

[CHAPTER 646]

## AN ACT

To revise, codify, and enact into law title 28 of the United States Code entitled "Judicial Code and Judiciary".

June 25, 1948  
[H. R. 3214]  
[Public Law 773]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That title 28 of the United States Code, entitled "Judicial Code and Judiciary" is hereby revised, codified, and enacted into law, and may be cited as "Title 28, United States Code, section —", as follows:

Title 28, U. S. Code.  
Codification and  
enactment into law.

## TITLE 28, JUDICIARY AND JUDICIAL PROCEDURE

Part	Sec.	
I. Organization of courts.....	1	<i>Infra.</i>
II. United States attorneys and marshals.....	501	<i>Post</i> , p. 909.
III. Court officers and employees.....	601	<i>Post</i> , p. 913.
IV. Jurisdiction and venue.....	1251	<i>Post</i> , p. 927.
V. Procedure.....	1651	<i>Post</i> , p. 943.
VI. Particular proceedings.....	2201	<i>Post</i> , p. 964.

### PART I.—ORGANIZATION OF COURTS

Chapter	Sec.
1. Supreme Court.....	1
3. Courts of appeals.....	41
5. District courts.....	81
7. Court of Claims.....	171
9. Court of Customs and Patent Appeals.....	211
11. Customs Court.....	251
13. Assignment of judges to other courts.....	291
15. Conferences and councils of judges.....	331
17. Resignation and retirement of judges.....	371
19. Distribution of reports and digests.....	411
21. General provisions applicable to courts and judges.....	451

### CHAPTER 1—SUPREME COURT

Sec.
1. Number of justices; quorum.
2. Terms of court.
3. Vacancy in office of Chief Justice; disability.
4. Precedence of associate justices.
5. Salaries of justices.
6. Records of former court of appeals.

#### § 1. Number of justices; quorum

The Supreme Court of the United States shall consist of a Chief Justice of the United States and eight associate justices, any six of whom shall constitute a quorum.

#### § 2. Terms of court

The Supreme Court shall hold at the seat of government a term of court commencing on the first Monday in October of each year and may hold such adjourned or special terms as may be necessary.

#### § 3. Vacancy in office of Chief Justice; disability

Whenever the Chief Justice is unable to perform the duties of his office or the office is vacant, his powers and duties shall devolve upon the associate justice next in precedence who is able to act, until such disability is removed or another Chief Justice is appointed and duly qualified.

#### § 4. Precedence of associate justices

Associate justices shall have precedence according to the seniority of their commissions. Justices whose commissions bear the same date shall have precedence according to seniority in age.

**§ 5. Salaries of justices**

The Chief Justice shall receive a salary of \$25,500 a year, and each associate justice shall receive a salary of \$25,000 a year.

**§ 6. Records of former court of appeals**

The records and proceedings of the court of appeals, appointed previous to the adoption of the Constitution, shall be kept in the office of the clerk of the Supreme Court, who shall furnish copies thereof to any person requiring and paying for them, in the manner provided by law for giving copies of the records and proceedings of the Supreme Court. Such copies shall have the same faith and credit as proceedings of the Supreme Court.

**CHAPTER 3—COURTS OF APPEALS****Sec.**

41. Number and composition of circuits.
42. Allotment of Supreme Court justices to circuits.
43. Creation and composition of courts.
44. Appointment, tenure, residence and salary of circuit judges.
45. Chief judges; precedence of judges.
46. Assignment of judges; divisions; hearings; quorum.
47. Disqualification of trial judge to hear appeal.
48. Terms of Court.

**§ 41. Number and composition of circuits**

The eleven judicial circuits of the United States are constituted as follows:

Circuits	Composition
District of Columbia.....	District of Columbia.
First.....	Maine, Massachusetts, New Hampshire, Puerto Rico, Rhode Island.
Second.....	Connecticut, New York, Vermont.
Third.....	Delaware, New Jersey, Pennsylvania, Virgin Islands.
Fourth.....	Maryland, North Carolina, South Carolina, Virginia, West Virginia.
Fifth.....	Alabama, Canal Zone, Florida, Georgia, Louisiana, Mississippi, Texas.
Sixth.....	Kentucky, Michigan, Ohio, Tennessee.
Seventh.....	Illinois, Indiana, Wisconsin.
Eighth.....	Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota.
Ninth.....	Alaska, Arizona, California, Idaho, Montana, Nevada, Oregon, Washington, Hawaii.
Tenth.....	Colorado, Kansas, New Mexico, Oklahoma, Utah, Wyoming.

**§ 42. Allotment of Supreme Court justices to circuits**

The Chief Justice of the United States and the associate justices of the Supreme Court shall from time to time be allotted as circuit justices among the circuits by order of the Supreme Court. The Chief Justice may make such allotments in vacation.

A justice may be assigned to more than one circuit, and two or more justices may be assigned to the same circuit.

**§ 43. Creation and composition of courts**

(a) There shall be in each circuit a court of appeals, which shall be a court of record, known as the United States Court of Appeals for the circuit.

(b) Each court of appeals shall consist of the circuit judges of the circuit in active service. The circuit justice and justices or judges

designated or assigned shall also be competent to sit as judges of the court.

**§ 44. Appointment, tenure, residence and salary of circuit judges**

(a) The President shall appoint, by and with the advice and consent of the Senate, circuit judges for the several circuits as follows:

Circuits	Number of Judges
District of Columbia.....	Six
First.....	Three
Second.....	Six
Third.....	Six
Fourth.....	Three
Fifth.....	Six
Sixth.....	Six
Seventh.....	Five
Eighth.....	Seven
Ninth.....	Seven
Tenth.....	Four

(b) Circuit judges shall hold office during good behavior.

(c) Except in the District of Columbia, each circuit judge shall be a resident of the circuit for which appointed at the time of his appointment and thereafter while in active service.

(d) Each circuit judge shall receive a salary of \$17,500 a year.

**§ 45. Chief judges; precedence of judges**

(a) The circuit judge senior in commission shall be the chief judge of the circuit.

(b) The chief judge shall have precedence and preside at any session of the court which he attends. Other circuit judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age. The circuit justice, however, shall have precedence over all the circuit judges and shall preside at any session which he attends.

(c) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as circuit judge, he may so certify to the Chief Justice of the United States, and thereafter the circuit judge in active service next in precedence and willing to serve shall be designated by the Chief Justice as the chief judge of the circuit.

(d) If a chief judge is temporarily unable to perform his duties as such, they shall be performed by the circuit judge in active service, present in the circuit and able and qualified to act, who is next in precedence.

**§ 46. Assignment of judges; divisions; hearings; quorum**

(a) Circuit judges shall sit on the court and its divisions in such order and at such times as the court directs.

(b) In each circuit the court may authorize the hearing and determination of cases and controversies by separate divisions, each consisting of three judges. Such divisions shall sit at the times and places and hear the cases and controversies assigned as the court directs.

(c) Cases and controversies shall be heard and determined by a court or division of not more than three judges, unless a hearing or rehearing before the court in banc is ordered by a majority of the circuit judges of the circuit who are in active service. A court in banc shall consist of all active circuit judges of the circuit.

(d) A majority of the number of judges authorized to constitute

a court or division thereof, as provided in paragraph (c), shall constitute a quorum.

**§ 47. Disqualification of trial judge to hear appeal**

No judge shall hear or determine an appeal from the decision of a case or issue tried by him.

**§ 48. Terms of court**

Terms or sessions of courts of appeals shall be held annually at the places listed below, and at such other places within the respective circuits as may be designated by rule of court. Each court of appeals may hold special terms at any place within its circuit.

Circuits	Places
District of Columbia.....	Washington.
First.....	Boston.
Second.....	New York.
Third.....	Philadelphia.
Fourth.....	Richmond, Asheville.
Fifth.....	New Orleans, Atlanta, Fort Worth, Jacksonville, Montgomery.
Sixth.....	Cincinnati.
Seventh.....	Chicago.
Eighth.....	St. Louis, Kansas City, Omaha, St. Paul.
Ninth.....	San Francisco, Los Angeles, Portland, Seattle.
Tenth.....	Denver, Wichita, Oklahoma City.

**CHAPTER 5—DISTRICT COURTS**

**Sec.**

81. Alabama.
82. Arizona.
83. Arkansas.
84. California.
85. Colorado.
86. Connecticut.
87. Delaware.
88. District of Columbia.
89. Florida.
90. Georgia.
91. Hawaii.
92. Idaho.
93. Illinois.
94. Indiana.
95. Iowa.
96. Kansas.
97. Kentucky.
98. Louisiana.
99. Maine.
100. Maryland.
101. Massachusetts.
102. Michigan.
103. Minnesota.
104. Mississippi.
105. Missouri.
106. Montana.
107. Nebraska.
108. Nevada.
109. New Hampshire.
110. New Jersey.
111. New Mexico.
112. New York.
113. North Carolina.
114. North Dakota.
115. Ohio.
116. Oklahoma.
117. Oregon.
118. Pennsylvania.
119. Puerto Rico.

## Sec.

- 120. Rhode Island.
- 121. South Carolina.
- 122. South Dakota.
- 123. Tennessee.
- 124. Texas.
- 125. Utah.
- 126. Vermont.
- 127. Virginia.
- 128. Washington.
- 129. West Virginia.
- 130. Wisconsin.
- 131. Wyoming.
- 132. Creation and composition of district courts.
- 133. Appointment and number of district judges.
- 134. Tenure and residence of district judges.
- 135. Salaries of district judges.
- 136. Chief judges; precedence of district judges.
- 137. Division of business among district judges.
- 138. Times for holding regular terms.
- 139. Term continued until terminated.
- 140. Adjournment.
- 141. Special terms; places; notice.
- 142. Accommodations at places for holding court.
- 143. Vacant judgeship as affecting proceedings.
- 144. Bias or prejudice of judge.

## § 81. Alabama

Alabama is divided into three judicial districts to be known as the Northern, Middle, and Southern Districts of Alabama.

## Northern District

(a) The Northern District comprises seven divisions.

- (1) The Northwestern Division comprises the counties of Colbert, Franklin, and Lauderdale.

Court for the Northwestern Division shall be held at Florence.

- (2) The Northeastern Division comprises the counties of Cullman, Jackson, Lawrence, Limestone, Madison, and Morgan.

Court for the Northeastern Division shall be held at Huntsville.

- (3) The Southern Division comprises the counties of Blount, Jefferson, and Shelby.

Court for the Southern Division shall be held at Birmingham.

- (4) The Eastern Division comprises the counties of Calhoun, Clay, Cleburne, and Talladega.

Court for the Eastern Division shall be held at Anniston.

- (5) The Western Division comprises the counties of Bibb, Greene, Pickens, Sumter, and Tuscaloosa.

Court for the Western Division shall be held at Tuscaloosa.

- (6) The Middle Division comprises the counties of Cherokee, De Kalb, Etowah, Marshall, and Saint Clair.

Court for the Middle Division shall be held at Gadsden.

- (7) The Jasper Division comprises the counties of Fayette, Lamar, Marion, Walker, and Winston.

Court for the Jasper Division shall be held at Jasper.

## Middle District

(b) The Middle District comprises three divisions.

- (1) The Northern Division comprises the counties of Autauga, Barbour, Bullock, Butler, Chilton, Coosa, Covington, Crenshaw, Elmore, Lowndes, Montgomery, and Pike.

Court for the Northern Division shall be held at Montgomery.

- (2) The Southern Division comprises the counties of Coffee, Dale, Geneva, Henry, and Houston.  
Court for the Southern Division shall be held at Dothan.
- (3) The Eastern Division comprises the counties of Chambers, Lee, Macon, Randolph, Russell, and Tallapoosa.  
Court for the Eastern Division shall be held at Opelika.

#### Southern District

- (c) The Southern District comprises two divisions.
- (1) The Northern Division comprises the counties of Dallas, Hale, Marengo, Perry, and Wilcox.  
Court for the Northern Division shall be held at Selma.
- (2) The Southern Division comprises the counties of Baldwin, Choctaw, Clarke, Conecuh, Escambia, Mobile, Monroe, and Washington.  
Court for the Southern Division shall be held at Mobile.

#### § 82. Arizona

Arizona constitutes one judicial district.

Court shall be held at Globe, Phoenix, Prescott, and Tucson.

#### § 83. Arkansas

Arkansas is divided into two judicial districts to be known as the Eastern and Western Districts of Arkansas.

#### Eastern District

- (a) The Eastern District comprises four divisions.
- (1) The Eastern Division comprises the counties of Cross, Desha, Lee, Monroe, Phillips, Saint Francis, and Woodruff.  
Court for the Eastern Division shall be held at Helena.
- (2) The Western Division comprises the counties of Arkansas, Chicot, Cleveland, Conway, Dallas, Drew, Faulkner, Grant, Jefferson, Lincoln, Lonoke, Perry, Pope, Prairie, Pulaski, Saline, Van Buren, White, and Yell.  
Court for the Western Division shall be held at Little Rock.
- (3) The Northern Division comprises the counties of Cleburne, Fulton, Independence, Izard, Jackson, Sharp, and Stone.  
Court for the Northern Division shall be held at Batesville.
- (4) The Jonesboro Division comprises the counties of Clay, Craighead, Crittenden, Greene, Lawrence, Mississippi, Poinsett, and Randolph.  
Court for the Jonesboro Division shall be held at Jonesboro.

#### Western District

- (b) The Western District comprises six divisions.
- (1) The Texarkana Division comprises the counties of Hempstead, Howard, Lafayette, Little River, Miller, Nevada, and Sevier.  
Court for the Texarkana Division shall be held at Texarkana.
- (2) The El Dorado Division comprises the counties of Ashley, Bradley, Calhoun, Columbia, Ouachita, and Union.  
Court for the El Dorado Division shall be held at El Dorado.
- (3) The Fort Smith Division comprises the counties of Crawford, Franklin, Johnson, Logan, Polk, Scott, and Sebastian.  
Court for the Fort Smith Division shall be held at Fort Smith.

- (4) The Americus Division comprises the counties of Ben Hill, Crisp, Dooly, Lee, Macon, Schley, Sumter, Terrell, Webster, and Wilcox.

Court for the Americus Division shall be held at Americus.

- (5) The Albany Division comprises the counties of Baker, Calhoun, Dougherty, Early, Miller, Mitchell, Turner, and Worth.

Court for the Albany Division shall be held at Albany.

- (6) The Valdosta Division comprises the counties of Berrien, Clinch, Cook, Echols, Irwin, Lanier, Lowndes, and Tift.

Court for the Valdosta Division shall be held at Valdosta.

- (7) The Thomasville Division comprises the counties of Brooks, Colquitt, Decatur, Grady, Seminole, and Thomas.

Court for the Thomasville Division shall be held at Thomasville.

#### Southern District

- (c) The Southern District comprises five divisions.

- (1) The Augusta Division comprises the counties of Burke, Columbia, Glascock, Jefferson, Lincoln, McDuffie, Richmond, Taliaferro, Warren, and Wilkes.

Court for the Augusta Division shall be held at Augusta.

- (2) The Dublin Division comprises the counties of Dodge, Emanuel, Johnson, Laurens, Montgomery, Telfair, Toombs, Treutlen, and Wheeler.

Court for the Dublin Division shall be held at Dublin.

- (3) The Savannah Division comprises the counties of Bryan, Bulloch, Candler, Chatham, Effingham, Evans, Jenkins, Liberty, Screven, and Tattnall.

Court for the Savannah Division shall be held at Savannah.

- (4) The Waycross Division comprises the counties of Atkinson, Bacon, Brantley, Charlton, Coffee, Pierce, and Ware.

Court for the Waycross Division shall be held at Waycross.

- (5) The Brunswick Division comprises the counties of Appling, Camden, Glynn, Jeff Davis, Long, McIntosh, and Wayne.

Court for the Brunswick Division shall be held at Brunswick.

#### § 91. Hawaii

Hawaii constitutes one judicial district which includes the Midway Islands, Wake Island, Johnston Island, Sand Island, Kingman Reef, Kure Island, Baker Island, Howland Island, and Jarvis Island.

Court shall be held at Honolulu.

#### § 92. Idaho

Idaho, exclusive of Yellowstone National Park, constitutes one judicial district comprising four divisions.

- (1) The Northern Division comprises the counties of Benewah, Bonner, Boundary, Kootenai, and Shoshone.

Court for the Northern Division shall be held at Coeur d'Alene.

- (2) The Central Division comprises the counties of Clearwater, Idaho, Latah, Lewis, and Nez Perce.

Court for the Central Division shall be held at Moscow.

- (3) The Southern Division comprises the counties of Ada, Adams, Blaine, Boise, Camas, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, Valley, and Washington.

Court for the Southern Division shall be held at Boise.

- (4) The Eastern Division comprises the counties of Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, and Teton.

Court for the Eastern Division shall be held at Pocatello.

**§ 93. Illinois**

Illinois is divided into three judicial districts to be known as the Northern, Southern, and Eastern Districts of Illinois.

**Northern District**

(a) The Northern District comprises two divisions.

(1) The Eastern Division comprises the counties of Cook, De Kalb, Du Page, Grundy, Kane, Kendall, Lake, La Salle, McHenry, and Will.

Court for the Eastern Division shall be held at Chicago.

(2) The Western Division comprises the counties of Boone, Carroll, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago.

Court for the Western Division shall be held at Freeport.

**Southern District**

(b) The Southern District comprises two divisions.

(1) The Northern Division comprises the counties of Bureau, Fulton, Henderson, Henry, Knox, Livingston, McDonough, Marshall, Mercer, Peoria, Putnam, Rock Island, Stark, Tazewell, Warren, and Woodford.

Court for the Northern Division shall be held at Peoria.

(2) The Southern Division comprises the counties of Adams, Bond, Brown, Calhoun, Cass, Christian, De Witt, Greene, Hancock, Jersey, Logan, McLean, Macaupin, Macon, Madison, Mason, Menard, Montgomery, Morgan, Pike, Sangamon, Schuyler, and Scott.

Court for the Southern Division shall be held at Quincy and Springfield.

**Eastern District**

(c) The Eastern District of Illinois comprises the counties of Alexander, Champaign, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Gallatin, Hamilton, Hardin, Iroquois, Jackson, Jasper, Jefferson, Johnson, Kankakee, Lawrence, Marion, Massac, Monroe, Moultrie, Perry, Piatt, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Shelby, Union, Vermilion, Wabash, Washington, Wayne, White, and Williamson.

Court for the Eastern District shall be held at Benton, Cairo, Danville, and East Saint Louis.

**§ 94. Indiana**

Indiana is divided into two judicial districts to be known as the Northern and Southern Districts of Indiana.

**Northern District**

(a) The Northern District comprises three divisions.

(1) The Fort Wayne Division comprises the counties of Adams, Allen, Blackford, De Kalb, Grant, Huntington, Jay, Lagrange, Noble, Steuben, Wells, and Whitley.

Court for the Fort Wayne Division shall be held at Fort Wayne.

(2) The South Bend Division comprises the counties of Cass, Elkhart, Fulton, Kosciusko, La Porte, Marshall, Miami, Pulaski, St. Joseph, Starke, and Wabash.

Court for the South Bend Division shall be held at South Bend.

(3) The Hammond Division comprises the counties of Benton, Carroll, Jasper, Lake, Newton, Porter, Tippecanoe, Warren, and White.

Court for the Hammond Division shall be held at Hammond.



### Southern District

(b) The Southern District comprises four divisions.

- (1) The Indianapolis Division comprises the counties of Bartholomew, Boone, Brown, Clinton, Decatur, Delaware, Fayette, Fountain, Franklin, Hamilton, Hancock, Hendricks, Henry, Howard, Johnson, Madison, Marion, Monroe, Montgomery, Morgan, Randolph, Rush, Shelby, Tipton, Union, and Wayne.

Court for the Indianapolis Division shall be held at Indianapolis.

- (2) The Terre Haute Division comprises the counties of Clay, Greene, Knox, Owen, Parke, Putnam, Sullivan, Vermilion, and Vigo.

Court for the Terre Haute Division shall be held at Terre Haute.

- (3) The Evansville Division comprises the counties of Davies, Dubois, Gibson, Martin, Perry, Pike, Posey, Spencer, Vanderburgh, and Warrick.

Court for the Evansville Division shall be held at Evansville.

- (4) The New Albany Division comprises the counties of Clark, Crawford, Dearborn, Floyd, Harrison, Jackson, Jefferson, Jennings, Lawrence, Ohio, Orange, Ripley, Scott, Switzerland, and Washington.

Court for the New Albany Division shall be held at New Albany.

### § 95. Iowa

Iowa is divided into two judicial districts to be known as the Northern and Southern Districts of Iowa.

#### Northern District

(a) The Northern District comprises four divisions.

- (1) The Cedar Rapids Division comprises the counties of Benton, Cedar, Grundy, Hardin, Iowa, Jones, Linn, and Tama.

Court for the Cedar Rapids Division shall be held at Cedar Rapids.

- (2) The Eastern Division comprises the counties of Allamakee, Black Hawk, Bremer, Buchanan, Chickasaw, Clayton, Delaware, Dubuque, Fayette, Floyd, Howard, Jackson, Mitchell, and Winneshiek.

Court for the Eastern Division shall be held at Dubuque and Waterloo.

