and hereafter, funds appropriated under this heading [COURTS OF APPEALS, DISTRICT COURTS AND OTHER JUDICIAL SERVICES and FEES OF JURORS AND COMMISSIONERS] shall be available for refreshment of jurors.''

§ 1872. Issues of fact in Supreme Court

In all original actions at law in the Supreme Court against citizens of the United States, issues of fact shall be tried by a jury.

(June 25, 1948, ch. 646, 62 Stat. 953.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 343 (Mar. 3, 1911, ch. 231, § 235, 36 Stat. 1156).

Changes were made in phraseology.

§ 1873. Admiralty and maritime cases

In any case of admiralty and maritime jurisdiction relating to any matter of contract or tort arising upon or concerning any vessel of twenty tons or upward, enrolled and licensed for the coasting trade, and employed in the business of commerce and navigation between places in different states upon the lakes and navigable waters connecting said lakes, the trial of all issues of fact shall be by jury if either party demands it.

(June 25, 1948, ch. 646, 62 Stat. 953.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 770 (R.S. §§ 566, 648; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

Words ''and Territories'' following words ''in different States'' were omitted as obsolete. The act of February 26, 1845, ch. 20, 5 Stat. 726, from which this language was derived was intended primarily to cover the Great Lakes regions.

The first sentence of section 770 of title 28, U.S.C., 1940 ed., providing generally for the right of jury trials in district courts, was omitted as covered by Rule 38 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

§ 1874. Actions on bonds and specialties

In all actions to recover the forfeiture annexed to any articles of agreement, covenant, bond, or other specialty, wherein the forfeiture, breach, or nonperformance appears by default or confession of the defendant, the court shall render judgment for the plaintiff for such amount as is due. If the sum is uncertain, it shall, upon request of either party, be assessed by a jury.

(June 25, 1948, ch. 646, 62 Stat. 953.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 785 (R.S. § 961).

Word ''actions'' was substituted for ''all suits brought,'' in view of Rule 2 of the Federal Rules of Civil Procedure. For the same reason, words ''according to equity,'' after ''to recover so much as is due,'' were omitted.

Words ''or upon demurrer,'' after ''default or confession of the defendant,'' were omitted in view of Federal Rules of Civil Procedure, Rule 7(c), abolishing demurrers.

Changes were made in phraseology.

§ 1875. Protection of jurors' employment

(a) No employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States.

(b) Any employer who violates the provisions of this section—

(1) shall be liable for damages for any loss of wages or other benefits suffered by an employee by reason of such violation;

(2) may be enjoined from further violations of this section and ordered to provide other appropriate relief, including but not limited to the reinstatement of any employee discharged by reason of his jury service; and

(3) shall be subject to a civil penalty of not more than $5,000 for each violation as to each employee, and may be ordered to perform community service.

(c) Any individual who is reinstated to a position of employment in accordance with the provisions of this section shall be considered as having been on furlough or leave of absence during his period of jury service, shall be reinstated to his position of employment without loss of seniority, and shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such individual entered upon jury service.

(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 tax a defendant employer, as costs payable to the court, the attorney fees and expenses incurred on behalf of a prevailing employee, where such costs were expended by the court 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 is frivolous, vexatious, or brought in bad faith.

(Added Pub. L. 95–572, § 6(a)(1), Nov. 2, 1978, 92 Stat. 2456; amended Pub. L. 97–463, § 1, Jan. 12,

1983, 96 Stat. 2531; Pub. L. 110–406, §19, Oct. 13, 2008, 122 Stat. 4295.)

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110–406 substituted ''$5,000 for each violation as to each employee, and may be ordered to perform community service.'' for ''$1,000 for each violation as to each employee.''

1983—Subsec. (d)(1). Pub. L. 97–463, §1(1), substituted designation ''(d)(1)'' for ''(d)'' before ''An individual claiming''.

Subsec. (d)(2). Pub. L. 97–463, §1(2), inserted provision empowering the court to tax a defendant employer, as costs payable to the court, the attorney fees and expenses incurred on behalf of a prevailing employee, where such costs were expended by the court pursuant to par. (1) of this subsection and, in existing provisions, substituted ''only if the court finds that the action is frivolous'' for ''if the court determines that the action is frivolous''.