- (3) The Western Division comprises the counties of Buena Vista, Cherokee, Clay, Crawford, Dickinson, Ida, Lyon, Monona, O'Brien, Osceola, Plymouth, Sac, Sioux, and Woodbury.

Court for the Western Division shall be held at Sioux City.

- (4) The Central Division comprises the counties of Butler, Calhoun, Carroll, Cerro Gordo, Emmet, Franklin, Hamilton, Hancock, Humboldt, Kossuth, Palo Alto, Pocahontas, Webster, Winnebago, Worth, and Wright.

Court for the Central Division shall be held at Fort Dodge and Mason City.

#### Southern District

(b) The Southern District comprises six divisions.

- (1) The Central Division comprises the counties of Boone, Dallas, Greene, Guthrie, Jasper, Madison, Marion, Marshall, Polk, Poweshiek, Story, and Warren.

Court for the Central Division shall be held at Des Moines.

- (2) The Eastern Division comprises the counties of Des Moines, Henry, Lee, Louisa, and Van Buren.

Court for the Eastern Division shall be held at Keokuk.

- (3) The Western Division comprises the counties of Audubon, Cass, Harrison, Mills, Montgomery, Pottawattamie, and Shelby.

Court for the Western Division shall be held at Council Bluffs.

- (4) The Southern Division comprises the counties of Adair, Adams, Clarke, Decatur, Fremont, Lucas, Page, Ringgold, Taylor, Union, and Wayne.

Court for the Southern Division shall be held at Creston.

- (5) The Davenport Division comprises the counties of Clinton, Johnson, Muscatine, Scott, and Washington.

Court for the Davenport Division shall be held at Davenport.

- (6) The Ottumwa Division comprises the counties of Appanoose, Davis, Jefferson, Keokuk, Mahaska, Monroe, and Wapello.

Court for the Ottumwa Division shall be held at Ottumwa.

### § 96. Kansas

Kansas constitutes one judicial district comprising three divisions.

- (1) The First Division comprises the counties of Atchison, Brown, Chase, Cheyenne, Clay, Cloud, Decatur, Dickinson, Doniphan, Douglas, Ellis, Franklin, Geary, Gove, Graham, Jackson, Jefferson, Jewell, Johnson, Leavenworth, Lincoln, Logan, Lyon, Marion, Marshall, Mitchell, Morris, Nemaha, Norton, Osage, Osborne, Ottawa, Phillips, Pottawatomie, Rawlins, Republic, Riley, Rooks, Russell, Saline, Shawnee, Sheridan, Sherman, Smith, Thomas, Trego, Wabaunsee, Wallace, Washington, and Wyandotte.

Court for the First Division shall be held at Kansas City, Leavenworth, Salina, and Topeka.

- (2) The Second Division comprises the counties of Barber, Barton, Butler, Clark, Comanche, Cowley, Edwards, Ellsworth, Finney, Ford, Grant, Gray, Greeley, Hamilton, Harper, Harvey, Haskell, Hodgeman, Kearny, Kingman, Kiowa, Lane, McPherson, Meade, Morton, Ness, Pawnee, Pratt, Reno, Rice, Rush, Scott, Sedgwick, Seward, Stafford, Stanton, Stevens, Sumner, and Wichita.

Court for the Second Division shall be held at Hutchinson and Wichita.

- (3) The Third Division comprises the counties of Allen, Anderson, Bourbon, Chautauqua, Cherokee, Coffey, Crawford, Elk, Greenwood, Labette, Linn, Miami, Montgomery, Neosho, Wilson, and Woodson.

Court for the Third Division shall be held at Fort Scott.

### § 97. Kentucky

Kentucky is divided into two judicial districts to be known as the Eastern and Western Districts of Kentucky.

#### Eastern District

- (a) The Eastern District comprises the counties of Anderson, Bath, Bell, Boone, Bourbon, Boyd, Boyle, Bracken, Breathitt, Campbell, Carroll, Carter, Clark, Clay, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Gallatin, Garrard, Grant, Greenup, Harlan, Harrison, Henry, Jackson, Jessamine, Johnson, Kenton, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Mason, Menifee, Mercer, Montgomery, Morgan, Nicholas, Owen, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Scott, Shelby, Trimble, Wayne, Whitley, Wolfe, and Woodford.

Court for the Eastern District shall be held at Catlettsburg, Covington, Frankfort, Jackson, Lexington, London, Pikeville, and Richmond.

### Western District

(b) The Western District comprises the counties of Adair, Allen, Ballard, Barren, Breckenridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Casey, Christian, Clinton, Crittenden, Cumberland, Daviess, Edmonson, Fulton, Graves, Grayson, Green, Hancock, Hardin, Hart, Henderson, Hickman, Hopkins, Jefferson, Larue, Livingston, Logan, Lyon, McCracken, McLean, Marion, Marshall, Meade, Metcalfe, Monroe, Muhlenberg, Nelson, Ohio, Oldham, Russell, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, and Webster.

Court for the Western District shall be held at Bowling Green, Louisville, Owensboro, and Paducah.

### § 98. Louisiana

Louisiana is divided into two judicial districts to be known as the Eastern and Western Districts of Louisiana.

### Eastern District

(a) The Eastern District comprises two divisions.

(1) The New Orleans Division comprises the parishes of Assumption, Iberi, Jefferson, Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, and Washington.

Court for the New Orleans Division shall be held at New Orleans.

(2) The Baton Rouge Division comprises the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, Saint Helena, West Baton Rouge, and West Feliciana.

Court for the Baton Rouge Division shall be held at Baton Rouge.

### Western District

(b) The Western District comprises five divisions.

(1) The Opelousas Division comprises the parishes of Evangeline, Lafayette, Saint Landry, Saint Martin, and Vermilion.

Court for the Opelousas Division shall be held at Opelousas.

(2) The Alexandria Division comprises the parishes of Avoyelles, Catahoula, Grant, LaSalle, Rapides, and Winn.

Court for the Alexandria Division shall be held at Alexandria.

(3) The Shreveport Division comprises the parishes of Bienville, Bossier, Caddo, Claiborne, De Soto, Natchitoches, Red River, Sabine, and Webster.

Court for the Shreveport Division shall be held at Shreveport.

(4) The Monroe Division comprises the parishes of Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll.

Court for the Monroe Division shall be held at Monroe.

(5) The Lake Charles Division comprises the parishes of Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, and Vernon.

Court for the Lake Charles Division shall be held at Lake Charles.

### § 99. Maine

Maine constitutes one judicial district comprising two divisions.

(1) The Northern Division comprises the counties of Aroostook, Hancock, Penobscot, Piscataquis, Somerset, Waldo, and Washington.

Court for the Northern Division shall be held at Bangor.

- (2) The Southern Division comprises the counties of Androscoggin, Cumberland, Franklin, Kennebec, Knox, Lincoln, Oxford, Sagadahoc, and York.

Court for the Southern Division shall be held at Portland.

§ 100. **Maryland**

Maryland constitutes one judicial district.

Court shall be held at Baltimore, Cumberland, and Denton.

§ 101. **Massachusetts**

Massachusetts constitutes one judicial district.

Court shall be held at Boston, New Bedford, Springfield, and Worcester.

§ 102. **Michigan**

Michigan is divided into two judicial districts to be known as the Eastern and Western Districts of Michigan.

Eastern District

- (a) The Eastern District comprises two divisions.

(1) The Southern Division comprises the counties of Branch, Calhoun, Clinton, Hillsdale, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, Saint Clair, Sanilac, Washtenaw, and Wayne.

Court for the Southern Division shall be held at Detroit.

(2) The Northern Division comprises the counties of Alcona, Alpena, Arenac, Bay, Cheboygan, Clare, Crawford, Genesee, Gladwin, Gratiot, Huron, Iosco, Isabella, Midland, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw, Shiawassee, and Tuscola.

Court for the Northern Division shall be held at Bay City and Port Huron.

Western District

- (b) The Western District comprises two divisions.

(1) The Southern Division comprises the counties of Allegan, Antrim, Barry, Benzie, Berrien, Cass, Charlevoix, Eaton, Emmet, Grand Traverse, Ionia, Kalamazoo, Kalkaska, Kent, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montcalm, Muskegon, Newaygo, Oceana, Osceola, Ottawa, Saint Joseph, Van Buren, and Wexford.

Court for the Southern Division shall be held at Grand Rapids.

(2) The Northern Division comprises the counties of Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft.

Court for the Northern Division shall be held at Marquette and Sault Sainte Marie.

§ 103. **Minnesota**

Minnesota constitutes one judicial district comprising six divisions.

(1) The First Division comprises the counties of Dodge, Fillmore, Houston, Mower, Olmsted, Steele, Wabasha, and Winona.

Court for the First Division shall be held at Winona.

(2) The Second Division comprises the counties of Blue Earth, Brown, Cottonwood, Faribault, Freeborn, Jackson, Lac qui Parle, Le Sueur, Lincoln, Lyon, Martin, Murray, Nicollet, Nobles, Pipestone, Redwood, Rock, Sibley, Waseca, Watonwan, and Yellow Medicine.

Court for the Second Division shall be held at Mankato.

(3) The Third Division comprises the counties of Chisago, Dakota, Goodhue, Ramsey, Rice, Scott, and Washington.

Court for the Third Division shall be held at Saint Paul.

(4) The Fourth Division comprises the counties of Anoka, Carver, Chippewa, Hennepin, Isanti, Kandiyohi, McLeod, Meeker, Renville, Sherburne, Swift, and Wright.

Court for the Fourth Division shall be held at Minneapolis.

(5) The Fifth Division comprises the counties of Aitkin, Benton, Carlton, Cass, Cook, Crow Wing, Itasca, Kanabec, Koochiching, Lake, Mille Lacs, Morrison, Pine, and Saint Louis.

Court for the Fifth Division shall be held at Duluth.

(6) The Sixth Division comprises the counties of Becker, Beltrami, Big Stone, Clay, Clearwater, Douglas, Grant, Hubbard, Kittson, Lake of the Woods, Mahnommen, Marshall, Norman, Otter Tail, Pennington, Polk, Pope, Red Lake, Roseau, Stearns, Stevens, Todd, Traverse, Wadena, and Wilkin.

Court for the Sixth Division shall be held at Fergus Falls.

#### § 104. Mississippi

Mississippi is divided into two judicial districts to be known as the Northern and Southern Districts of Mississippi.

##### Northern District

(a) The Northern District comprises three divisions.

(1) Eastern Division comprises the counties of Alcorn, Attala, Chickasaw, Choctaw, Clay, Itawamba, Lee, Lowndes, Monroe, Oktibbeha, Pontotoc, Prentiss, Tishomingo, and Winston.

Court for the Eastern Division shall be held at Aberdeen.

(2) The Western Division comprises the counties of Benton, Calhoun, Carroll, De Soto, Grenada, Lafayette, Marshall, Montgomery, Panola, Tate, Tippah, Union, Webster, and Yalobusha.

Court for the Western Division shall be held at Oxford.

(3) The Delta Division comprises the counties of Bolivar, Coahoma, Leflore, Quitman, Sunflower, Tallahatchie, and Tunica.

Court for the Delta Division shall be held at Clarksdale.

##### Southern District

(b) The Southern District comprises five divisions.

(1) The Jackson Division comprises the counties of Amite, Copiah, Franklin, Hinds, Holmes, Leake, Lincoln, Madison, Pike, Rankin, Scott, Simpson, Smith, Wilkinson, and Yazoo.

Court for the Jackson Division shall be held at Jackson.

(2) The Eastern Division comprises the counties of Clarke, Jasper, Kemper, Lauderdale, Neshoba, Newton, Noxubee, and Wayne.

Court for the Eastern Division shall be held at Meridian.

(3) The Western Division comprises the counties of Adams, Claiborne, Humphreys, Issaquena, Jefferson, Sharkey, Warren, and Washington.

Court for the Western Division shall be held at Vicksburg.

(4) The Southern Division comprises the counties of George, Hancock, Harrison, Jackson, Pearl River, and Stone.

Court for the Southern Division shall be held at Biloxi.

(5) The Hattiesburg Division comprises the counties of Covington, Forrest, Greene, Jefferson Davis, Jones, Lamar, Lawrence, Marion, Perry, and Walthall.

Court for the Hattiesburg Division shall be held at Hattiesburg.

**§ 105. Missouri**

Missouri is divided into two judicial districts to be known as the Eastern and Western Districts of Missouri.

**Eastern District**

(a) The Eastern District comprises three divisions.

(1) The Eastern Division comprises the counties of Audrain, Crawford, Dent, Franklin, Gasconade, Iron, Jefferson, Lincoln, Maries, Montgomery, Phelps, Saint Charles, Saint Francois, Saint Genevieve, Saint Louis, Warren, and Washington, and the city of Saint Louis.

Court for the Eastern Division shall be held at Saint Louis.

(2) The Northern Division comprises the counties of Adair, Chariton, Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Ralls, Randolph, Schuyler, Scotland, and Shelby.

Court for the Northern Division shall be held at Hannibal.

(3) The Southeastern Division comprises the counties of Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Madison, Mississippi, New Madrid, Pemiscot, Perry, Reynolds, Ripley, Scott, Shannon, Stoddard, and Wayne.

Court for the Southeastern Division shall be held at Cape Girardeau.

**Western District**

(b) The Western District comprises five divisions.

(1) The Western Division comprises the counties of Bates, Caldwell, Carroll, Cass, Clay, Grundy, Henry, Jackson, Johnson, Lafayette, Livingston, Mercer, Putnam, Ray, Saint Clair, Saline, and Sullivan.

Court for the Western Division shall be held at Chillicothe and Kansas City.

(2) The Southwestern Division comprises the counties of Barton, Barry, Jasper, Lawrence, McDonald, Newton, Stone, and Vernon.

Court for the Southwestern Division shall be held at Joplin.

(3) The Saint Joseph Division comprises the counties of Andrew, Atchison, Buchanan, Clinton, Daviess, De Kalb, Gentry, Harrison, Holt, Nodaway, Platte, and Worth.

Court for the Saint Joseph Division shall be held at Saint Joseph.

(4) The Central Division comprises the counties of Benton, Boone, Callaway, Camden, Cole, Cooper, Hickory, Howard, Miller, Moniteau, Morgan, Osage, and Pettis.

Court for the Central Division shall be held at Jefferson City.

(5) The Southern Division comprises the counties of Cedar, Christian, Dade, Dallas, Douglas, Greene, Howell, Laclede, Oregon, Ozark, Polk, Pulaski, Taney, Texas, Webster, and Wright.

Court for the Southern Division shall be held at Springfield.

**§ 106. Montana**

Montana, exclusive of Yellowstone National Park, constitutes one judicial district.

Court shall be held at Billings, Butte, Glasgow, Great Falls, Havre, Helena, Kalispell, Lewistown, Livingston, Miles City, and Missoula.

**§ 107. Nebraska**

Nebraska constitutes one judicial district comprising eight divisions.

(1) The Chadron Division comprises the counties of Box Butte, Cherry, Dawes, Sheridan, and Sioux.

Court for the Chadron Division shall be held at Chadron.

(2) The Grand Island Division comprises the counties of Blaine, Buffalo, Custer, Garfield, Grant, Greeley, Hall, Hooker, Howard, Loup, Merrick, Sherman, Thomas, and Valley.

Court for the Grand Island Division shall be held at Grand Island.

(3) The Hastings Division comprises the counties of Adams, Clay, Franklin, Harlan, Kearney, Nuckolls, Phelps, and Webster.

Court for the Hastings Division shall be held at Hastings.

(4) The Lincoln Division comprises the counties of Butler, Cass, Fillmore, Gage, Hamilton, Jefferson, Johnson, Lancaster, Nemaha, Otoe, Pawnee, Polk, Richardson, Saline, Saunders, Seward, Thayer, and York.

Court for the Lincoln Division shall be held at Lincoln.

(5) The McCook Division comprises the counties of Chase, Dundy, Frontier, Furnas, Gosper, Hayes, Hitchcock, Perkins, and Redwillow.

Court for the McCook Division shall be held at McCook.

(6) The Norfolk Division comprises the counties of Antelope, Boyd, Brown, Holt, Keya Paha, Knox, Madison, Pierce, Rock, Stanton, and Wayne.

Court for the Norfolk Division shall be held at Norfolk.

(7) The North Platte Division comprises the counties of Arthur, Banner, Cheyenne, Dawson, Deuel, Garden, Keith, Kimball, Lincoln, Logan, McPherson, Morrill, and Scotts Bluff.

Court for the North Platte Division shall be held at North Platte.

(8) The Omaha Division comprises the counties of Boone, Burt, Cedar, Colfax, Cuming, Dakota, Dixon, Dodge, Douglas, Nance, Platte, Sarpy, Thurston, Washington, and Wheeler.

Court for the Omaha Division shall be held at Omaha.

#### § 108. Nevada

Nevada constitutes one judicial district.

Court shall be held at Carson City, Elko, Las Vegas and Reno

#### § 109. New Hampshire

New Hampshire constitutes one judicial district.

Court shall be held at Concord and Littleton.

#### § 110. New Jersey

New Jersey constitutes one judicial district.

Court shall be held at Camden, Newark and Trenton.

#### § 111. New Mexico

New Mexico constitutes one judicial district.

Court shall be held at Albuquerque, Las Cruces, Las Vegas, Roswell, Santa Fe, and Silver City.

#### § 112. New York

New York is divided into four judicial districts to be known as the Northern, Southern, Eastern, and Western Districts of New York.

##### Northern District

(a) The Northern District comprises the counties of Albany, Broome, Cayuga, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Montgomery, Oneida, Onondaga, Oswego, Otsego, Rensselaer, Saint Lawrence, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Warren, and Washington.

Court for the Northern District shall be held at Albany, Auburn, Binghamton, Malone, Syracuse, and Utica.

#### Southern District

(b) The Southern District comprises the counties of Bronx, Columbia, Dutchess, Greene, New York, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester and concurrently with the Eastern District, the waters within the Eastern District.

Court for the Southern District shall be held at New York.

#### Eastern District

(c) The Eastern District comprises the counties of Kings, Nassau, Queens, Richmond, and Suffolk and concurrently with the Southern District, the waters within the counties of Bronx and New York.

Court for the Eastern District shall be held at Brooklyn.

#### Western District

(d) The Western District comprises the counties of Allegany, Cataraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming, and Yates.

Court for the Western District shall be held at Buffalo, Canandaigua, Elmira, Jamestown, and Rochester.

### § 113. North Carolina

North Carolina is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of North Carolina.

#### Eastern District

(a) The Eastern District comprises the counties of Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin, Gates, Granville, Greene, Halifax, Harnett, Hertford, Hyde, Johnston, Jones, Lenoir, Martin, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Pitt, Robeson, Sampson, Tyrrell, Vance, Wake, Warren, Washington, Wayne, and Wilson.

Court for the Eastern District shall be held at Elizabeth City, Fayetteville, New Bern, Raleigh, Washington, Wilmington, and Wilson.

#### Middle District

(b) The Middle District comprises the counties of Alamance, Alleghany, Ashe, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsythe, Guilford, Hoke, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Stokes, Surry, Watauga, Wilkes, and Yadkin.

Court for the Middle District shall be held at Durham, Greensboro, Rockingham, Salisbury, Wilkesboro, and Winston-Salem.

#### Western District

(c) The Western District comprises the counties of Alexander, Anson, Avery, Buncombe, Burke, Caldwell, Catawba, Cherokee, Clay, Cleveland, Gaston, Graham, Haywood, Henderson, Iredell, Jackson, Lincoln, McDowell, Macon, Madison, Mecklenburg, Mitchell, Polk, Rutherford, Swain, Transylvania, Union, and Yancey.

Court for the Western District shall be held at Asheville, Bryson City, Charlotte, Shelby, and Statesville.

### § 114. North Dakota

North Dakota constitutes one judicial district comprising four divisions.



(1) The Southwestern Division comprises the counties of Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Kidder, Logan, McIntosh, McLean, Mercer, Morton, Oliver, Sioux, Slope, and Stark.

Court for the Southwestern Division shall be held at Bismarck.

(2) The Southeastern Division comprises the counties of Barnes, Cass, Dickey, Eddy, Foster, Griggs, La Moure, Ransom, Richland, Sargent, Sheridan, Steele, Stutsman, and Wells.

Court for the Southeastern Division shall be held at Fargo.

(3) The Northeastern Division comprises the counties of Benson, Bottineau, Cavalier, Grand Forks, McHenry, Nelson, Pembina, Pierce, Ramsey, Rolette, Towner, Traill, and Walsh.

Court for the Northeastern Division shall be held at Grand Forks.

(4) The Northwestern Division comprises the counties of Burke, Divide, McKenzie, Mountrail, Renville, Ward, and Williams.

Court for the Northwestern Division shall be held at Minot.

### § 115. Ohio

Ohio is divided into two judicial districts to be known as the Northern and Southern Districts of Ohio.

#### Northern District

(a) The Northern District comprises two divisions.

(1) The Eastern Division comprises the counties of Ashland, Ashtabula, Carroll, Columbiana, Crawford, Cuyahoga, Geauga, Holmes, Lake, Lorain, Mahoning, Medina, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas, and Wayne.

Court for the Eastern Division shall be held at Cleveland and Youngstown.

(2) The Western Division comprises the counties of Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Woods, and Wyandot.

Court for the Western Division shall be held at Lima and Toledo.

#### Southern District

(b) The Southern District comprises two divisions.

(1) The Western Division comprises the counties of Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Greene, Hamilton, Highland, Lawrence, Miami, Montgomery, Preble, Scioto, Shelby, and Warren.

Court for the Western Division shall be held at Cincinnati and Dayton.

(2) The Eastern Division comprises the counties of Athens, Belmont, Coshocton, Delaware, Fairfield, Fayette, Franklin, Gallia, Guernsey, Harrison, Hocking, Jackson, Jefferson, Knox, Licking, Logan, Madison, Meigs, Monroe, Morgan, Morrow, Muskingum, Noble, Perry, Pickaway, Pike, Ross, Union, Vinton, and Washington.

Court for the Eastern Division shall be held at Columbus and Steubenville.

### § 116. Oklahoma

Oklahoma is divided into three judicial districts to be known as the Northern, Eastern, and Western Districts of Oklahoma.

#### Northern District

(a) The Northern District comprises the counties of Craig, Creek, Delaware, Mayes, Nowata, Osage, Ottawa, Pawnee, Rogers, Tulsa, and Washington.

Court for the Northern District shall be held at Bartlesville, Miami, Pawhuska, Tulsa, and Vinita.

#### Eastern District

(b) The Eastern District comprises the counties of Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Coal, Garvin, Grady, Haskell, Hughes, Jefferson, Johnston, Latimer, Le Flore, Love, McClain, McCurtain, McIntosh, Marshall, Murray, Muskogee, Okfuskee, Okmulgee, Pittsburg, Pontotoc, Pushmataha, Seminole, Sequoyah, Stephens, and Wagoner.

Court for the Eastern District shall be held at Ada, Ardmore, Chickasha, Durant, Hugo, Muskogee, Okmulgee, Pauls Valley, Poteau, and S. McAlester.

#### Western District

(c) The Western District comprises the counties of Alfalfa, Beaver, Beckham, Blaine, Caddo, Canadian, Cimarron, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Grant, Greer, Harmon, Harper, Jackson, Kay, Kingfisher, Kiowa, Lincoln, Logan, Major, Noble, Oklahoma, Payne, Pottawatomie, Roger Mills, Texas, Tillman, Washita, Woods, and Woodward.

Court for the Western District shall be held at Enid, Guthrie, Lawton, Mangum, Oklahoma City, Ponca City, Shawnee, and Woodward.

### § 117. Oregon

Oregon constitutes one judicial district.

Court shall be held at Medford, Klamath Falls, Pendleton, and Portland.

### § 118. Pennsylvania

Pennsylvania is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Pennsylvania.

#### Eastern District

(a) The Eastern District comprises the counties of Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, and Schuylkill.

Court for the Eastern District shall be held at Easton and Philadelphia.

#### Middle District

(b) The Middle District comprises the counties of Adams, Bradford, Cameron, Carbon, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lebanon, Luzerne, Lycoming, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York.

Court for the Middle District shall be held at Harrisburg, Lewisburg, Scranton, Wilkes-Barre, and Williamsport.

#### Western District

(c) The Western District comprises the counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland.

Court for the Western District shall be held at Erie and Pittsburgh.

**§ 119. Puerto Rico**

Puerto Rico constitutes one judicial district.  
Court shall be held at Mayaguez, Ponce, and San Juan.

**§ 120. Rhode Island**

Rhode Island constitutes one judicial district.  
Court shall be held at Providence.

**§ 121. South Carolina**

South Carolina is divided into two judicial districts to be known as the Eastern and Western Districts of South Carolina.

**Eastern District**

(a) The Eastern District comprises five divisions.

(1) The Charleston Division comprises the counties of Beaufort, Berkeley, Charleston, Clarendon, Colleton, Dorchester, Georgetown, and Jasper.

Court for the Charleston Division shall be held at Charleston.

(2) The Columbia Division comprises the counties of Kershaw, Lee, Lexington, Richland, and Sumter.

Court for the Columbia Division shall be held at Columbia.

(3) The Florence Division comprises the counties of Chesterfield, Darlington, Dillon, Florence, Horry, Marion, Marlboro, and Williamsburg.

Court for the Florence Division shall be held at Florence.

(4) The Aiken Division comprises the counties of Aiken, Allendale, Barnwell, and Hampton.

Court for the Aiken Division shall be held at Aiken.

(5) The Orangeburg Division comprises the counties of Bamberg, Calhoun, and Orangeburg.

Court for the Orangeburg Division shall be held at Orangeburg.

**Western District**

(b) The Western District comprises five divisions.

(1) The Greenville Division comprises the counties of Greenville and Laurens.

Court for the Greenville Division shall be held at Greenville.

(2) The Rock Hill Division comprises the counties of Chester, Fairfield, Lancaster, and York.

Court for the Rock Hill Division shall be held at Rock Hill.

(3) The Greenwood Division comprises the counties of Abbeville, Edgefield, Greenwood, McCormick, Newberry, and Saluda.

Court for the Greenwood Division shall be held at Greenwood.

(4) The Anderson Division comprises the counties of Anderson, Oconee, and Pickens.

Court for the Anderson Division shall be held at Anderson.

(5) The Spartanburg Division comprises the counties of Cherokee, Spartanburg, and Union.

Court for the Spartanburg Division shall be held at Spartanburg.

**§ 122. South Dakota**

South Dakota constitutes one judicial district comprising four divisions.

(1) The Northern Division comprises the counties of Brown, Campbell, Clark, Codington, Corson, Day, Deuel, Edmonds, Grant, Hamlin, McPherson, Marshall, Roberts, Spink, and Walworth.

Court for the Northern Division shall be held at Aberdeen.

(2) The Southern Division comprises the counties of Aurora, Beadle, Bon Homme, Brookings, Brule, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Kingsbury, Lake, Lincoln,

McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union, and Yankton.

Court for the Southern Division shall be held at Sioux Falls.

(3) The Central Division comprises the counties of Armstrong, Buffalo, Dewey, Faulk, Haakon, Hand, Hughes, Hyde, Jackson, Jerauld, Jones, Lyman, Potter, Stanley, Sully, and Ziebach.

Court for the Central Division shall be held at Pierre.

(4) The Western Division comprises the counties of Bennett, Butte, Custer, Fall River, Harding, Lawrence, Meade, Mellette, Pennington, Perkins, Shannon, Todd, Tripp, Washabaugh, and Washington.

Court for the Western Division shall be held at Deadwood.

### § 123. Tennessee

Tennessee is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Tennessee.

#### Eastern District

(a) The Eastern District comprises four divisions.

(1) The Northern Division comprises the counties of Anderson, Blount, Campbell, Claiborne, Grainger, Jefferson, Knox, Loudon, Monroe, Morgan, Roane, Scott, Sevier, and Union.

Court for the Northern Division shall be held at Knoxville.

(2) The Northeastern Division comprises the counties of Carter, Cocke, Greene, Hamblen, Hancock, Hawkins, Johnson, Sullivan, Unicoi, and Washington.

Court for the Northeastern Division shall be held at Greenville.

(3) The Southern Division comprises the counties of Bledsoe, Bradley, Hamilton, McMinn, Marion, Meigs, Polk, Rhea, and Sequatchie.

Court for the Southern Division shall be held at Chattanooga.

(4) The Winchester Division comprises the counties of Bedford, Coffee, Franklin, Grundy, Lincoln, Moore, Van Buren, and Warren.

Court for the Winchester Division shall be held at Winchester.

#### Middle District

(b) The Middle District comprises three divisions.

(1) The Nashville Division comprises the counties of Cannon, Cheatham, Davidson, Dickson, Houston, Humphreys, Montgomery, Robertson, Rutherford, Stewart, Sumner, Trousdale, Williamson, and Wilson.

Court for the Nashville Division shall be held at Nashville.

(2) The Northeastern Division comprises the counties of Clay, Cumberland, De Kalb, Fentress, Jackson, Macon, Overton, Pickett, Putnam, Smith, and White.

Court for the Northeastern Division shall be held at Cookeville.

(3) The Columbia Division comprises the counties of Giles, Hickman, Lawrence, Lewis, Marshall, Maury, and Wayne.

Court for the Columbia Division shall be held at Columbia.

#### Western District

(c) The Western District comprises two divisions.

(1) The Eastern Division comprises the counties of Benton, Carroll, Chester, Crockett, Decatur, Gibson, Hardeman, Hardin, Henderson, Henry, Lake, McNairy, Madison, Obion, Perry, and Weakley.

The Eastern Division also includes the waters of Tennessee River

to low-water mark on the eastern shore wherever such river forms the boundary between the western and middle districts from the north line of Alabama north to the point in Henry County, Tennessee, where the south boundary of Kentucky strikes the east bank of the river.

Court for the Eastern Division shall be held at Jackson.

- (2) The Western Division comprises the counties of Dyer, Fayette, Haywood, Lauderdale, Shelby, and Tipton.

Court for the Western Division shall be held at Memphis.

The district judge for the Eastern District in office on November 27, 1940, shall hold court in the Northern and Northeastern Divisions. The other judge of that district shall hold the terms of court in the Southern and Winchester Divisions. Each may appoint and remove all officers and employees of the court whose official headquarters are located in the divisions within which he holds court and whose appointments are vested by law in a district judge or chief judge of a district.

#### § 124. Texas

Texas is divided into four judicial districts to be known as the Northern, Southern, Eastern, and Western Districts of Texas.

##### Northern District

- (a) The Northern District comprises seven divisions.

- (1) The Dallas Division comprises the counties of Dallas, Ellis, Hunt, Johnson, Kaufman, Navarro, and Rockwall.

Court for the Dallas Division shall be held at Dallas.

- (2) The Fort Worth Division comprises the counties of Comanche, Erath, Hood, Jack, Palo Pinto, Parker, Tarrant, and Wise.

Court for the Fort Worth Division shall be held at Fort Worth.

- (3) The Abilene Division comprises the counties of Callahan, Eastland, Fisher, Haskell, Howard, Jones, Mitchell, Nolan, Shackelford, Stephens, Stonewall, Taylor, and Throckmorton.

Court for the Abilene Division shall be held at Abilene.

- (4) The San Angelo Division comprises the counties of Brown, Coke, Coleman, Concho, Crockett, Glasscock, Irion, Menard, Mills, Reagan, Runnels, Schleicher, Sterling, Sutton, and Tom Green.

Court for the San Angelo Division shall be held at San Angelo.

- (5) The Amarillo Division comprises the counties of Armstrong, Brisco, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler.

Court for the Amarillo Division shall be held at Amarillo.

- (6) The Wichita Falls Division comprises the counties of Archer, Baylor, Clay, Cottle, Foard, Hardeman, King, Knox, Montague, Wichita, Wilbarger, and Young.

Court for the Wichita Falls Division shall be held at Wichita Falls.

- (7) The Lubbock Division comprises the counties of Bailey, Borden, Cochran, Crosby, Dawson, Dickens, Floyd, Gaines, Garza, Hale, Hockley, Kent, Lamb, Lubbock, Lynn, Motley, Scurry, Terry, and Yoakum.

Court for the Lubbock Division shall be held at Lubbock.

## Southern District

- (b) The Southern District comprises six divisions.
- (1) The Galveston Division comprises the counties of Austin, Brazoria, Chambers, Fort Bend, Galveston, Matagorda, and Wharton.  
Court for the Galveston Division shall be held at Galveston.
- (2) The Houston Division comprises the counties of Brazos, Colorado, Fayette, Grimes, Harris, Madison, Montgomery, Polk, San Jacinto, Trinity, Walker, and Waller.  
Court for the Houston Division shall be held at Houston.
- (3) The Laredo Division comprises the counties of Jim Hogg, La Salle, McMullen, Webb, and Zapata.  
Court for the Laredo Division shall be held at Laredo.
- (4) The Brownsville Division comprises the counties of Cameron, Hidalgo, Starr, and Willacy.  
Court for the Brownsville Division shall be held at Brownsville.
- (5) The Victoria Division comprises the counties of Calhoun, DeWitt, Goliad, Jackson, Lavaca, Refugio, and Victoria.  
Court for the Victoria Division shall be held at Victoria.
- (6) The Corpus Christi Division comprises the counties of Aransas, Bee, Brooks, Duval, Jim Wells, Kenedy, Kleburg, Live Oak, Nueces, and San Patricio.  
Court for the Corpus Christi Division shall be held at Corpus Christi.

## Eastern District

- (c) The Eastern District comprises six divisions.
- (1) The Tyler Division comprises the counties of Anderson, Angelina, Cherokee, Gregg, Henderson, Houston, Nacogdoches, Panola, Rains, Rusk, Smith, Van Zandt, and Wood.  
Court for the Tyler Division shall be held at Tyler.
- (2) The Beaumont Division comprises the counties of Hardin, Jasper, Jefferson, Liberty, Newton, Orange, Sabine, San Augustine, Shelby, and Tyler.  
Court for the Beaumont Division shall be held at Beaumont.
- (3) The Sherman Division comprises the counties of Collin, Cook, Denton, and Grayson.  
Court for the Sherman Division shall be held at Sherman.
- (4) The Paris Division comprises the counties of Delta, Fannin, Lamar, and Red River.  
Court for the Paris Division shall be held at Paris.
- (5) The Jefferson Division comprises the counties of Camp, Cass, Harrison, Hopkins, Marion, Morris, and Upshur.  
Court for the Jefferson Division shall be held at Jefferson.
- (6) The Texarkana Division comprises the counties of Bowie, Franklin, and Titus.  
Court for the Texarkana Division shall be held at Texarkana.

## Western District

- (d) The Western District comprises six divisions.
- (1) The Austin Division comprises the counties of Bastrop, Blanco, Burleson, Burnet, Caldwell, Gillespie, Hays, Kimble, Lampasas, Lee, Llano, Mason, McCulloch, San Saba, Travis, Washington, and Williamson.  
Court for the Austin Division shall be held at Austin.
- (2) The Waco Division comprises the counties of Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Leon, Limestone, McLennan, Milam, Robertson, and Somervell.  
Court for the Waco Division shall be held at Waco.

(3) The El Paso Division comprises the counties of Brewster, Culberson, El Paso, Hudspeth, and Presidio.

Court for the El Paso Division shall be held at El Paso.

(4) The San Antonio Division comprises the counties of Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Gonzales, Guadalupe, Karnes, Kendall, Kerr, Medina, Real, and Wilson.

Court for the San Antonio Division shall be held at San Antonio.

(5) The Del Rio Division comprises the counties of Kinney, Maverick, Terrell, Uvalde, Val Verde, and Zavalla.

Court for the Del Rio Division shall be held at Del Rio.

(6) The Pecos Division comprises the counties of Andrews, Crane, Ector, Jeff Davis, Loving, Martin, Midland, Pecos, Reeves, Upton, Ward, and Winkler.

Court for the Pecos Division shall be held at Pecos.

#### § 125. Utah

Utah constitutes one judicial district comprising two divisions.

(1) The Northern Division comprises the counties of Box Elder, Cache, Davis, Morgan, Rich, and Weber.

Court for the Northern Division shall be held at Ogden.

(2) The Central Division comprises the counties of Beaver, Carbon, Daggett, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Piute, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, and Wayne.

Court for the Central Division shall be held at Salt Lake City.

#### § 126. Vermont

Vermont constitutes one judicial district.

Court shall be held at Brattleboro, Burlington, Rutland, and Windsor.

#### § 127. Virginia

Virginia is divided into two judicial districts, to be known as the Eastern and Western districts of Virginia.

##### Eastern District

(a) The Eastern District comprises the counties of Accomac, Amelia, Arlington, Brunswick, Caroline, Charles City, Chesterfield, Culpeper, Dinwiddie, Elizabeth City, Essex, Fairfax, Fauquier, Gloucester, Goochland, Greensville, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Loudoun, Louisa, Lunenburg, Mathews, Mecklenburg, Middlesex, Nansemond, New Kent, Norfolk, Northampton, Northumberland, Nottoway, Orange, Powhatan, Prince Edward, Prince George, Prince William, Princess Anne, Richmond, Southampton, Spotsylvania, Stafford, Surry, Sussex, Warwick, Westmoreland, and York.

Court for the Eastern District shall be held at Alexandria, Newport News, Norfolk, and Richmond.

##### Western District

(b) The Western District comprises the counties of Albemarle, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Buckingham, Campbell, Carroll, Charlotte, Clarke, Craig, Cumberland, Dickenson, Floyd, Fluvanna, Franklin, Frederick, Giles, Grayson, Greene, Halifax, Henry, Highland, Lee, Madison, Montgomery, Nelson, Page, Patrick, Pittsylvania, Pulaski, Rappahannock, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Tazewell, Warren, Washington, Wise, and Wythe.

Court for the Western District shall be held at Abingdon, Big

Stone Gap, Charlottesville, Danville, Harrisonburg, Lynchburg, and Roanoke.

**§ 128. Washington**

Washington is divided into two judicial districts to be known as the Eastern and Western Districts of Washington.

**Eastern District**

(a) The Eastern District comprises two divisions.

(1) The Northern Division comprises the counties of Adams, Chelan, Douglas, Ferry, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman.

Court for the Northern Division shall be held at Spokane.

(2) The Southern Division comprises the counties of Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Klickitat, Walla Walla, and Yakima.

Court for the Southern Division shall be held at Yakima and Walla Walla.

**Western District**

(b) The Western District comprises two divisions.

(1) The Northern Division comprises the counties of Clallam, Island, Jefferson, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom.

Court for the Northern Division shall be held at Bellingham and Seattle.

(2) The Southern Division comprises the counties of Clark, Cowlitz, Grays Harbor, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum.

Court for the Southern Division shall be held at Tacoma.

**§ 129. West Virginia**

West Virginia is divided into two judicial districts to be known as the Northern and Southern Districts of West Virginia.

**Northern District**

(a) The Northern District comprises the counties of Barbour, Berkeley, Brooke, Calhoun, Doddridge, Gilmer, Grant, Hampshire, Hancock, Hardy, Harrison, Jefferson, Lewis, Marion, Marshall, Mineral, Monongalia, Morgan, Ohio, Pendleton, Pleasants, Preston, Randolph, Ritchie, Taylor, Tucker, Tyler, Upshur, Wetzell, Wirt, and Wood.

Court for the Northern District shall be held at Clarksburg, Elkins, Fairmont, Martinsburg, Parkersburg, and Wheeling.

**Southern District**

(b) The Southern District comprises the counties of Boone, Braxton, Cabell, Clay, Fayette, Greenbrier, Jackson, Kanawha, Lincoln, Logan, McDowell, Mason, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Roane, Summers, Wayne, Webster, and Wyoming.

Court for the Southern District shall be held at Beckley, Bluefield, Charleston, Huntington, and Lewisburg.

**§ 130. Wisconsin**

Wisconsin is divided into two judicial districts to be known as the Eastern and Western districts of Wisconsin.



### Eastern District

(a) The Eastern District comprises the counties of Brown, Calumet, Dodge, Door, Florence, Fond du Lac, Forest, Green Lake, Kenosha, Kewaunee, Langlade, Manitowoc, Marinette, Marquette, Milwaukee, Oconto, Outagamie, Ozaukee, Racine, Shawano, Sheboygan, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago.

Court for the Eastern District shall be held at Green Bay, Milwaukee, and Oshkosh.

### Western District

(b) The Western District comprises the counties of Adams, Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Columbia, Crawford, Dane, Douglas, Dunn, Eau Claire, Grant, Green, Iowa, Iron, Jackson, Jefferson, Juneau, La Crosse, Lafayette, Lincoln, Marathon, Monroe, Oneida, Pepin, Pierce, Polk, Portage, Price, Richland, Rock, Rusk, Saint Croix, Sauk, Sawyer, Taylor, Trempealeau, Vernon, Vilas, Washburn, and Wood.

Court for the Western District shall be held at Eau Claire, La Crosse, Madison, Superior, and Wausau.

### § 131. Wyoming

Wyoming and those portions of Yellowstone National Park situated in Montana and Idaho constitute one judicial district.

Court shall be held at Casper, Cheyenne, Evanston, Lander, and Sheridan.

### § 132. Creation and composition of district courts

(a) There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district.

(b) Each district court shall consist of the district judge or judges for the district in active service. Justices or judges designated or assigned shall be competent to sit as judges of the court.

(c) Except as otherwise provided by law, or rule or order of court, the judicial power of a district court with respect to any action, suit or proceeding may be exercised by a single judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other judges.