EFFECTIVE DATE

Section applicable with respect to any grand or petit juror summoned for service or actually serving on or after Nov. 2, 1978, see section 7(a) of Pub. L. 95–572, set out as a note under section 1363 of this title.

§ 1876. Trial by jury in the Court of International Trade

(a) In any civil action in the Court of International Trade which is to be tried before a jury, the jury shall be selected in accordance with the provisions of this chapter and under the procedures set forth in the jury selection plan of the district court for the judicial district in which the case is to be tried.

(b) Whenever the Court of International Trade conducts a jury trial—

(1) the clerk of the district court for the judicial district in which the Court of International Trade is sitting, or an authorized deputy clerk, shall act as clerk of the Court of International Trade for the purposes of selecting and summoning the jury;

(2) the qualifications for jurors shall be the same as those established by section 1865(b) of this title for jurors in the district courts of the United States;

(3) each party shall be entitled to challenge jurors in accordance with section 1870 of this title; and

(4) jurors shall be compensated in accordance with section 1871 of this title.

(Added Pub. L. 96–417, title III, §302(a), Oct. 10, 1980, 94 Stat. 1739.)

EFFECTIVE DATE

Section applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(1)(C) of Pub. L. 96–417, set out as an Effective Date of 1980 Amendment note under section 251 of this title.

§ 1877. Protection of jurors

(a) Subject to the provisions of this section and title 5 of the United States Code, subchapter 1 of chapter 81, title 5, United States Code, 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 juror.

(b) In administering this section with respect to a juror covered by this section—

(1) a juror is deemed to receive monthly pay at the minimum rate for grade GS–2 of the General Schedule unless his actual pay as a Government employee while serving on court leave is higher, in which case monthly pay is determined in accordance with section 8114 of title 5, United States Code, and

(2) performance of duty as a juror includes that time when a juror is (A) in attendance at court pursuant to a summons, (B) in deliberation, (C) sequestered by order of a judge, or (D) at a site, by order of the court, for the taking of a view.

(Added Pub. L. 97–463, §3(1), Jan. 12, 1983, 96 Stat. 2531.)

§ 1878. Optional use of a one-step summoning and qualification procedure

(a) At the option of each district court, jurors may be summoned and qualified in a single procedure, if the court's jury selection plan so authorizes, in lieu of the two separate procedures otherwise provided for by this chapter. Courts shall ensure that a one-step summoning and qualification procedure conducted under this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title.

(b) Jury selection conducted under this section shall be subject to challenge under section 1867 of this title for substantial failure to comply with the provisions of this title in selecting the jury. However, no challenge under section 1867 of this title shall lie solely on the basis that a jury was selected in accordance with a one-step summoning and qualification procedure authorized by this section.

(Added Pub. L. 100–702, title VIII, §805(a), Nov. 19, 1988, 102 Stat. 4658; amended Pub. L. 102–572, title IV, §403(a), Oct. 29, 1992, 106 Stat. 4512.)

AMENDMENTS

1992—Pub. L. 102–572 substituted ''Optional'' for ''Experimental'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) The Judicial Conference of the United States is hereby authorized to develop and conduct an experiment in which jurors serving in a limited number of United States district courts shall be qualified and summoned in a single procedure, in lieu of the two separate procedures otherwise provided for by this chapter. The Judicial Conference shall designate the district courts to participate in this experiment, but in no event shall the number of courts participating exceed ten. An experiment may be conducted pursuant to this section for a period not to exceed 2 years. The Judicial Conference shall ensure that an experiment conducted pursuant to this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title, and shall terminate the experiment immediately if it determines that these policies and objectives are being violated or whenever in its judgment good cause for such termination exists.

''(b) Jury selection conducted pursuant to this section shall be subject to challenge under section 1867 of this title for substantial failure to comply with the provisions of this title in selecting the jury. However, no challenge under section 1867 of this title shall lie solely on the basis that a jury was selected in accordance with an experiment conducted pursuant to this section.''