### § 133. Appointment and number of district judges

The President shall appoint, by and with the advice and consent of the Senate, district judges for the several judicial districts, as follows:

Districts	Judges	Districts	Judges
Alabama:		Colorado.....	1
Northern.....	2	Connecticut.....	2
Middle.....	1	Delaware.....	1
Southern.....	1	District of Columbia.....	12
Arizona.....	2	Florida:	
Arkansas:		Northern.....	1
Eastern.....	1	Southern.....	3
Western.....	1	Georgia:	
Eastern and Western.....	1	Northern.....	1
California:		Middle.....	1
Northern.....	5	Southern.....	1
Southern.....	8	Hawaii.....	2

Districts	Judges	Districts	Judges
Idaho.....	1	North Dakota.....	1
Illinois:		Ohio:	
Northern.....	6	Northern.....	3
Southern.....	2	Southern.....	3
Eastern.....	2	Oklahoma:	
Indiana:		Northern.....	1
Northern.....	1	Eastern.....	1
Southern.....	1	Western.....	1
Iowa:		Northern, Eastern, and	
Northern.....	1	Western.....	1
Southern.....	1	Oregon.....	2
Kansas.....	1	Pennsylvania:	
Kentucky:		Eastern.....	5
Eastern.....	1	Middle.....	2
Western.....	1	Western.....	3
Eastern and Western.....	1	Puerto Rico.....	1
Louisiana:		Rhode Island.....	1
Eastern.....	2	South Carolina:	
Western.....	2	Eastern.....	1
Maine.....	1	Western.....	1
Maryland.....	2	Eastern and Western.....	1
Massachusetts.....	4	South Dakota.....	1
Michigan:		Tennessee:	
Eastern.....	5	Eastern.....	2
Western.....	1	Middle.....	1
Minnesota.....	4	Western.....	1
Mississippi:		Texas:	
Northern.....	1	Northern.....	3
Southern.....	1	Southern.....	2
Missouri:		Eastern.....	1
Eastern.....	2	Western.....	2
Western.....	2	Utah.....	1
Eastern and Western.....	1	Vermont.....	1
Montana.....	2	Virginia:	
Nebraska.....	2	Eastern.....	2
Nevada.....	1	Western.....	2
New Hampshire.....	1	Washington:	
New Jersey.....	5	Eastern.....	1
New Mexico.....	1	Western.....	2
New York:		Eastern and Western.....	1
Northern.....	2	West Virginia:	
Southern.....	12	Northern.....	1
Eastern.....	6	Southern.....	1
Western.....	2	Wisconsin:	
North Carolina:		Eastern.....	1
Eastern.....	1	Western.....	1
Western.....	1	Wyoming.....	1
Middle.....	1		

Only citizens of the Territory of Hawaii who have resided therein for at least three years next preceding shall be eligible for appointment as district judges for the district of Hawaii.

**§ 134. Tenure and residence of district judges**

(a) The district judges, except in Hawaii and Puerto Rico, shall hold office during good behavior. The district judges in Hawaii and Puerto Rico shall hold office for terms of six and eight years, respectively, and until their successors are appointed and qualified.

(b) Each district judge, except in the District of Columbia, shall reside in the district or one of the districts for which he is appointed.

**§ 135. Salaries of district judges**

Each judge of a district court of the United States shall receive a salary of \$15,000 a year.

The chief judge of the District Court for the District of Columbia shall receive a salary of \$15,500 a year.

**§ 136. Chief judges; precedence of district judges**

(a) In each district having more than one judge the district judge senior in commission shall be the chief judge of the district court.

(b) The chief judge shall have precedence and preside at any session which he attends.

Other district judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

(c) A judge whose commission extends over more than one district shall be junior to all district judges except in the district in which he resided at the time he entered upon the duties of his office.

(d) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as district judge, he may so certify to the Chief Justice of the United States, and thereafter the district judge in active service next in precedence and willing to serve shall be designated by the Chief Justice as the chief judge of the district court.

(e) If a chief judge is temporarily unable to perform his duties as such, they shall be performed by the district judge in active service, present in the district and able and qualified to act, who is next in precedence.

**§ 137. Division of business among district judges**

The business of a court having more than one judge shall be divided among the judges as provided by the rules and orders of the court.

The chief judge of the district court shall be responsible for the observance of such rules and orders, and shall divide the business and assign the cases so far as such rules and orders do not otherwise prescribe.

If the district judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders.

**§ 138. Times for holding regular terms**

The times for holding regular terms of court at the places fixed by this chapter shall be determined by rule of the district court.

**§ 139. Term continued until terminated**

A term of a district court continues for all purposes until terminated by order of final adjournment or by commencement of the next general or special term at the same place.

**§ 140. Adjournment**

(a) Any district court may by order made anywhere within its district, adjourn, or with the consent of the judicial council of the circuit, preterm its any term of court for insufficient business or other good cause.

(b) If the judge of a district court is unable to attend and unable to make an order of adjournment, the clerk may adjourn the court to the next regular term or to any earlier day which he may determine.

**§ 141. Special terms; places; notice**

Special terms of district court may be held at such places in the district as the nature of the business may require, and upon such

notice as the court orders, pursuant to rules approved by the judicial council of the circuit.

Any business may be transacted at a special term which might be transacted at a regular term.

**§ 142. Accommodations at places for holding court**

Court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States.

**§ 143. Vacant judgeship as affecting proceedings**

When the office of a district judge becomes vacant, all pending process, pleadings and proceedings shall, when necessary, be continued by the clerk until a judge is appointed or designated to hold such court.

**§ 144. Bias or prejudice of judge**

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit as to any judge. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith.

**CHAPTER 7—COURT OF CLAIMS**

Sec.

171. Appointment and number of judges.

172. Precedence of judges.

173. Tenure and salaries of judges.

174. Terms.

175. Quorum.

**§ 171. Appointment and number of judges**

The President shall appoint, by and with the advice and consent of the Senate, a chief judge and four associate judges who shall constitute a court of record known as the United States Court of Claims.

**§ 172. Precedence of judges**

The chief judge of the Court of Claims shall have precedence and preside at any session of the court which he attends.

The other judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

**§ 173. Tenure and salaries of judges**

The chief judge and associate judges of the Court of Claims shall hold office during good behavior. Each shall receive a salary of \$17,500 a year.

**§ 174. Terms**

The Court of Claims shall hold at the seat of government an annual term at a time to be fixed by rule of court.

**§ 175. Quorum**

Three judges of the Court of Claims constitute a quorum. The concurrence of three judges is necessary to any decision.

## CHAPTER 9—COURT OF CUSTOMS AND PATENT APPEALS

Sec.

211. Appointment and number of judges.

212. Precedence of judges.

213. Tenure and salaries of judges.

214. Sessions.

215. Quorum.

216. Opinions.

### § 211. Appointment and number of judges

The President shall appoint, by and with the advice and consent of the Senate, a chief judge and four associate judges who shall constitute a court of record known as the United States Court of Customs and Patent Appeals.

### § 212. Precedence of judges.

The chief judge of the Court of Customs and Patent Appeals shall have precedence and preside at any session of the court which he attends.

The associate judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

### § 213. Tenure and salaries of judges

Judges of the Court of Customs and Patent Appeals shall hold office during good behavior. Each shall receive a salary of \$17,500 a year.

### § 214. Sessions

The Court of Customs and Patent Appeals may hold court at such times and places as it may fix by rule.

### § 215. Quorum

Three judges of the Court of Customs and Patent Appeals constitute a quorum. The concurrence of three judges is necessary to any decision.

### § 216. Opinions

The Court of Customs and Patent Appeals, on each appeal from a Patent Office decision, shall file a written opinion as part of the record and send a certified copy to the Commissioner of Patents who shall record it in the Patent Office.

## CHAPTER 11—CUSTOMS COURT

Sec.

251. Appointment and number of judges; offices.

252. Tenure and salaries of judges.

253. Duties of chief judge; precedence of judges.

254. Divisions; powers and assignments.

255. Publication of decisions.

### § 251. Appointment and number of judges; offices

The President shall appoint, by and with the advice and consent of the Senate, nine judges who shall constitute a court of record known as the United States Customs Court. Not more than five of such judges shall be appointed from the same political party.

The President shall designate from time to time one of the judges to act as chief judge.

The offices of the court shall be located at the port of New York.

### § 252. Tenure and salaries of judges

Judge of the Customs Court shall hold office during good behavior. Each shall receive a salary of \$15,000 a year.

**§ 253. Duties of chief judge; precedence of judges**

The chief judge of the Customs Court shall control the fiscal affairs and clerical force of the court; assign or reassign, before trial and under rules of the court, any case for hearing, determination, or both; and promulgate dockets.

The chief judge shall have precedence and preside at any session of the court which he attends. If he is temporarily unable to perform his duties as such, they shall be performed by the judge in active service, who is present, able and qualified to act, and next in precedence.

Judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

**§ 254. Divisions; powers and assignments**

The chief judge of the Customs Court shall divide the judges of such court into three divisions of three judges each, to hear and determine applications for the review of reappraisements of merchandise, protests against decisions of collectors, petitions for remission of additional duties and such other matters within the jurisdiction of the court as the chief judge may assign to them.

The chief judge may sit in any division. He may when necessary assign other judges to any division.

The chief judge may designate a judge or a division and necessary clerical assistants to proceed to any port within the jurisdiction of the United States to hear and determine cases assigned for hearing at such port.

A majority of the judges of any division may hear and determine all cases and questions pending therein.

**§ 255. Publication of decisions**

All decisions of the Customs Court shall be preserved and open to inspection. The court shall forward copies of each decision to the Secretary of the Treasury and the collector for the district in which the case arose. The Secretary shall publish weekly such decisions as he or the court may designate and abstracts of all other decisions.

## CHAPTER 13—ASSIGNMENT OF JUDGES TO OTHER COURTS

Sec.

291. Circuit judges.

292. District judges.

293. Circuit or district judges to Court of Customs and Patent Appeals.

294. Assignment of retired justices or judges to active duty.

295. Conditions upon designation and assignment.

296. Powers upon designation and assignment.

**§ 291. Circuit judges**

(a) The Chief Justice of the United States may designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

(b) The Chief Justice of the United States may designate and assign temporarily a judge of the Court of Customs and Patent Appeals to serve as a judge of the Court of Appeals or the District Court for the District of Columbia when requested by the chief judge of the court in need of such assistance.

(c) The chief judge of a circuit or the circuit justice may, in the public interest, designate and assign temporarily any circuit judge within the circuit, including a judge designated and assigned to temporary duty therein, to hold a district court in any district within the circuit.

**§ 292. District judges**

(a) The chief judge of a circuit may designate and assign one or more district judges within the circuit to sit upon the court of appeals or a division thereof whenever the business of that court so requires. Such designations or assignments shall be in conformity with the rules or orders of the court of appeals of the circuit.

(b) The chief judge of a circuit may, in the public interest, designate and assign temporarily any district judge of the circuit to hold a district court in any district within the circuit.

(c) The Chief Justice of the United States may designate and assign temporarily a district judge of one circuit for service in another circuit, either in a district court or court of appeals, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

**§ 293. Circuit or district judges to court of customs and patent appeals**

The Chief Justice of the United States may, upon presentation to him by the chief judge of the Court of Customs and Patent Appeals of a certificate of necessity, designate and assign temporarily any circuit or district judge to perform such duties as judge of the Court of Customs and Patent Appeals as he is willing to undertake.

**§ 294. Assignment of retired justices or judges to active duty**

(a) Any retired Chief Justice of the United States or associate justice of the Supreme Court may be designated and assigned by the Chief Justice of the United States to perform such judicial duties in any circuit, including those of a circuit justice, as he is willing to undertake.

(b) Any retired circuit or district judge may be designated and assigned to perform such judicial duties in any circuit as he is willing to undertake. Designation and assignment of such judge for service within his circuit shall be made by the chief judge or judicial council of the circuit. Designation and assignment for service elsewhere shall be made by the Chief Justice of the United States.

(c) Any retired judge of any other court of the United States may be called upon by the chief judge of such court to perform such judicial duties in such court as he is willing to undertake.

(d) No retired justice or judge shall perform judicial duties except when designated and assigned.

**§ 295. Conditions upon designation and assignment**

No designation and assignment shall be made without the consent of the chief judge or judicial council of the circuit from which a judge is to be designated and assigned.

All designations and assignments of justices and judges shall be filed with the clerks and entered on the minutes of the courts from and to which made.

The Chief Justice of the United States, a circuit justice or a chief judge of a circuit may make new designations and assignments in accordance with the provisions of this chapter, and may revoke those previously made by him.

**§ 296. Powers upon designation and assignment**

A justice or judge shall discharge, during the period of his designation and assignment, all judicial duties for which he is designated and assigned. He may be required to perform any duty which might be required of a judge of the court or district or circuit to which he is designated and assigned.

Such justice or judge shall have all the powers of a judge of the court, circuit or district to which he is designated and assigned, except

the power to appoint any person to a statutory position or to designate permanently a depository of funds or a newspaper for publication of legal notices.

A justice or judge who has sat by designation and assignment in another district or circuit may, notwithstanding his absence from such district or circuit or the expiration of the period of his designation and assignment, decide or join in the decision and final disposition of all matters submitted to him during such period and in the consideration and disposition of applications for rehearing or further proceedings in such matters.

## CHAPTER 15—CONFERENCES AND COUNCILS OF JUDGES

Sec.

331. Judicial Conference of the United States.

332. Judicial councils.

333. Judicial conferences of circuits.

### § 331. Judicial Conference of the United States

The Chief Justice of the United States shall summon annually the chief judges of the judicial circuits to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States.

If the chief judge of any circuit is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the conference and advise as to the needs of his circuit and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

Survey of condition  
of business in U. S.  
courts.

The conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary, and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.

Report of Attorney  
General.

The Attorney General shall, upon request of the Chief Justice, report to such conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

Report to Congress.

The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.

### § 332. Judicial councils

The chief judge of each circuit shall call, at least twice in each year and at such places as he may designate, a council of the circuit judges for the circuit, in active service, at which he shall preside. Each circuit judge, unless excused by the chief judge, shall attend all sessions of the council.

The council shall be known as the Judicial Council of the circuit.

The chief judge shall submit to the council the quarterly reports of the Director of the Administrative Office of the United States Courts. The council shall take such action thereon as may be necessary.

Each judicial council shall make all necessary orders for the effective and expeditious administration of the business of the courts within its circuit. The district judges shall promptly carry into effect all orders of the judicial council.



### § 333. Judicial conferences of circuits

The chief judge of each circuit shall summon annually the circuit and district judges of the circuit, in active service and residing within the continental United States, to a conference at a time and place that he designates, for the purpose of considering the business of the courts and advising means of improving the administration of justice within such circuit. He shall preside at such conference, which shall be known as the Judicial Conference of the circuit.

Every judge summoned shall attend, and unless excused by the chief judge, shall remain throughout the conference.

The court of appeals for each circuit shall provide by its rules for representation and active participation at such conference by members of the bar of such circuit.

## CHAPTER 17—RESIGNATION AND RETIREMENT OF JUDGES

Sec.

371. Resignation or retirement for age; substitute judge on failure to retire.

372. Retirement for disability.

373. Judges in Territories and Possessions.

374. Residence of retired judges.

### § 371. Resignation or retirement for age; substitute judge on failure to retire

Any justice or judge of the United States appointed to hold office during good behavior who resigns after attaining the age of seventy years and after serving at least ten years continuously or otherwise shall, during the remainder of his lifetime, continue to receive the salary which he was receiving when he resigned.

Any justice or judge of the United States appointed to hold office during good behavior may retain his office but retire from regular active service after attaining the age of seventy years and after serving at least ten years continuously or otherwise. He shall, during the remainder of his lifetime, continue to receive the salary of the office.

The President shall appoint, by and with the advice and consent of the Senate, a successor to a justice or judge who retires.

Appointment of successor to retiring judge.

Whenever any circuit or district judge eligible to resign or retire under this section does neither, and the President finds that such judge is unable to discharge efficiently all the duties of his office by reason of permanent mental or physical disability and that the appointment of an additional judge is necessary for the efficient dispatch of business, the President may make such appointment by and with the advice and consent of the Senate. If such additional judge is appointed, the vacancy subsequently caused by the death, resignation, or retirement of the disabled judge shall not be filled.

Appointment of additional judge.

Any circuit or district judge who retires or whose disability causes the appointment of an additional judge, shall, for purposes of precedence, be treated as junior to the other judges of the circuit or district.

### § 372. Retirement for disability

Any justice or judge of the United States appointed to hold office during good behavior who becomes permanently disabled from performing his duties may retire from regular active service, and the President may appoint a successor.

Any justice or judge of the United States desiring to retire under this section shall certify to the President his disability in writing.

Certification of disability.

Whenever an associate justice of the Supreme Court, a chief judge of a circuit or the chief judge of the Court of Claims, Court of Customs

and Patent Appeals or Customs Court, desires to retire, he shall furnish to the President a certificate of disability signed by the Chief Justice of the United States.

A circuit or district judge, desiring to retire, shall furnish to the President a certificate of disability signed by the chief judge of his circuit.

A judge of the Court of Claims, Court of Customs and Patent Appeals, or Customs Court desiring to retire, shall furnish to the President a certificate of disability signed by the chief judge of his court.

Compensation.

Each justice or judge retiring under this section after serving ten years shall, during the remainder of his lifetime, receive the salary of the office. A justice or judge retiring under this section who has served less than ten years shall, during the remainder of his lifetime, receive one-half the salary of the office.

### § 373. Judges in Territories and Possessions

Any judge of the United States District Courts for the districts of Hawaii or Puerto Rico, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone or the District Court of the Virgin Islands and any justice of the Supreme Court of the Territory of Hawaii who resigns, retires, or fails of reappointment or is removed by the President of the United States upon the sole ground of mental or physical disability, after attaining the age of seventy years and after serving as judge of one or more of such courts, at least sixteen years, continuously or otherwise, shall continue to receive the salary which he received when he relinquished office.

If such service aggregated less than sixteen years but not less than ten years he shall receive that proportion of such salary which the total aggregate number of years of his service bears to sixteen.

Service in any of such courts shall be included in the computation of aggregate years of service.

### § 374. Residence of retired judges

Retired judges of the United States are not subject to restrictions as to residence.

## CHAPTER 19—DISTRIBUTION OF REPORTS AND DIGESTS

Sec.

- 411. Supreme Court reports and digests; printing, binding, and distribution.
- 412. Supreme Court reports; cost and sale.
- 413. Reports, digests, and other publications; purchase and distribution.
- 414. Transmittal of books to successors.
- 415. Court of Claims decisions.

### § 411. Supreme Court reports and digests; printing, binding, and distribution

Decisions of Supreme Court.

(a) The decisions of the Supreme Court shall be printed, bound, and issued as soon as practicable after rendition. Distribution under this section shall not be made to any place where the court is held in a building not owned by the United States unless the volumes are committed to the custody of a United States officer there.

The Attorney General shall distribute one copy of each volume to: The President; Secretary of State; Secretary of the Treasury; Secretary of War; Secretary of the Navy; Secretary of the Interior; Postmaster General; Attorney General; Secretary of Agriculture; Secretary of Commerce; Secretary of Labor; Solicitor General; the Assistant to the Attorney General; each Assistant Attorney General; each United States attorney; each Assistant Secretary of each executive department; each Assistant Postmaster General; Secretary of

the Senate for use of Senate; Clerk of the House of Representatives for use of House; Senate Office of the Legislative Counsel; House Office of the Legislative Counsel; Governors of the Territories; Legal Adviser for Department of State; Treasurer of United States; General Counsel for Treasury Department; Comptroller General of the United States; Assistant Comptroller General; General Counsel of General Accounting Office; each chief of divisions in the General Accounting Office; Comptroller of the Currency; Director of the Budget; Assistant Director of the Budget; Commissioner of Internal Revenue; Director of the Mint; General Counsel of Bureau of the Budget; Judge Advocate General of the Army; Chief of Finance, War Department; Judge Advocate General of the Navy; Paymaster General of the Navy; Commissioner of Indian Affairs; Commissioner of the General Land Office; Administrator of Veterans' Affairs; Commissioner of Patents; Commissioner of Education; Chief of the Bureau of Marine Inspection and Navigation; Commissioner of Immigration and Naturalization; Director of the Geological Survey; Director of the Census; Chief Forester, National Park Service, Department of the Interior; Purchasing Agent of Post Office Department; Federal Trade Commission; Naval Academy; Military Academy; the heads of such other executive offices as may be provided by law of equal grade with any of such offices.

The Director of the Administrative Office of the United States Courts shall distribute one copy of each volume to the Clerk and one copy to the Marshal of the Supreme Court of the United States and one copy to each justice or judge of the United States and of the courts of the Territories and Possessions, and to each place where a court of appeals or district court is regularly held.

(b) Additional copies of such decisions, in the number specified, shall be distributed by the Attorney General to: Interstate Commerce Commission—sixteen copies; Library of Congress for the use of the law library and for international exchange—not to exceed one hundred and fifty copies each of the bound and advance editions; Law Library of the Department of the Interior—two copies; Law Library of the Department of Justice—five copies; Law Library of the Judge Advocate General of the Army—two copies; Secretary of the Senate for the use of committees of the Senate—thirty copies; Clerk of the House of Representatives for the use of committees of the House—thirty-five copies; Secretary of War for military headquarters which exercise general courtmartial jurisdiction—such number as the Secretary may specify, but not to exceed twenty-five copies in time of peace.

Additional copies of such decisions, in the number specified by the Chief Justice of the United States, shall be furnished by the Director of the Administrative Office of the United States Courts to the Supreme Court for use of the justices, retired justices, officers and employees, and library of the Supreme Court.

(c) The Attorney General shall distribute one set of reports and one set of digests thereof to the executive officers entitled to receive such reports who have not received them and to each United States attorney who has not received them. The Director of the Administrative Office of the United States Courts shall distribute one set of reports and one set of digests thereof to each judge of the United States and of the courts of the Territories and Possessions who has not received them and to each of the places where courts of appeals or district courts are held to which reports have not been distributed

Reports and digests printed prior to June 12, 1926, shall not be furnished to the Secretary of War for military headquarters.

The Public Printer or other printer designated by the Supreme

Reports and digests.

Court, upon request, shall furnish to the Attorney General or to the Director of the Administrative Office of the United States Courts, as the case may be, reports required to be distributed under this section.

**§ 412. Supreme Court reports; cost and sale**

The cost of furnishing reports of the decisions of the Supreme Court in bound volumes and pamphlets shall be charged to the proper appropriation for the Department of Justice or the Judiciary as the case may be. The Public Printer or other printer designated by the Supreme Court, shall print such additional bound and pamphlet copies of such reports as may be required for sale to the public. Such additional copies shall be sold by the Superintendent of Documents at cost, plus 10 per centum, without limit as to the use, number of copies to any one applicant, or resale at a reasonable profit.

**§ 413. Reports, digests, and other publications; purchase and distribution**

The Attorney General may procure and distribute a complete set of the Federal Reporter or other publication containing the decisions of the courts of appeals, former circuit courts, and district courts, digests and continuations thereof to the Department of Justice, the Solicitor General, the General Counsel for the Department of the Treasury, the Solicitor of the Department of the Interior, the Commissioner of Patents, and the Interstate Commerce Commission.

He may also procure and distribute three complete sets to the Secretary of the Senate for use of the Senate and to the Clerk of the House of Representatives for use of the House.

The Director of the Administrative Office of the United States Courts may procure and distribute a complete set of such publications to each judge of the United States and to the Court of Claims, Court of Customs and Patent Appeals, Customs Court, Tax Court, and each place where a court of appeals or district court is regularly held.

Whenever any such court, office, or officer has a partial set of any such reports or digests already purchased or owned by the United States, the Attorney General or the Director, as the case may be, shall distribute only sufficient volumes to make a complete set thereof.

Distribution under this section shall not be made to any place where court is held in a building not owned by the United States, unless the volumes are committed to the custody of a United States officer there.

**§ 414. Transmittal of books to successors**

All government publications and law books furnished to justices and judges of the United States and of the Territorial Courts, United States attorneys, clerks of courts, and other officers of the United States shall be transmitted to their successors in office. All permanent or bound books and publications furnished under this chapter except those books furnished to the Library of Congress for international exchange shall remain the property of the United States and shall be marked plainly, "The Property of the United States".

**§ 415. Court of Claims decisions**

At the end of every term of the Court of Claims the clerk thereof shall distribute one copy of each decision of such court to: (1) The heads of departments, (2) General Counsel for Treasury Department, (3) Comptroller General of the United States, (4) Commissioner of the General Land Office, (5) Commissioner of Indian Affairs, (6) Chiefs of bureaus, and (7) Officers charged with adjustment of claims against the United States.

## CHAPTER 21—GENERAL PROVISIONS APPLICABLE TO COURTS AND JUDGES

### Sec.

451. Definitions.  
 452. Courts always open; powers unrestricted by terms.  
 453. Oath of justices and judges.  
 454. Practice of law by justices and judges.  
 455. Interest of justice or judge.  
 456. Traveling expenses of justices and judges.  
 457. Records; obsolete papers.  
 458. Relative of justice or judge ineligible to appointment.  
 459. Administration of oaths and acknowledgments.  
 460. Application to Alaska, Canal Zone and Virgin Islands.

### § 451. Definitions

As used in this title:

The term "court of the United States" includes the Supreme Court of the United States, courts of appeals, district courts constituted by chapter 5 of this title, including the district courts of the United States for the districts of Hawaii and Puerto Rico, the Court of Claims, the Court of Customs and Patent Appeals, the Customs Court and any court created by Act of Congress the judges of which are entitled to hold office during good behavior.

"Court of the United States."

*Ante*, p. 872.

The terms "district court" and "district court of the United States" mean the courts constituted by chapter 5 of this title.

"District court";  
 "district court of the United States."

"Judge of the United States."

The term "judge of the United States" includes judges of the courts of appeals, district courts, Court of Claims, Court of Customs and Patent Appeals, Customs Court and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior.

The term "justice of the United States" includes the Chief Justice of the United States and the associate justices of the Supreme Court.

"Justice of the United States."

The term "district" and "judicial district" mean the districts enumerated in Chapter 5 of this title.

"District"; "judicial district."

The term "department" means one of the executive departments enumerated in section 1 of Title 5, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the government.

"Department."

The term "agency" includes any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest, unless the context shows that such term was intended to be used in a more limited sense.

"Agency."

### § 452. Courts always open; powers unrestricted by terms

All courts of the United States shall be deemed always open for the purpose of filing proper papers, issuing and returning process, and making motions and orders.

The continued existence or expiration of a term of court in no way affects the power of the court to do any act or take any proceeding.

### § 453. Oaths of justices and judges

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "I, \_\_\_\_\_, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as \_\_\_\_\_ according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States. So help me God."

**§ 454. Practice of law by justices and judges**

Any justice or judge appointed under the authority of the United States who engages in the practice of law is guilty of a high misdemeanor.

**§ 455. Interest of justice or judge**

Any justice or judge of the United States shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper, in his opinion, for him to sit on the trial, appeal, or other proceeding therein.

**§ 456. Traveling expenses of justices and judges**

Each justice or judge of the United States and each retired justice or judge recalled or designated and assigned to active duty, shall, upon his certificate, be paid by the Director of the Administrative Office of the United States Courts all necessary traveling expenses, and also his reasonable maintenance expenses actually incurred, not exceeding \$10 per day, while attending court or transacting official business at a place other than his official station.

The official station of the Chief Justice of the United States, the justices of the Supreme Court and the judges of the Court of Claims, the Court of Customs and Patent Appeals, the United States Court of Appeals for the District of Columbia, and the United States District Court for the District of Columbia, shall be the District of Columbia.

The official station of the judges of the Customs Court shall be New York City.

The official station of each circuit and district judge, including each district judge in the Territories and Possessions, shall be that place nearest his residence at which a district court is regularly held.

Each circuit judge and each district judge whose official station is not fixed expressly herein shall upon his appointment and from time to time thereafter, as his residence may change, notify the Director of the Administrative Office of the United States Courts in writing of his residence and official station.

**§ 457. Records; obsolete papers**

The records of district courts and of courts of appeals shall be kept at one or more of the places where court is held. Such places shall be designated by the respective courts except when otherwise directed by the judicial council of the circuit.

Papers of any court established by Act of Congress which have become obsolete and are no longer necessary or useful, may be disposed of with the approval of the court concerned in the manner provided by sections 366-380 of Title 44 and in accordance with the rules of the Judicial Conference of the United States.

**§ 458. Relative of justice or judge ineligible to appointment**

No person shall be appointed to or employed in any office or duty in any court who is related by affinity or consanguinity within the degree of first cousin to any justice or judge of such court.

**§ 459. Administration of oaths and acknowledgments**

Each justice or judge of the United States may administer oaths and affirmations and take acknowledgments.

**§ 460. Application to Alaska, Canal Zone and Virgin Islands**

Sections 452-459 of this chapter shall also apply to the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands and the judges thereof.

## PART II—UNITED STATES ATTORNEYS AND MARSHALS

Chapter	Sec.
31. United States Attorneys.....	501
33. United States Marshals.....	541

### CHAPTER 31—UNITED STATES ATTORNEYS

Sec.	
501.	Appointment of United States attorneys.
502.	Appointment of assistant United States attorneys.
503.	Appointment of attorneys.
504.	Tenure and oath of office; removal.
505.	Residence.
506.	Vacancies.
507.	Duties; supervision by Attorney General.
508.	Salaries.
509.	Expenses.
510.	Clerical assistants and messengers.

#### § 501. Appointment of United States attorneys

The President shall appoint, by and with the advice and consent of the Senate, a United States attorney for each judicial district.

Only citizens of the Territory of Hawaii who have resided therein for at least three years next preceding shall be eligible for appointment as United States attorney for the district of Hawaii.

#### § 502. Appointment of assistant United States attorneys

The Attorney General may appoint one or more assistant United States attorneys in any district when the public interest so requires.

#### § 503. Appointment of attorneys

The Attorney General may appoint attorneys to assist United States attorneys when the public interest so requires.

#### § 504. Tenure and oath of office; removal

(a) The United States attorney for each judicial district shall be appointed for a term of four years, except in the district of Hawaii, where the term shall be six years. Upon the expiration of his term a United States attorney shall continue to perform the duties of his office until his successor is appointed and qualifies.

(b) Each United States attorney shall be subject to removal by the President. Each assistant United States attorney and each attorney appointed under section 503 of this title shall be subject to removal by the Attorney General.

*Supra.*

(c) Each of such officials, before taking office, shall take an oath to execute faithfully his duties.

#### § 505. Residence

Each United States attorney and assistant United States attorney must reside in the district for which he is appointed, except that such officers of the District of Columbia and the Southern District of New York may reside within twenty miles of the District.

The Attorney General may determine the official stations of United States attorneys and assistant United States attorneys within the districts for which they are appointed.

#### § 506. Vacancies

The district court for a district in which the office of United States attorney is vacant, may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.

**§ 507. Duties; supervision by Attorney General**

(a) It shall be the duty of each United States attorney, within his district, to:

- (1) Prosecute for all offenses against the United States;
- (2) Prosecute or defend, for the government, all civil actions, suits or proceedings in which the United States is concerned;
- (3) Appear in behalf of the defendants in all civil actions, suits or proceedings pending in his district against collectors, or other officers of the revenue or customs for any act done by them or for the recovery of any money exacted by or paid to such officers, and by them paid into the Treasury;
- (4) Institute and prosecute proceedings for the collection of fines, penalties and forfeitures incurred for violation of any revenue law unless satisfied upon investigation that justice does not require such proceedings;
- (5) Make such reports as the Attorney General shall direct.

(b) The Attorney General shall have supervision over all litigation to which the United States or any agency thereof is a party and shall direct all United States attorneys, assistant United States attorneys, and attorneys appointed under section 503 of this title, in the discharge of their respective duties.

*Ante*, p. 909.

**§ 508. Salaries**

The Attorney General shall fix the salaries of United States attorneys, assistant United States attorneys, and attorneys appointed under section 503 of this title.

*Ante*, p. 909.

**§ 509. Expenses**

Necessary office expenses of United States attorneys shall be allowed when authorized by the Attorney General.

Necessary travel and subsistence expenses of United States attorneys, assistant United States attorneys, and attorneys appointed under section 503 of this title, while absent from their official stations on official business shall be allowed in accordance with regulations promulgated by the Attorney General.

**§ 510. Clerical assistants and messengers**

Clerical assistants and messengers for United States attorneys may be employed upon approval of and at salaries fixed by the Attorney General.

**CHAPTER 33—UNITED STATES MARSHALS**

Sec.

541. Appointment, residence and tenure of marshals.
542. Appointment and tenure of deputies and assistants.
543. Oath of office.
544. Bond.
545. Vacancies.
546. Death of marshal.
547. Powers and duties generally; supervision by Attorney General.
548. Administration of oaths.
549. Power as sheriff.
550. Disbursement of salaries and expenses.
551. Collection of fees; accounting.
552. Salaries of marshals, deputies and assistants.
553. Expenses of marshals.
554. Delivery of prisoners to successor.
555. Delivery of unserved process to successor.
556. Practice of law restricted.

**§ 541. Appointment, residence and tenure of marshals**

(a) The President shall appoint, by and with the advice and consent of the Senate, a United States marshal for each judicial district.



(b) The Attorney General shall designate places within the district for the official station and offices of each marshal. Each marshal shall reside within the district for which he was appointed except that the marshal for the District of Columbia and the Southern District of New York may reside within twenty miles thereof.

(c) Each marshal shall be appointed for a term of four years, except in the district of Hawaii where the term shall be six years. Upon the expiration of his term a marshal shall continue to perform the duties of his office until his successor is appointed and qualifies, unless sooner removed by the President.

(d) Only citizens of the Territory of Hawaii who have resided therein at least three years next preceding shall be eligible for appointment as United States marshal for the district of Hawaii.

U. S. marshal,  
Hawaii.

#### § 542. Appointment and tenure of deputies and assistants

The Attorney General may authorize any United States marshal to appoint deputies and clerical assistants. Deputy marshals shall be subject to removal by the marshal pursuant to civil-service regulations.

#### § 543. Oath of office

Each United States marshal and deputy marshal before assuming the duties of his office shall take the following oath or affirmation: "I, \_\_\_\_\_, do solemnly swear (or affirm) that I will faithfully execute all lawful precepts directed to the \_\_\_\_\_ under the authority of the United States, make true returns, take only lawful fees, and in all things well and truly, and without malice or partiality, perform the duties of the office of \_\_\_\_\_ during my continuance in office. So help me God."

#### § 544. Bond

(a) Each United States marshal, including any marshal appointed to serve during a vacancy, before entering on the duties of his office, shall give a bond in the sum of \$20,000 for the faithful performance of duty by himself and his deputies during his continuance in office and by his deputies after his death until his successor is appointed and qualifies.

The bond shall be approved by a judge of the district court of the district for which such marshal is appointed, and filed and recorded in the office of the clerk.

(b) The Attorney General may require the United States marshal for the Southern District of New York to give bond in a sum not exceeding \$75,000, and any other United States marshal to give bond in a sum not exceeding \$40,000.

(c) Any person injured by a breach of a United States marshal's bond may sue thereon, in his own name, to recover his damages.

Such action shall be commenced within six years after the right accrues, but a person under legal disability may sue within three years after the removal of his disability.

After judgment the marshal's bond shall remain as security until the whole penalty has been recovered.

#### § 545. Vacancies

The district court for a district in which the office of United States marshal is vacant may appoint a United States marshal to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.

#### § 546. Death of marshal

Upon the death of any United States marshal his deputy or deputies shall perform the duties of the deceased marshal in his name until his successor is appointed and qualifies.

The default or misfeasance of any deputy shall be a breach of the

deceased marshal's bond, and his executor or administrator shall have like remedies against such deputy for such default or misfeasance as the marshal would have had if he had continued in office.

**§ 547. Powers and duties generally; supervision by Attorney General**

(a) The United States marshal of each district shall be the marshal of the district court and of the court of appeals when sitting in his district, and of the Customs Court holding sessions in his district elsewhere than in the Southern and Eastern Districts of New York, and may, in the discretion of the respective courts, be required to attend any session of court.

(b) He shall execute all lawful writs, process and orders issued under authority of the United States, and command all necessary assistance to execute his duties.

(c) The Attorney General shall supervise and direct marshals in the performance of public duties and accounting for public moneys. Each marshal shall report his official proceedings, receipts and disbursements and the condition of his office as the Attorney General directs.

**§ 548. Administration of oaths**

Each United States marshal and his chief deputy may administer oaths to persons presenting claims and accounts for payment, but shall not receive a fee therefor.

**§ 549. Power as sheriff**

A United States marshal and his deputies, in executing the laws of the United States within a state, may exercise the same powers which a sheriff of such state may exercise in executing the laws thereof.

**§ 550. Disbursement of salaries and expenses**

(a) United States marshals, under regulations prescribed by the Attorney General, shall pay the salaries, office expenses and travel and subsistence allowances of United States attorneys, their assistants, clerks and messengers, and of the marshals, their deputies and clerical assistants.

(b) Under regulations prescribed by the Director of the Administrative Office of the United States Courts, the marshals shall pay the salaries, office expenses, and travel and subsistence allowances of circuit and district judges, judges of the Customs Court, clerks of court and their deputies, court reporters, and other personnel of courts within their districts.

(c) On all disbursements made by United States marshals for official salaries or expenses, the certificate of the payee shall be sufficient without verification on oath.

**§ 551. Collection of fees; accounting**

Each United States marshal shall collect, as far as possible, his lawful fees and account for the same as public moneys.

The marshal's accounts of fees and costs paid to any witness or juror upon certificate of attendance issued as provided by sections 1825 and 1871 of this title shall not be reexamined to charge him for an erroneous payment of such fees or costs.

**§ 552. Salaries of marshals, deputies and assistants**

The Attorney General shall fix the salaries of United States marshals and their deputies and clerical assistants.

**§ 553. Expenses of marshals**

Under regulations promulgated by the Attorney General, each United States marshal shall be allowed:

- (1) His actual and necessary office expenses;

- (2) The necessary travel expense incurred in serving process and orders of court within his district;
- (3) His expense of travel and subsistence and that of his deputies away from their respective official stations on official business;
- (4) The expense of transporting prisoners, including the cost of necessary guards and the travel and subsistence expense of prisoners and guards;
- (5) Other necessary expenditures in line of duty, approved by the Attorney General.

#### § 554. Delivery of prisoners to successor

Each United States marshal shall deliver to his successor all prisoners in his custody.

#### § 555. Delivery of unserved process to successor

All unserved process remaining in the hands of a United States marshal or his deputies shall be delivered to his successor. When a deputy marshal resigns or is removed he shall deliver to the marshal all process in his hands.

#### § 556. Practice of law restricted

A United States marshal or deputy marshal shall not practice law in any court of the United States.

### PART III—COURT OFFICERS AND EMPLOYEES

Chapter	Sec.
41. Administrative Office of United States Courts.....	601
43. United States Commissioners.....	631
45. Supreme Court.....	671
47. Courts of Appeals.....	711
49. District Courts.....	751
51. Court of Claims.....	791
53. Court of Customs and Patent Appeals.....	831
55. Customs Court.....	871
57. General Provisions Applicable to Court Officers and Employees.....	951

#### CHAPTER 41—ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

Sec.
601. Creation; Director and Assistant Director.
602. Employees.
603. Salaries.
604. Duties of Director generally.
605. Budget estimates.
606. Duties of Assistant Director.
607. Practice of law prohibited.
608. Seal.
609. Courts, appointive power unaffected.
610. Courts defined.

#### § 601. Creation; Director and Assistant Director

The Administrative Office of the United States Courts shall be maintained at the seat of government. It shall be supervised by a Director and an Assistant Director appointed and subject to removal by the Supreme Court.

#### § 602. Employees

The Director, subject to the civil service laws, may appoint necessary employees of the Administrative Office.

#### § 603. Salaries

The Director shall receive a salary of \$10,000 a year. The Assistant Director shall receive a salary of \$7,500 a year.

The Director shall fix the compensation of Administrative Office employees according to sections 661-673 and 674 of Title 5.

**§ 604. Duties of Director generally**

(a) The Director shall be the administrative officer of the courts, and under the supervision and direction of the Judicial Conference of the United States, shall:

- (1) Supervise all administrative matters relating to the offices of clerks and other clerical and administrative personnel of the courts;
- (2) Examine the state of the dockets of the courts; secure information as to the courts' need of assistance; prepare and transmit quarterly to the chief judges of the circuits, statistical data and reports as to the business of the courts;
- (3) Submit to the annual meeting of the Judicial Conference of the United States, at least two weeks prior thereto, a report of the activities of the Administrative Office and the state of the business of the courts, together with the statistical data submitted to the chief judges of the circuits under paragraph (a) (2) of this section, and the Director's recommendations, which report, data and recommendations shall be public documents.
- (4) Submit to Congress and the Attorney General copies of the report, data and recommendations required by paragraph (a) (3) of this section;
- (5) Fix the compensation of clerks of court, deputies, librarians, criers, messengers, law clerks, secretaries, stenographers, clerical assistants, and other employees of the courts whose compensation is not otherwise fixed by law;
- (6) Determine and pay necessary office expenses of courts, judges, and those court officials whose expenses are by law allowable, and the lawful fees of United States Commissioners;
- (7) Regulate and pay necessary travel and subsistence expenses incurred by judges, court officers and employees, and officers and employees of the Administrative Office, while absent from their official stations on official business;
- (8) Disburse, directly or through the several United States marshals, moneys appropriated for the maintenance and operation of the courts;
- (9) Purchase, exchange, transfer, distribute, and assign the custody of law books, equipment and supplies needed for the maintenance and operation of the courts and the Administrative Office and the offices of United States Commissioners;
- (10) Audit vouchers and accounts of the courts and their clerical and administrative personnel;
- (11) Provide accommodations for the courts and their clerical and administrative personnel;
- (12) Perform such other duties as may be assigned to him by the Supreme Court or the Judicial Conference of the United States.

(b) The clerical and administrative personnel of the courts shall comply with all requests by the Director for information or statistical data as to the state of court dockets.

(c) Inspection of court dockets outside the continental United States may be made through United States officials residing within the jurisdiction where the inspection is made.

Requests for data as to court dockets.

Inspection of dockets outside continental U. S.

**§ 605. Budget estimates**

The Director, under the supervision of the Judicial Conference of the United States, shall submit to the Bureau of the Budget annual estimates of the expenditures and appropriations necessary for the maintenance and operation of the courts and the Administrative Office, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law.

Such estimates shall be approved, before presentation to the Bureau of the Budget, by the Judicial Conference of the United States, except that estimates with respect to the Court of Customs and Patent Appeals, the Customs Court, and the Court of Claims shall be approved by such courts, respectively.

Approval of estimates.

All such estimates shall be included in the budget without revision, but subject to the recommendations of the Bureau of the Budget, as provided by section 11 of Title 31 for the estimates of the Supreme Court.

**§ 606. Duties of Assistant Director**

The Assistant Director shall perform the duties assigned to him by the Director, and shall act as Director during the absence or incapacity of the Director or when the Director's office is vacant.

**§ 607. Practice of law prohibited**

An officer or employee of the Administrative Office shall not engage directly or indirectly in the practice of law in any court of the United States.

**§ 608. Seal**

The Director shall use a seal approved by the Supreme Court. Judicial notice shall be taken of such seal.

**§ 609. Courts' appointive power unaffected**

The authority of the courts to appoint their own administrative or clerical personnel shall not be limited by any provisions of this chapter.

**§ 610. Courts defined**

As used in this chapter the word "courts" includes the courts of appeals and district courts of the United States, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court.

**CHAPTER 43—UNITED STATES COMMISSIONERS****Sec.**

- 631. Appointment and tenure.
- 632. Park commissioners; jurisdiction and powers; procedure.
- 633. Fees.
- 634. Salaries of park commissioners; disposition of fees.
- 635. Park commissioners; residence.
- 636. Accounts.
- 637. Oaths, acknowledgments, affidavits and depositions.
- 638. Seals.
- 639. Dockets and forms; United States Code.

**§ 631. Appointment and tenure**

(a) Each district court shall appoint United States commissioners in such number as it deems advisable.

One United States commissioner may be appointed for each of the following named national parks: Big Bend, Crater Lake, Glacier, Great Smoky Mountains, Hawaii, Isle Royale, Lassen, Mesa Verde, Mammoth Cave, Mount Rainier, Olympic, Rocky Mountain, Sequoia, Shenandoah, Yellowstone and Yosemite and may also be known as a

national park commissioner. If such park extends into two or more districts, the appointment shall be made by joint action of the district courts of such districts. The national park commissioner for the Sequoia National Park shall also be the national park commissioner for Kings Canyon National Park.

Record and notice  
of appointment.

Each appointment shall be entered of record in the district court, and notice of such appointment shall be given at once by the clerk of such court to the Director of the Administrative Office of the United States Courts.

(b) A person holding any civil or military office or employment under the United States or who is employed by any justice or judge of the United States, shall not at the same time hold the office of United States commissioner. This subsection shall not apply to a referee in bankruptcy nor shall it apply to a clerk or deputy clerk of a court of the United States whose appointment as commissioner is approved by the Director of the Administrative Office of the United States Courts.

(c) Each United States commissioner shall hold office for four years, unless sooner removed by the district court.

### § 632. Park commissioners; jurisdiction and powers; procedure

Each national park commissioner shall have all the jurisdiction and powers of a United States Commissioner and of a commissioner specially designated to try petty offenses within such national park pursuant to section 3401 of Title 18. He is also authorized to try and determine complaints in proceedings for penalties and forfeitures prescribed by law for violations of statutes or regulations respecting such park.

*Ante*, p. 830.

The practice and procedure for the trial of cases before national park commissioners and for taking and hearing of appeals to the district courts shall conform to rules promulgated by the Supreme Court pursuant to section 3402 of Title 18.

*Ante*, p. 831.

### § 633. Fees

(a) United States commissioners in each judicial district, except national park commissioners, shall receive the following fees only for all services rendered:

- (1) For attending to any reference by order of court of a litigated matter in a civil case or in admiralty, \$5 per day.
- (2) For taking and certifying depositions, 10 cents for each folio and for each copy thereof furnished on request, 10 cents per folio.
- (3) A fee graduated according to the aggregate number of cases in each quarterly accounting period, in the sum of \$7 for each of the first 25 cases, \$6 for each of the next 25 cases, \$5 for each of the next 50 cases and \$2 for each additional case, of the following kinds:—

Issuance of an attachment and subsequent hearings in internal revenue matters pursuant to section 3615 (e) of Title 26;

Settling or certifying the nonpayment of a seaman's wage pursuant to sections 603 and 604 of Title 46;

Preliminary proceedings to hold an accused person to answer in district court disposed of by discharge or binding over, for all services rendered after presentation of the accused.

Each accused person brought before the commissioner for holding to answer in district court shall be considered a case for the purpose of computation of fees.

- (4) For each accused person presented before him for pur-

poses of bail only and not for holding to answer in district court, whether or not bail is taken or commitment ordered, \$2.50.

(5) Upon the filing of a sworn, written complaint, for all services rendered prior to presentation of the accused before the commissioner, \$2.50 for each person accused.

(6) For all services in connection with each formal, written application for a search warrant, whether granted or denied, \$4.

(7) For each proceeding for the discharge of an indigent prisoner, \$4.

(8) For each defendant tried or sentenced by him for a petty offense, in lieu of all other fees provided in this section, \$10.

The additional compensation provided by section 934 of Title 5 shall apply to the fees prescribed herein.

(b) A United States commissioner shall not receive more than \$7,500 for any one calendar year for his services, exclusive of additions under section 934 of Title 5.

#### **§ 634. Salaries of Park Commissioners; disposition of fees**

Each national park commissioner shall receive an annual salary to be fixed by the district court with the approval of the Judicial Conference of the United States, and shall account for all fees, fines, and costs collected by him as public moneys.

#### **§ 635. Park commissioners; residence**

Each national park commissioner shall reside within the exterior boundaries of the national park for which appointed or at some place reasonably adjacent thereto designated by the Secretary of the Interior with the approval of the court or courts by which he was appointed.

#### **§ 636. Accounts**

The accounts of each United States commissioner shall be rendered quarterly, in duplicate, under regulations prescribed by the Director of the Administrative Office of the United States Courts, and transmitted to the clerk of the United States district court for the district in which the commissioner resides. The clerk shall file the duplicate in his office and transmit the original to the Director. The court shall not be required to approve such accounts.

Fees of a commissioner, for which the United States is liable, shall be paid only upon rendition of accounts within one year after performance of services, and approval of such accounts by the Director. Such payment shall be subject to settlement in the General Accounting Office and any adjustments necessitated thereby.

#### **§ 637. Oaths, acknowledgments, affidavits and depositions**

United States commissioners may administer oaths and take bail, acknowledgments, affidavits and depositions.

#### **§ 638. Seals**

The Director of the Administrative Office of the United States Courts shall furnish each United States commissioner appointed after July 10, 1946, with an official impression seal in form prescribed by the Director. Each commissioner shall affix his seal to every jurat or certificate of his official acts without additional fee.

#### **§ 639. Dockets and forms; United States Code**

The Director of the Administrative Office of the United States Courts shall furnish to United States commissioners adequate docket books and forms prescribed by the Director. The Director shall also furnish each commissioner with a copy of the United States Code, upon approval of the chief judge of the district court of his district.

All property furnished to a commissioner shall remain the property of the United States and upon the termination of his term of office, shall be transmitted to his successor in office or otherwise disposed of as the Director orders.

## CHAPTER 45—SUPREME COURT

Sec.

- 671. Clerk.
- 672. Marshal.
- 673. Reporter.
- 674. Librarian.
- 675. Law clerks and secretaries.
- 676. Printing and binding.

### § 671. Clerk

(a) The Supreme Court may appoint and fix the compensation of a clerk and one or more deputy clerks. The clerk shall be subject to removal by the Court. Deputy clerks shall be subject to removal by the clerk with the approval of the Court or the Chief Justice of the United States.

Bond.

(b) The clerk shall give bond to the United States in an amount fixed by the Court, and with sureties approved by the Court conditioned on the faithful and seasonable discharge of his duties. Such bond shall be filed in the Department of Justice. A renewed or augmented bond may be required at any time by the Court.

Assistants and messengers.

(c) The clerk may appoint and fix the compensation of necessary assistants and messengers with the approval of the Chief Justice of the United States. Compensation of the clerk, his deputies, assistants, and messengers, and the necessary expenses of his office shall be disbursed by the clerk from the fees collected by him, upon allowance and approval by the Chief Justice of the United States.

Payment of fees, etc., into Treasury.

(d) The clerk shall pay into the Treasury all fees, costs and other emoluments of his office over and above his lawful disbursements. He shall make annual returns thereof to the Court under regulations prescribed by it.

### § 672. Marshal

(a) The Supreme Court may appoint a marshal, who shall be subject to removal by the Court, and may fix his compensation.

(b) The marshal may, with the approval of the Chief Justice of the United States, appoint and fix the compensation of necessary assistants and other employees to attend the Court, and necessary custodial employees.

Duties of marshal.

(c) The marshal shall:

- (1) Attend the Court at its sessions;
- (2) Serve and execute all process and orders issued by the Court or a member thereof;
- (3) Take charge of all property of the United States used by the Court or its members;
- (4) Disburse funds appropriated for work upon the Supreme Court building and grounds under the jurisdiction of the Architect of the Capitol upon certified vouchers submitted by the Architect;
- (5) Disburse funds appropriated for the purchase of books, pamphlets, periodicals and other publications, and for their repair, binding, and rebinding, upon vouchers certified by the librarian of the Court;
- (6) Pay the salaries of the Chief Justice, associate justices and all officers and employees of the Court except the clerk, his deputies and employees, and disburse other funds appropriated for disbursement under the direction of the Chief Justice.



**§ 673. Reporter**

(a) The Supreme Court may appoint and fix the compensation of a reporter of its decisions who shall be subject to removal by the Court.

(b) The reporter may appoint and fix the compensation of necessary professional and clerical assistants and other employees, with the approval of the Court or the Chief Justice of the United States.

(c) The reporter shall, under the direction of the Court or the Chief Justice, prepare the decisions of the Court for publication in bound volumes and advance copies in pamphlet installments.

The reporter shall determine the quality and size of the paper, type, format, proofs and binding subject to the approval of the Court or the Chief Justice.

**§ 674. Librarian**

(a) The Supreme Court may appoint a librarian, whose salary it shall fix, and who shall be subject to removal by the Court.

(b) The librarian shall, with the approval of the Chief Justice, appoint necessary assistants and fix their compensation and make rules governing the use of the library.

(c) He shall select and acquire by purchase, gift, bequest, or exchange, such books, pamphlets, periodicals, microfilm and other processed copy as may be required by the Court for its official use and for the reasonable needs of its bar.

(d) The librarian shall certify to the marshal for payment vouchers covering expenditures for the purchase of such books and other material, and for binding, rebinding and repairing the same. He shall furnish bond in such amount as the Court shall prescribe.

**§ 675. Law clerks and secretaries**

The Chief Justice of the United States, and the associate justices of the Supreme Court may appoint law clerks and secretaries whose salaries shall be fixed by the Court.

**§ 676. Printing and binding**

(a) The printing and binding for the Supreme Court, including the printing and binding of individual copies, advance pamphlet installments, and bound volumes, of its decisions, whether requisitioned or ordered by the Court or any of its officers or by any other office or agency, and whether paid for by, or charged to the appropriation for, the Court or any other office or agency, shall be done by the printer or printers the Court or the Chief Justice of the United States may select, unless it shall otherwise order.

(b) Whenever advance pamphlet installments and bound volumes of the Court's decisions are printed by a private printer, an adequate number of copies for distribution in accordance with the requirements of section 411 and for sale to the public shall be provided and made available for these purposes in such manner and at such prices as may be determined from time to time by the Supreme Court or the Chief Justice of the United States, in lieu of compliance by the Public Printer and the Superintendent of Documents with the requirements of sections 411 and 412 with respect to such copies. Pending distribution or sale, such copies shall be the property of the United States and shall be held in the custody of the marshal or such other person, organization, or agency, as the Supreme Court or the Chief Justice of the United States may designate.

*Ante*, p. 904.

*Ante*, pp. 904, 906.

**CHAPTER 47—COURTS OF APPEALS****Sec.**

711. Clerks and employees.

712. Law clerks and secretaries.

713. Criers, bailiffs and messengers.

**§ 711. Clerks and employees**

(a) Each court of appeals may appoint a clerk who shall be subject to removal by the court.

(b) The clerk, with the approval of the court, may appoint necessary deputies, clerical assistants and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies, clerical assistants and employees shall be subject to removal by the clerk with the approval of the court.

(c) The clerk shall pay into the Treasury all fees, costs and other moneys collected by him and make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

**§ 712. Law clerks and secretaries**

Circuit judges may appoint necessary law clerks and secretaries.

**§ 713. Criers, bailiffs and messengers**

Librarian and library assistants.

(a) Each court of appeals may appoint a librarian and necessary library assistants who shall be subject to removal by the court.

Crier and messengers.

(a) Each court of appeals, except the Court of Appeals for the District of Columbia, may appoint a crier and such messengers as may be necessary, all of whom shall be subject to removal by the court.

Marshal and messengers.

The crier shall also perform the duties of bailiff and messenger.

(b) The Court of Appeals for the District of Columbia may appoint a marshal, who shall attend the court at its sessions, be custodian of its courthouse, have supervision over its custodial employees, take charge of all property of the United States used by the court or its employees, and perform such other duties as the court directs. Such court may also appoint necessary messengers. The marshal and messengers shall be subject to removal by the court.

Bailiffs.

(c) The United States marshal of the district in which a court of appeals is sitting or in which a circuit judge is present in chambers, may, with the approval of the court or judge, employ necessary bailiffs. Such bailiffs shall attend the court, preserve order, and perform such other necessary duties as the court, judge or marshal may direct. They shall receive the same compensation as bailiffs employed for the district courts.

**CHAPTER 49—DISTRICT COURTS****Sec.**

751. Clerks.

752. Law clerks and secretaries.

753. Reporters.

754. Receivers of property in different districts.

755. Criers and bailiffs.

756. Power to appoint.

**§ 751. Clerks**

(a) Each district court may appoint a clerk who shall be subject to removal by the court.

Deputies, clerical assistants, and employees.

(b) The clerk may appoint, with the approval of the court, necessary deputies, clerical assistants and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies, clerical assistants and employees shall be subject to removal by the clerk with the approval of the court.

Residence of clerk.

(c) The clerk of each district court shall reside in the district for which he is appointed, except that the clerk of the district court for the District of Columbia and the Southern District of New York may reside within twenty miles thereof. The district court may designate places within the district for the offices of the clerk and his deputies, and their official stations.

(d) A clerk of a district court or his deputy or assistant shall not receive any compensation or emoluments through any office or position to which he is appointed by the court, other than that received as such clerk, deputy or assistant, whether from the United States or from private litigants.

This subsection shall not apply to clerks or deputy clerks appointed as United States commissioners pursuant to section 631 of this title.

*Ante*, p. 915.

(e) The clerk of each district court shall pay into the Treasury all fees, costs and other moneys collected by him, except naturalization fees listed in section 742 of Title 8 and uncollected fees not required by Act of Congress to be prepaid.

8 U. S. C., Supp. I,  
§ 742.

He shall make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

### § 752. Law clerks and secretaries

Each district judge may appoint a secretary and upon certification of necessity by the chief judge of his circuit, a law clerk. The chief judge of a district court having five or more district judges may also appoint an assistant secretary.

### § 753. Reporters

(a) Each district court of the United States, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, and the District Court of the Virgin Islands shall appoint one or more court reporters.

The number of reporters shall be determined by the Judicial Conference of the United States.

The qualifications of such reporters shall be determined by standards formulated by the Judicial Conference. Each reporter shall take an oath faithfully to perform the duties of his office.

Each such court, with the approval of the Director of the Administrative Office of the United States Courts, may appoint additional reporters for temporary service not exceeding three months, when there is more reporting work in the district than can be performed promptly by the authorized number of reporters and the urgency is so great as to render it impracticable to obtain the approval of the Judicial Conference.

If any such court and the Judicial Conference are of the opinion that it is in the public interest that the duties of reporter should be combined with those of any other employee of the court, the Judicial Conference may authorize such a combination and fix the salary for the performance of the duties combined.

(b) One of the reporters appointed for each such court shall attend at each session of the court and at every other proceeding designated by rule or order of court or by one of the judges, and shall record verbatim by shorthand or by mechanical means: (1) all proceedings in criminal cases had in open court; (2) all proceedings in other cases had in open court unless the parties with the approval of the judge shall specifically agree to the contrary; and (3) such other proceedings as a judge of the court may direct or as may be required by rule or order of court or as may be requested by any party to the proceeding.

Duties of reporters.

The reporter shall attach his official certificate to the original shorthand notes or other original records so taken and promptly file them with the clerk who shall preserve them in the public records of the court for not less than ten years.

Preservation of original notes or records.

Upon the request of any party to any proceeding which has been so recorded who has agreed to pay the fee therefor, or of a judge of the court, the reporter shall promptly transcribe the original records of the requested parts of the proceedings and attach to the transcript

Transcription of original records.

his official certificate, and deliver the same to the party or judge making the request. He shall also transcribe and certify all pleas and proceedings in connection with the imposition of sentence in criminal cases and such other parts of the record of proceedings as may be required by rule or order of court.

The reporter shall promptly deliver to the clerk for the records of the court a certified copy of any transcript so made.

The transcript in any case certified by the reporter shall be deemed prima facie a correct statement of the testimony taken and proceedings had. No transcripts of the proceedings of the court shall be considered as official except those made from the records taken by the reporter.

Availability for inspection.

The original notes or other original records and the copy of the transcript in the office of the clerk shall be open during office hours to inspection by any person without charge.

Supervision.

(c) The reporters shall be subject to the supervision of the appointing court and the Judicial Conference in the performance of their duties, including dealings with parties requesting transcripts.

Records and reports.

(d) The Judicial Conference shall prescribe records which shall be maintained and reports which shall be filed by the reporters. Such records shall be inspected and audited in the same manner as the records and accounts of clerks of the district courts, and may include records showing:

- (1) the quantity of transcripts prepared;
- (2) the fees charged and the fees collected for transcripts;
- (3) any expenses incurred by the reporters in connection with transcripts;
- (4) the amount of time the reporters are in attendance upon the courts for the purpose of recording proceedings; and
- (5) such other information as the Judicial Conference may require.

Salary.

(e) Each reporter shall receive an annual salary to be fixed from time to time by the Judicial Conference of the United States at not less than \$3,000 nor more than \$6,000 per annum. All supplies shall be furnished by the reporter at his own expense.

Fees.

(f) Each reporter may charge and collect fees for transcripts requested by the parties, including the United States, at rates prescribed by the court subject to the approval of the Judicial Conference. He shall not charge a fee for any copy of a transcript delivered to the clerk for the records of court. Fees for transcripts furnished in criminal or habeas corpus proceedings to persons allowed to sue, defend, or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose. Fees for transcripts furnished in other proceedings to persons permitted to appeal in forma pauperis shall also be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous but presents a substantial question. The reporter may require any party requesting a transcript to prepay the estimated fee in advance except as to transcripts that are to be paid for by the United States.

#### § 754. Receivers of property in different districts

A receiver appointed in any civil action or proceeding involving property, real, personal or mixed, situated in different districts shall, upon giving bond as required by the court, be vested with complete jurisdiction and control of all such property with the right to take possession thereof.

He shall have capacity to sue in any district without ancillary appointment, and may be sued with respect thereto as provided in section 959 of this title.

Such receiver shall, within ten days after the entry of his order of appointment, file copies of the complaint and such order of appointment in the district court for each district in which property is located. The failure to file such copies in any district shall divest the receiver of jurisdiction and control over all such property in that district.

#### § 755. Criers and bailiffs

Each district judge may appoint a crier for the court in which he presides who shall perform also the duties of bailiff and messenger.

Each United States marshal may employ, with the approval of the judge, not exceeding four bailiffs as the district judge may determine, to attend the court, maintain order, wait upon the grand and petit juries, and perform such other necessary duties as the judge or marshal may direct.

Each bailiff shall be allowed for his services \$6 a day to be paid only for actual attendance on days when the court is in session or the judge or jury is present.

If the position of crier or bailiff is to be filled by the appointment of a person who has not previously served as either crier or bailiff, preference in the appointment shall be given to a person who has served in the military or naval forces of the United States in time of war and who has been honorably discharged therefrom, if in the opinion of the appointing officer such person is as well qualified as any other available person to perform to the satisfaction of the appointing officer all the duties of the position.

#### § 756. Power to appoint

Whenever a majority of the district judges of any district court cannot agree upon the appointment of any officer of such court, the chief judge shall make such appointment.

### CHAPTER 51—COURT OF CLAIMS

Sec.

- 791. Clerk.
- 792. Commissioners.
- 793. Reporter-commissioners; stenographers.
- 794. Stenographers and clerical employees.
- 795. Bailiff and messenger.

#### § 791. Clerk

(a) The Court of Claims may appoint a clerk and an assistant clerk, each of whom shall be subject to removal by the court. The court shall report any such removal and the cause thereof to Congress as soon as possible.

(b) The clerk shall pay into the Treasury all fees, costs and other moneys collected by him. He shall make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

(c) On the first day of every regular session of Congress, the clerk shall transmit to Congress a full and complete statement of all the judgments rendered by the court during the previous year, showing the dates and amounts thereof and the parties in whose favor they were rendered, together with a brief synopsis of the nature of the claims upon which they were rendered, and a statement of the costs taxed in each case.

Transmission of annual statement to Congress.

#### § 792. Commissioners

(a) The Court of Claims may appoint seven commissioners who shall be subject to removal by the court.

(b) Each commissioner shall receive a salary of \$7,500 a year, and all necessary traveling expenses, and also his reasonable maintenance expenses actually incurred, not exceeding \$7 per day, while taking

testimony or transacting other official business at a place other than Washington.

(c) Commissioners shall, in accordance with the rules and orders of the court, fix times for hearings, administer oaths, examine witnesses, receive evidence and report findings of fact and recommendations for conclusions of law in cases assigned to them.

Each commissioner shall devote all of his time to the duties of his office.

#### § 793. Reporter-commissioners; stenographers

The Court of Claims may issue commissions and appoint reporter-commissioners to take testimony to be used in the investigation of claims before it.

When testimony is taken for the plaintiff he shall pay the fees of the reporter-commissioner before whom it was taken, and the cost of the commission and notice. When it is taken at the instance of the United States such fees shall be paid out of the contingent fund provided for the court or from other appropriation made by Congress for that purpose.

Reporter-commissioners of the Court of Claims who are not stenographers may employ necessary stenographers to take down and write out testimony of witnesses.

#### § 794. Stenographers and clerical employees

The Court of Claims shall appoint stenographers and other clerical employees in such numbers as may be necessary each of whom shall be subject to removal by the court.

#### § 795. Bailiff and messenger

The Court of Claims may appoint a bailiff and a messenger who shall be subject to removal by the court.

The bailiff shall attend the court, preserve order, and perform such other necessary duties as the court directs.

### CHAPTER 53—COURT OF CUSTOMS AND PATENT APPEALS

Sec.

831. Clerk and employees.

832. Marshal.

833. Reporter.

834. Bailiffs and messengers.

#### § 831. Clerk and employees

The Court of Customs and Patent Appeals may appoint a clerk and such assistant clerks, stenographic law clerks, clerical assistants and other employees as may be necessary, all of whom shall be subject to removal by the court.

The clerk shall pay into the Treasury all fees, costs and other moneys collected by him. He shall maintain an office at the seat of government.

#### § 832. Marshal

The Court of Customs and Patent Appeals may appoint a marshal who shall serve within the District of Columbia and shall be subject to removal by the court.

He shall attend the court at its sessions, and shall serve and execute all process and orders issuing from it. He shall purchase books and supplies, supervise the library and perform such other duties as the court may direct. Under regulations prescribed by the Director of the Administration Office of the United States Courts, he shall pay the salaries of judges, officers, and employees of the court and disburse funds appropriated for the expenses of the court.

United States marshals for other districts where sessions of the court are held shall serve as marshals of the court.

**§ 833. Reporter**

(a) The Court of Customs and Patent Appeals may appoint a reporter who shall be subject to removal by the court.

(b) The reporter shall prepare and transmit:

(1) To the Secretary of the Treasury, weekly, for publication, copies of all opinions relating to customs rendered by the court;

(2) To the Commissioner of Patents, weekly, for publication, copies of all opinions relating to patent and trade-mark appeals rendered by the court.

(c) The reporter also shall compile and publish, at least once a year, in such manner as the court directs, all opinions rendered by the court during the year, together with necessary digests and indexes as the court directs.

**§ 834. Bailiffs and messengers**

The Court of Customs and Patent Appeals may appoint necessary bailiffs and messengers who shall be subject to removal by the court.

Each bailiff shall attend the court, preserve order, and perform such other necessary duties as the court directs.

**CHAPTER 55—CUSTOMS COURT**

Sec.

871. Clerk, deputies, assistants and other employees.

872. Marshal.

**§ 871. Clerk, deputies, assistants and other employees**

The chief judge of the Customs Court in accordance with the civil service laws may appoint a clerk, deputies, assistants and such other employees as may be necessary for the effective dispatch of the business of the court.

**§ 872. Marshal; appointment and tenure**

The chief judge of the Customs Court in accordance with the civil service laws may appoint a marshal, deputies and assistants.

The marshal and his deputies and assistants shall attend court at its sessions, serve and execute all process and orders issued by it and exercise the powers and perform the duties concerning all matters within such court's jurisdiction assigned to them by the court.

**CHAPTER 57—GENERAL PROVISIONS APPLICABLE TO COURT OFFICERS AND EMPLOYEES**

Sec.

951. Oath of office of clerks and deputies.

952. Bonds of clerks and deputies.

953. Administration of oaths and acknowledgments.

954. Death of clerk; duties of and remedies against deputies.

955. Practice of law by clerks restricted.

956. Powers and duties of clerks and deputies.

957. Clerks ineligible for certain offices.

958. Persons ineligible as receivers.

959. Trustees and receivers suable; management; State laws.

960. Tax liability.

961. Office expenses of clerks.

962. Traveling expenses.

963. Courts defined.

**§ 951. Oath of office of clerks and deputies**

Each clerk of court and his deputies shall take the following oath or affirmation before entering upon their duties: "I, \_\_\_\_\_, having been appointed \_\_\_\_\_, do solemnly swear (or affirm) that I will truly and faithfully enter and record all orders, decrees,

judgments and proceedings of such court, and will faithfully and impartially discharge all other duties of my office according to the best of my abilities and understanding. So help me God.”

**§ 952. Bonds of clerks and deputies**

(a) The clerks of all courts other than the Supreme Court shall each give bond to the United States in an amount fixed by the Director of the Administrative Office of the United States Courts, and with sureties approved by the court appointing him, conditioned on the faithful and seasonable discharge of the duties of his office. Such bond shall be filed in the Administrative Office.

(b) A renewed or augmented bond may be required at any time by the Director.

(c) A copy of each bond so furnished shall be kept on file in the office of the clerk furnishing it.

(d) In like manner and with like effect, such courts may require deputy clerks and assistants to give bond to the United States for the faithful and seasonable discharge of their duties, without affecting the liability of the clerk for the acts of his deputies or assistants.

**§ 953. Administration of oaths and acknowledgments**

Each clerk of court and his deputies may administer oaths and affirmations and take acknowledgments.

**§ 954. Death of clerk; duties of and remedies against deputies**

Upon the death of any clerk of court, his deputy or deputies shall execute the duties of the deceased clerk in his name until his successor is appointed and qualifies.

The default or misfeasance of any deputy shall be a breach of the deceased clerk's bond and his executor or administrator shall have like remedies against such deputy for such default or misfeasance as the clerk would have had if the clerk had continued in office.

The compensation of a deceased clerk of the Supreme Court may be paid to his personal representatives until his successor is appointed and qualifies.

**§ 955. Practice of law restricted**

The clerk of each court and his deputies and assistants shall not practice law in any court of the United States.

**§ 956. Powers and duties of clerks and deputies**

The clerk of each court and his deputies and assistants shall exercise the powers and perform the duties assigned to them by the court.

**§ 957. Clerks ineligible for certain offices**

(a) A clerk of a district court or any of his deputies shall not be appointed a commissioner, master, referee or receiver in any case, unless there are special reasons requiring such appointment which are recited in the order of appointment.

(b) The clerk or assistant clerks of the Court of Customs and Patent Appeals shall not be appointed a commissioner, master or referee in any case.

**§ 958. Persons ineligible as receivers**

A person holding any civil or military office or employment under the United States or employed by any justice or judge of the United States shall not at the same time be appointed a receiver in any case in any court of the United States.

**§ 959. Trustees and receivers suable; management; State laws**

(a) Trustees, receivers or managers of any property, including debtors in possession, may be sued, without leave of the court appointing them, with respect to any of their acts or transactions in carrying



on business connected with such property. Such actions shall be subject to the general equity power of such court so far as the same may be necessary to the ends of justice, but this shall not deprive a litigant of his right to trial by jury.

(b) A trustee, receiver or manager appointed in any cause pending in any court of the United States, including a debtor in possession, shall manage and operate the property in his possession as such trustee, receiver or manager according to the requirements of the valid laws of the State in which such property is situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof.

#### § 960. Tax liability

Any officers and agents conducting any business under authority of a United States court shall be subject to all Federal, State and local taxes applicable to such business to the same extent as if it were conducted by an individual or corporation.

#### § 961. Office expenses of clerks

Each clerk of court shall be allowed his necessary office expenses when authorized by the Director of the Administrative Office of the United States Courts.

#### § 962. Traveling expenses

Officers and employees of the courts of the United States and of the Administrative Office of the United States Courts necessarily absent from their official stations on official business shall be allowed travel and subsistence expenses pursuant to regulations promulgated by the Director of the Administrative Office of the United States Courts.

#### § 963. Courts defined

As used in this chapter, unless the context indicates otherwise, the words "court" and "courts" include the Supreme Court of the United States and the courts enumerated in section 610 of this title.

*Ante*, p. 915.

### PART IV—JURISDICTION AND VENUE

Chapter	Sec.
81. Supreme Court .....	1251
83. Courts of Appeals.....	1291
85. District Courts; Jurisdiction.....	1331
87. District Courts; Venue.....	1391
89. District Courts; Removal of Cases from State Courts.....	1441
91. Court of Claims.....	1491
93. Court of Customs and Patent Appeals.....	1541
95. Customs Court.....	1581

#### 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.

#### § 1251. Original jurisdiction

(a) The Supreme Court shall have original and exclusive jurisdiction of:

- (1) All controversies between two or more States;
- (2) All actions or proceedings against ambassadors or other public ministers of foreign states or their domestics or domestic servants, not inconsistent with the law of nations.

(b) The Supreme Court shall have original but not exclusive jurisdiction of:

(1) All actions or proceedings brought by ambassadors or other public ministers of foreign states or to which consuls or vice consuls of foreign states are parties;

(2) All controversies between the United States and a State;

(3) All actions or proceedings by a State against the citizens of another State or against aliens.

**§ 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 District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands and any court of record of Alaska, Hawaii and 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.

**§ 1253. Direct appeals from decisions of three-judge courts**

Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suit or proceeding required by any Act of Congress to be heard and determined by a district court of three judges.

**§ 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) 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.

**§ 1255. Court of Claims; certiorari; certified questions**

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

(1) By writ of certiorari granted on petition of the United States or the claimant;

(2) By certification of any question of law by the Court of Claims in any case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions on such question.

**§ 1256. Court of Customs and Patent Appeals; certiorari**

Cases in the Court of Customs and Patent Appeals may be reviewed by the Supreme Court by writ of certiorari.

**§ 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.

**CHAPTER 83—COURTS OF APPEALS**

Sec.

1291. Final decisions of district courts.

1292. Interlocutory decisions.

1293. Final decisions of Puerto Rico and Hawaii Supreme Courts.

1294. Circuits in which decisions reviewable.

**§ 1291. Final decisions of district courts**

The courts of appeals shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court.

**§ 1292. Interlocutory decisions**

The courts of appeals shall have jurisdiction of appeals from:

(1) Interlocutory orders of the district courts of the United States, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, and the District Court of the Virgin Islands, or of the judges thereof, granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions, except where a direct review may be had in the Supreme Court;

(2) Interlocutory orders appointing receivers, or refusing orders to wind up receiverships or to take steps to accomplish the purposes thereof, such as directing sales or other disposals of property;

(3) Interlocutory decrees of such district courts or the judges thereof determining the rights and liabilities of the parties to admiralty cases in which appeals from final decrees are allowed;

(4) Judgments in civil actions for patent infringement which are final except for accounting.

**§ 1293. Final decisions of Puerto Rico and Hawaii Supreme Courts**

The courts of appeals for the First and Ninth Circuits shall have jurisdiction of appeals from all final decisions of the supreme courts of Puerto Rico and Hawaii, respectively in all cases involving the Constitution, laws or treaties of the United States or any authority exercised thereunder, in all habeas corpus proceedings, and in all other civil cases where the value in controversy exceeds \$5,000, exclusive of interest and costs.

### § 1294. Circuits in which decisions reviewable

Appeals from reviewable decisions of the district and territorial courts shall be taken to the courts of appeals as follows:

- (1) From a district court of the United States to the court of appeals for the circuit embracing the district;
- (2) From the District Court for the Territory of Alaska or any division thereof, to the Court of Appeals for the Ninth Circuit;
- (3) From the United States District Court for the District of the Canal Zone, to the Court of Appeals for the Fifth Circuit;
- (4) From the District Court of the Virgin Islands, to the Court of Appeals for the Third Circuit;
- (5) From the Supreme Court of Hawaii, to the Court of Appeals for the Ninth Circuit;
- (6) From the Supreme Court of Puerto Rico, to the Court of Appeals for the First Circuit.

## CHAPTER 85—DISTRICT COURTS; JURISDICTION

Sec.

- 1331. Federal question; amount in controversy.
- 1332. Diversity of citizenship; amount in controversy.
- 1333. Admiralty, maritime and prize cases.
- 1334. Bankruptcy matters and proceedings.
- 1335. Interpleader.
- 1336. Interstate Commerce Commission's orders.
- 1337. Commerce and anti-trust regulations.
- 1338. Patents, copyrights, trade-marks and unfair competition.
- 1339. Postal matters.
- 1340. Internal revenue; customs duties.
- 1341. Taxes by States.
- 1342. Rate orders of State agencies.
- 1343. Civil rights.
- 1344. Election disputes.
- 1345. United States as plaintiff.
- 1346. United States as defendant.
- 1347. Partition action where United States is joint tenant.
- 1348. Banking association as party.
- 1349. Corporation organized under federal law as party.
- 1350. Alien's action for tort.
- 1351. Consuls and vice consuls as defendants.
- 1352. Bonds executed under federal law.
- 1353. Indian allotments.
- 1354. Land grants from different states.
- 1355. Fine, penalty or forfeiture.
- 1356. Seizures not within admiralty and maritime jurisdiction.
- 1357. Injuries under Federal laws.
- 1358. Eminent domain.
- 1359. Parties collusively joined or made.

### § 1331. Federal question; amount in controversy

The district courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of \$3,000, exclusive of interest and costs, and arises under the Constitution, laws or treaties of the United States.

### § 1332. Diversity of citizenship; amount in controversy

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$3,000 exclusive of interest and costs, and is between:

- (1) Citizens of different States;
- (2) Citizens of a State, and foreign states or citizens or subjects thereof;
- (3) Citizens of different States and in which foreign states or citizens or subjects thereof are additional parties.

"States."

(b) The word "States", as used in this section, includes the Territories and the District of Columbia.

**§ 1333. Admiralty, maritime and prize cases**

The district courts shall have original jurisdiction, exclusive of the courts of the States, of:

(1) Any civil case of admiralty or maritime jurisdiction, saving to the libellant or petitioner in every case any other remedy to which he is otherwise entitled.

(2) Any prize brought into the United States and all proceedings for the condemnation of property taken as prize.

**§ 1334. Bankruptcy matters and proceedings**

The district courts shall have original jurisdiction, exclusive of the courts of the States, of all matters and proceedings in bankruptcy.

**§ 1335. Interpleader**

(a) The district courts shall have original jurisdiction of any civil action of interpleader or in the nature of interpleader filed by any person, firm, or corporation, association, or society having in his or its custody or possession money or property of the value of \$500 or more, or having issued a note, bond, certificate, policy of insurance, or other instrument of value or amount of \$500 or more, or providing for the delivery or payment or the loan of money or property of such amount or value, or being under any obligation written or unwritten to the amount of \$500 or more, if

(1) Two or more adverse claimants, of diverse citizenship as defined in section 1332 of this title, are claiming or may claim to be entitled to such money or property, or to any one or more of the benefits arising by virtue of any note, bond, certificate, policy or other instrument, or arising by virtue of any such obligation; and if (2) the plaintiff has deposited such money or property or has paid the amount of or the loan or other value of such instrument or the amount due under such obligation into the registry of the court, there to abide the judgment of the court, or has given bond payable to the clerk of the court in such amount and with such surety as the court or judge may deem proper, conditioned upon the compliance by the plaintiff with the future order or judgment of the court with respect to the subject matter of the controversy.

*Ante*, p. 930.

(b) Such an action may be entertained although the titles or claims of the conflicting claimants do not have a common origin, or are not identical, but are adverse to and independent of one another.

**§ 1336. Interstate Commerce Commission's orders**

Except as otherwise provided by Act of Congress, the district courts shall have jurisdiction of any civil action to enforce, enjoin, set aside, annul or suspend, in whole or in part, any order of the Interstate Commerce Commission.

**§ 1337. Commerce and anti-trust regulations**

The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies.

**§ 1338. Patents, copyrights, trade-marks, and unfair competition**

(a) The district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to patents, copyrights and trade-marks. Such jurisdiction shall be exclusive of the courts of the states in patent and copyright cases.

(b) The district courts shall have original jurisdiction of any civil action asserting a claim of unfair competition when joined with a substantial and related claim under the copyright, patent or trade-mark laws.

**§ 1339. Postal matters**

The district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to the postal service.

**§ 1340. Internal revenue; customs duties**

The district courts shall have original jurisdiction of any civil action arising under any Act of Congress providing for internal revenue, or revenue from imports or tonnage except matters within the jurisdiction of the Customs Court.

**§ 1341. Taxes by States**

The district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State.

**§ 1342. Rate orders of State agencies**

The district courts shall not enjoin, suspend or restrain the operation of, or compliance with, any order affecting rates chargeable by a public utility and made by a State administrative agency or a rate-making body of a State political subdivision, where:

(1) Jurisdiction is based solely on diversity of citizenship or repugnance of the order to the Federal Constitution; and,

(2) The order does not interfere with interstate commerce; and,

(3) The order has been made after reasonable notice and hearing; and,

(4) A plain, speedy and efficient remedy may be had in the courts of such State.

**§ 1343. Civil rights**

The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 47 of Title 8;

(2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 47 of Title 8 which he had knowledge were about to occur and power to prevent;

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States.

**§ 1344. Election disputes**

The district courts shall have original jurisdiction of any civil action to recover possession of any office, except that of elector of President or Vice President, United States Senator, Representative in or delegate to Congress, or member of a state legislature, authorized by law to be commenced, wherein it appears that the sole question touching the title to office arises out of denial of the right to vote, to any citizen offering to vote, on account of race, color or previous condition of servitude.

The jurisdiction under this section shall extend only so far as to determine the rights of the parties to office by reason of the denial of the right, guaranteed by the Constitution of the United States and secured by any law, to enforce the right of citizens of the United States to vote in all the States.

**§ 1345. United States as plaintiff**

Except as otherwise provided by Act of Congress, the district courts shall have original jurisdiction of all civil actions, suits or proceedings commenced by the United States, or by any agency or officer thereof expressly authorized to sue by Act of Congress.

**§ 1346. United States as defendant**

(a) The district courts shall have original jurisdiction, concurrent with the Court of Claims, of:

(1) Any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws; even if the claim exceeds \$10,000 if the collector of internal revenue by whom such tax, penalty or sum was collected is dead or is not in office as collector of internal revenue when such action is commenced;

(2) Any other civil action or claim against the United States, not exceeding \$10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

(b) Subject to the provisions of chapter 173 of this title, the district courts, together with the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

(c) The jurisdiction conferred by this section includes jurisdiction of any set-off, counterclaim, or other claim or demand whatever on the part of the United States against any plaintiff commencing an action under this section.

Set-offs, counter-claims, etc.

(d) The district courts shall not have jurisdiction under this section of:

(1) Any civil action or claim for a pension;

(2) Any civil action to recover fees, salary, or compensation for official services of officers of the United States.

**§ 1347. Partition action where United States is joint tenant**

The district courts shall have original jurisdiction of any civil action commenced by any tenant in common or joint tenant for the partition of lands where the United States is one of the tenants in common or joint tenants.

**§ 1348. Banking association as party**

The district courts shall have original jurisdiction of any civil action commenced by the United States, or by direction of any officer thereof, against any national banking association, any civil action to wind up the affairs of any such association, and any action by a banking association established in the district for which the court is held, under chapter 2 of Title 12, to enjoin the Comptroller of the Currency, or any receiver acting under his direction, as provided by such chapter.

12 U. S. C., Supp. I,  
ch. 2.

All national banking associations shall, for the purposes of all other actions by or against them, be deemed citizens of the States in which they are respectively located.

**§ 1349. Corporation organized under federal law as party**

The district courts shall not have jurisdiction of any civil action by or against any corporation upon the ground that it was incorporated by or under an Act of Congress, unless the United States is the owner of more than one-half of its capital stock.

**§ 1350. Alien's action for tort**

The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.

**§ 1351. Consuls and vice consuls as defendants**

The district courts shall have original jurisdiction, exclusive of the courts of the States, of any civil action against consuls or vice consuls of foreign states.

**§ 1352. Bonds executed under federal law**

The district courts shall have original jurisdiction, concurrent with State courts, of any action on a bond executed under any law of the United States.

**§ 1353. Indian allotments**

The district courts shall have original jurisdiction of any civil action involving the right of any person, in whole or in part of Indian blood or descent, to any allotment of land under any Act of Congress or treaty.

The judgment in favor of any claimant to an allotment of land shall have the same effect, when properly certified to the Secretary of the Interior, as if such allotment had been allowed and approved by him; but this provision shall not apply to any lands held on or before December 21, 1911, by either of the Five Civilized Tribes, the Osage Nation of Indians, nor to any of the lands within the Quapaw Indian Agency.

**§ 1354. Land grants from different states**

The district courts shall have original jurisdiction of actions between citizens of the same state claiming lands under grants from different states.

**§ 1355. Fine, penalty or forfeiture**

The district courts shall have original jurisdiction, exclusive of the courts of the States, of any action or proceeding for the recovery or enforcement of any fine, penalty, or forfeiture, pecuniary or otherwise, incurred under any Act of Congress.

**§ 1356. Seizures not within admiralty and maritime jurisdiction**

The district courts shall have original jurisdiction, exclusive of the courts of the States, of any seizure under any law of the United States on land or upon waters not within admiralty and maritime jurisdiction.

**§ 1357. Injuries under Federal laws**

The district courts shall have original jurisdiction of any civil action commenced by any person to recover damages for any injury to his person or property on account of any act done by him, under any Act of Congress, for the protection or collection of any of the revenues, or to enforce the right of citizens of the United States to vote in any State.



**§ 1358. Eminent domain**

The district courts shall have original jurisdiction of all proceedings to condemn real estate for the use of the United States or its departments or agencies.

**§ 1359. Parties collusively joined or made**

A district court shall not have jurisdiction of a civil action in which any party, by assignment or otherwise, has been improperly or collusively made or joined to invoke the jurisdiction of such court.

**CHAPTER 87—DISTRICT COURTS; VENUE****Sec.**

- 1391. Venue generally.
- 1392. Defendants or property in different districts in same State.
- 1393. Divisions; single defendant; defendants in different divisions.
- 1394. Banking association's action against Comptroller of Currency.
- 1395. Fine, penalty or forfeiture.
- 1396. Internal revenue taxes.
- 1397. Interpleader.
- 1398. Interstate Commerce Commission's orders.
- 1399. Partition action involving United States.
- 1400. Patents and copyrights.
- 1401. Stockholder's derivative action.
- 1402. United States as defendant.
- 1403. Eminent domain.
- 1404. Change of venue.
- 1405. Creation or alteration of district or division.
- 1406. Cure or waiver of defects.

**§ 1391. Venue generally**

(a) A civil action wherein jurisdiction is founded only on diversity of citizenship may, except as otherwise provided by law, be brought only in the judicial district where all plaintiffs or all defendants reside.

(b) A civil action wherein jurisdiction is not founded solely on diversity of citizenship may be brought only in the judicial district where all defendants reside, except as otherwise provided by law.

(c) A corporation may be sued in any judicial district in which it is incorporated or licensed to do business or is doing business, and such judicial district shall be regarded as the residence of such corporation for venue purposes.

(d) An alien may be sued in any district.

**§ 1392. Defendants or property in different districts in same State**

(a) Any civil action, not of a local nature, against defendants residing in different districts in the same State, may be brought in any of such districts.

(b) Any civil action, of a local nature, involving property located in different districts in the same State, may be brought in any of such districts.

**§ 1393. Divisions; single defendant; defendants in different divisions**

(a) Except as otherwise provided, any civil action, not of a local nature, against a single defendant in a district containing more than one division must be brought in the division where he resides.

(b) Any such action, against defendants residing in different divisions of the same district or different districts in the same State, may be brought in any of such divisions.

**§ 1394. Banking association's action against Comptroller of Currency**

Any civil action by a national banking association to enjoin the

Comptroller of the Currency, under the provisions of any Act of Congress relating to such associations, may be prosecuted in the judicial district where such association is located.

**§ 1395. Fine, penalty or forfeiture**

(a) A civil proceeding for the recovery of a pecuniary fine, penalty or forfeiture may be prosecuted in the district where it accrues or the defendant is found.

(b) A civil proceeding for the forfeiture of property may be prosecuted in any district where such property is found.

(c) A civil proceeding for the forfeiture of property seized outside any judicial district may be prosecuted in any district into which the property is brought.

(d) A proceeding in admiralty for the enforcement of fines, penalties and forfeitures against a vessel may be brought in any district in which the vessel is arrested.

(e) Any proceeding for the forfeiture of a vessel or cargo entering a port of entry closed by the President in pursuance of law, or of goods and chattels coming from a State or section declared by proclamation of the President to be in insurrection, or of any vessel or vehicle conveying persons or property to or from such State or section or belonging in whole or in part to a resident thereof, may be prosecuted in any district into which the property is taken and in which the proceeding is instituted.

**§ 1396. Internal revenue taxes**

Any civil action for the collection of internal revenue taxes may be brought in the district where the liability for such tax accrues, in the district of the taxpayer's residence, or in the district where the return was filed.

**§ 1397. Interpleader**

Any civil action of interpleader or in the nature of interpleader under section 1335 of this title may be brought in the judicial district in which one or more of the claimants reside.

*Ante*, p. 931.

**§ 1398. Interstate Commerce Commission's orders**

Except as otherwise provided by law, any civil action to enforce, suspend or set aside in whole or in part an order of the Interstate Commerce Commission shall be brought only in the judicial district wherein is the residence or principal office of any of the parties bringing such action.

**§ 1399. Partition action involving United States**

Any civil action by any tenant in common or joint tenant for the partition of lands, where the United States is one of the tenants in common or joint tenants, may be brought only in the judicial district where such lands are located or, if located in different districts in the same State, in any of such districts.

**§ 1400. Patents and copyrights**

(a) Civil actions, suits, or proceedings arising under any Act of Congress relating to copyrights may be instituted in the district in which the defendant or his agent resides or may be found.

(b) Any civil action for patent infringement may be brought in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business.

**§ 1401. Stockholder's derivative action**

Any civil action by a stockholder on behalf of his corporation may be prosecuted in any judicial district where the corporation might have sued the same defendants.

**§ 1402. United States as defendant**

(a) Any civil action against the United States under subsection (a) of section 1346 of this title may be prosecuted only in the judicial district where the plaintiff resides.

*Ante*, p. 933.

(b) Any civil action on a tort claim against the United States under subsection (b) of section 1346 of this title may be prosecuted only in the judicial district where the plaintiff resides or wherein the act or omission complained of occurred.

*Ante*, p. 933.**§ 1403. Eminent domain**

Proceedings to condemn real estate for the use of the United States or its departments or agencies shall be brought in the district court of the district where the land is located or, if located in different districts in the same State, in any of such districts.

**§ 1404. Change of venue**

(a) For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.

(b) Upon motion, consent or stipulation of all parties, any action, suit or proceeding of a civil nature or any motion or hearing thereof, may be transferred, in the discretion of the court, from the division in which pending to any other division in the same district. Transfer of proceedings in rem brought by or on behalf of the United States may be transferred under this section without the consent of the United States where all other parties request transfer.

(c) A district court may order any civil action to be tried at any place within the division in which it is pending.

**§ 1405. Creation or alteration of district or division**

Actions or proceedings pending at the time of the creation of a new district or division or transfer of a county or territory from one division or district to another may be tried in the district or division as it existed at the institution of the action or proceeding, or in the district or division so created or to which the county or territory is so transferred as the parties shall agree or the court direct.

**§ 1406. Cure or waiver of defects**

(a) The district court of a district in which is filed a case laying venue in the wrong division or district shall transfer such case to any district or division in which it could have been brought.

(b) Nothing in this chapter shall impair the jurisdiction of a district court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

**CHAPTER 89—DISTRICT COURTS; REMOVAL OF CASES FROM STATE COURTS****Sec.**

- 1441. Actions removable generally.
- 1442. Federal officers sued or prosecuted.
- 1443. Civil rights cases.
- 1444. Foreclosure action against United States.
- 1445. Carriers; non-removable actions.
- 1446. Procedure for removal.
- 1447. Procedure after removal generally.
- 1448. Process after removal.
- 1449. State court record supplied.
- 1450. Attachment or sequestration; securities.

**§ 1441. Actions removable generally**

(a) Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United

States for the district and division embracing the place where such action is pending.

(b) Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties. Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

(c) Whenever a separate and independent claim or cause of action, which would be removable if sued upon alone, is joined with one or more otherwise non-removable claims or causes of action, the entire case may be removed and the district court may determine all issues therein, or, in its discretion, may remand all matters not otherwise within its original jurisdiction.

#### § 1442. Federal officers sued or prosecuted

(a) A civil action or criminal prosecution commenced in a State court against any of the following persons may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) Any officer of the United States or any agency thereof, or person acting under him, for any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.

(2) A property holder whose title is derived from any such officer, where such action or prosecution affects the validity of any law of the United States.

(3) Any officer of the courts of the United States, for any Act under color of office or in the performance of his duties;

(4) Any officer of either House of Congress, for any act in the discharge of his official duty under an order of such House.

Personal action  
commenced by alien.

(b) A personal action commenced in any State court by an alien against any citizen of a State who is, or at the time the alleged action accrued was, a civil officer of the United States and is a nonresident of such State, wherein jurisdiction is obtained by the State court by personal service of process, may be removed by the defendant to the district court of the United States for the district and division in which the defendant was served with process.

#### § 1443. Civil rights cases

Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof;

(2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.

#### § 1444. Foreclosure action against United States

Post, p. 972.

Any action brought under section 2410 of this title against the United States in any State may be removed by the United States to the district court of the United States for the district and divisions in which the action is pending.

### § 1445. Carriers; non-removable actions

(a) A civil action in any State court against a railroad or its receivers or trustees, arising under sections 51-60 of Title 45, may not be removed to any district court of the United States.

*Post*, p. 989.

(b) A civil action in any State court against a common carrier or its receivers or trustees to recover damages for delay, loss, or injury of shipments, arising under section 20 of Title 49, may not be removed to any district court of the United States unless the matter in controversy exceeds \$3,000, exclusive of interest and costs.

*Ante*, p. 295.

### § 1446. Procedure for removal

(a) A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a verified petition containing a short and plain statement of the facts which entitle him or them to removal together with a copy of all process, pleadings and orders served upon him or them in such action.

(b) The petition for removal of a civil action or proceeding may be filed within twenty days after commencement of the action or service of process, whichever is later.

Time for filing petition.

(c) The petition for removal of a criminal prosecution may be filed at any time before trial.

(d) Each petition for removal of a civil action or proceeding, except a petition in behalf of the United States, shall be accompanied by a bond with good and sufficient surety conditioned that the defendant or defendants will pay all costs and disbursements incurred by reason of the removal proceedings should it be determined that the case was not removable or was improperly removed.

Bond.

(e) Upon the filing of such petition and bond the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the petition with the clerk of such State court, which shall effect the removal and the State court shall proceed no further therein unless the case is remanded.

(f) If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of habeas corpus, and the marshal shall thereupon take such defendant or defendants into his custody and deliver a copy of the writ to the clerk of such State court.

### § 1447. Procedure after removal generally

(a) In any case removed from a State court, the district court may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the State court or otherwise.

(b) It may require the petitioner to file with its clerk copies of all records and proceedings in such State court or may cause the same to be brought before it by writ of certiorari issued to such State court.

(c) It may order the pleadings recast and the parties realigned according to their real interest.

(d) If any party fails to comply with its lawful orders, the district court may enter such further orders and judgments as justice requires.

(e) If at any time before final judgment it appears that the case was removed improvidently and without jurisdiction, the district court shall remand the case. A certified copy of the order of remand shall be mailed by its clerk to the clerk of the State court. The State court may thereupon proceed with such case.

**§ 1448. Process after removal**

In all cases removed from any State court to any district court of the United States in which any one or more of the defendants has not been served with process or in which the service has not been perfected prior to removal, or in which process served proves to be defective, such process or service may be completed or new process issued in the same manner as in cases originally filed in such district court.

This section shall not deprive any defendant upon whom process is served after removal of his right to move to remand the case.

**§ 1449. State court record supplied**

Where a party is entitled to copies of the records and proceedings in any suit or prosecution in a State court, to be used in any district court of the United States, any attachment or sequestration of the demand, and the payment or tender of the legal fees, fails to deliver certified copies, the district court may, on affidavit reciting such facts, direct such record to be supplied by affidavit or otherwise. Thereupon such proceeding, trial, and judgment may be had in such district court, and all such process awarded, as if certified copies had been filed in the district court.

**§ 1450. Attachment or sequestration; securities**

Whenever any action is removed from a State court to a district court of the United States, any attachment or sequestration of the goods or estate of the defendant in such action in the State court shall hold the goods or estate to answer the final judgment or decree in the same manner as they would have been held to answer final judgment or decree had it been rendered by the State court.

All bonds, undertakings, or security given by either party in such action prior to its removal shall remain valid and effectual notwithstanding such removal.

All injunctions, orders, and other proceedings had in such action prior to its removal shall remain in full force and effect until dissolved or modified by the district court.

**CHAPTER 91—COURT OF CLAIMS****Sec.**

- 1491. Claims against United States generally.
- 1492. Congressional reference cases.
- 1493. Departmental reference cases.
- 1494. Accounts of officers, agents or contractors.
- 1495. Damages for unjust conviction and imprisonment; claim against United States.
- 1496. Disbursing officers' claims.
- 1497. Oyster growers' damages from dredging operations.
- 1498. Patent cases.
- 1499. Penalties imposed against contractors under eight hour law.
- 1500. Pendency of claims in other courts.
- 1501. Pensions.
- 1502. Treaty cases.
- 1503. Set-offs.
- 1504. Tort claims.

**§ 1491. Claims against United States generally**

The Court of Claims shall have jurisdiction to render judgment upon any claim against the United States:

- (1) Founded upon the Constitution; or
- (2) Founded upon any Act of Congress; or
- (3) Founded upon any regulation of an executive department; or
- (4) Founded upon any express or implied contract with the United States; or
- (5) For liquidated or unliquidated damages in cases not sounding in tort.

**§ 1492. Congressional reference cases**

The Court of Claims shall have jurisdiction to report to either House of Congress on any bill referred to the court by such House, except a bill for a pension, and to render judgment if the claim against the United States represented by the referred bill is one over which the court has jurisdiction under other Acts of Congress.

**§ 1493. Departmental reference cases**

The Court of Claims shall have jurisdiction to report to the head of any executive department on any claim or matter involving controverted questions of law or fact and referred by him to such court, and to render judgment if the claim or matter referred is one over which the court has jurisdiction under other Acts of Congress.

**§ 1494. Accounts of officers, agents or contractors**

The Court of Claims shall have jurisdiction to determine the amount, if any, due the United States by reason of any unsettled account of any officer or agent of, or contractor with, the United States, or a guarantor, surety or personal representative of any such officer, agent or contractor, where:

(1) claimant or the person he represents has applied to the proper department of the Government for settlement of the account;

(2) three years have elapsed from the date of such application without settlement; and

(3) no suit upon the same has been brought by the United States.

**§ 1495. Damages for unjust conviction and imprisonment; claim against United States**

The Court of Claims shall have jurisdiction to render judgment upon any claim for damages by any person unjustly convicted of an offense against the United States and imprisoned.

**§ 1496. Disbursing officers' claims**

The Court of Claims shall have jurisdiction to render judgment upon any claim by a disbursing officer of the United States or by his administrator or executor for relief from responsibility for loss, in line of duty, of Government funds, vouchers, records or other papers in his charge.

**§ 1497. Oyster growers, damages from dredging operations**

The Court of Claims shall have jurisdiction to render judgment upon any claim for damages to oyster growers on private or leased lands or bottoms arising from dredging operations or use of other machinery and equipment in making river and harbor improvements authorized by Act of Congress.

**§ 1498. Patent cases**

The Court of Claims shall have jurisdiction to render judgment upon any claim against the United States for the recovery of the reasonable and entire compensation for the use or manufacture of an invention covered by a patent of the United States which has been used or manufactured by or for the United States without license of the owner thereof or lawful right to use or manufacture the same.

The court shall not award compensation under this section if the claim is based on the use or manufacture by or for the United States of any article owned, leased, used by, or in the possession of the United States prior to July 1, 1918.

This section shall not confer a right of action on any patentee who, when he makes such a claim, is in the employment or service of the

United States, or any assignee of such patentee, and shall not apply to any device discovered or invented by an employee during the time of such employment or service.

**§ 1499. Penalties imposed against contractors under eight hour law**

The Court of Claims shall have jurisdiction to render judgment upon any claim for a penalty withheld from a contractor or subcontractor under section 324 of Title 40.

*Post*, p. 939.

**§ 1500. Pendency of claims in other courts**

The Court of Claims shall not have jurisdiction of any claim for or in respect to which the plaintiff or his assignee has pending in any other court any suit or process against the United States or any person who, at the time when the cause of action alleged in such suit or process arose, was, in respect thereto, acting or professing to act, directly or indirectly under the authority of the United States.

**§ 1501. Pensions**

The Court of Claims shall not have jurisdiction of any claim for a pension.

**§ 1502. Treaty cases**

Except as otherwise provided by Act of Congress, the Court of Claims shall not have jurisdiction of any claim against the United States growing out of or dependent upon any treaty entered into with foreign nations or with Indian tribes.

**§ 1503. Set-offs**

The Court of Claims shall have jurisdiction to render judgment upon any set-off or demand by the United States against any plaintiff in such court.

**§ 1504. Tort claims**

The Court of Claims shall have jurisdiction to review by appeal final judgments in the district courts in civil actions based on tort claims brought under section 1346 (b) of this title if the notice of appeal filed in the district court has affixed thereto the written consent on behalf of all the appellees that the appeal be taken to the Court of Claims.

*Ante*, p. 933.

**CHAPTER 93—COURT OF CUSTOMS AND  
PATENT APPEALS**

Sec.

1541. Customs Court decisions.

1542. Patent Office decisions.

1543. Tariff Commission decisions.

**§ 1541. Customs Court decisions**

The Court of Customs and Patent Appeals shall have jurisdiction to review by appeal final decisions of the Customs Court in all cases as to the construction of the law and the facts respecting the classification of merchandise, the rate of duty imposed thereon under such classifications, and the fees and charges connected therewith, and all appealable questions as to the jurisdiction of the Customs Court and as to the laws and regulations governing the collection of the customs revenues.

**§ 1542. Patent Office decisions**

The Court of Customs and Patent Appeals shall have jurisdiction of appeals from decisions of:

- (1) the Board of Appeals and the Board of Interference Examiners of the Patent Office as to patent applications and interferences, at the instance of an applicant for a patent or any party



to a patent interference, and such appeal by an applicant shall waive his right to proceed under section 63 of Title 35; and

(2) the Commissioner of Patents as to trade-mark applications, interferences and cancellations, at the instance of a party applying for or opposing the registration of a trade-mark, or seeking its cancellation, or any party to a trade-mark interference.

#### § 1543. Tariff Commission decisions

The Court of Customs and Patent Appeals shall have jurisdiction to review, by appeal on questions of law only, the findings of the United States Tariff Commission as to unfair practices in import trade, made under section 1337 of Title 19.

### CHAPTER 95—CUSTOMS COURT

Sec.

1581. Powers generally.

1582. Review of reappraisement; remission of duties.

1583. Review of decisions on protests.

#### § 1581. Powers generally

The Customs Court and each judge thereof shall possess all the powers of a district court of the United States for preserving order, compelling the attendance of witnesses and the production of evidence.

#### § 1582. Review of reappraisement; remission of duties

The Customs Court shall have exclusive jurisdiction of appeals for reappraisement and applications for review of reappraisement of imported merchandise and petitions for remission of additional duties filed under the customs laws.

#### § 1583. Review of decisions on protests

The Customs Court shall have exclusive jurisdiction to review on protest the decisions of any collector of customs, including all orders and findings entering into the same, as to the rate and amount of duties chargeable and as to all exactions of whatever character within the jurisdiction of the Secretary of the Treasury; decisions excluding any merchandise from entry or delivery, under any provision of the customs laws; and the liquidation or reliquidation of any entry, or the refusal to pay any claim for drawback or to reliquidate an entry for a clerical error as provided by the customs laws.

### PART V—PROCEDURE

Chapter	Sec.
111. General Provisions.....	1651
113. Process.....	1691
115. Evidence; Documentary.....	1731
117. Evidence; Depositions.....	1781
119. Evidence; Witnesses.....	1821
121. Juries; Trial by Jury.....	1861
123. Fees and Costs.....	1911
125. Judgments.....	1961
127. Executions and Judicial Sales.....	2001
129. Moneys Paid into Court.....	2041
131. Rules of Courts.....	2071
133. Review—Miscellaneous Provisions.....	2101

### 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.

**§ 1651. Writs**

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

**§ 1652. State laws as rules of decision**

The laws of the several states, except where the Constitution or treaties of the United States or Acts of Congress otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United States, in cases where they apply.

**§ 1653. Amendment of pleadings to show jurisdiction**

Defective allegations of jurisdiction may be amended, upon terms, in the trial or appellate courts.

**§ 1654. Appearance personally or by counsel**

In all courts of the United States the parties may plead and conduct their own cases personally or by counsel.

**§ 1655. Lien enforcement; absent defendants**

In an action in a district court to enforce any lien upon or claim to, or to remove any incumbrance or lien or cloud upon the title to, real or personal property within the district, where any defendant can not be served within the State, or does not voluntarily appear, the court may order the absent defendant to appear or plead by a day certain.

Such order shall be served on the absent defendant personally if practicable, wherever found, and also upon the person or persons in possession or charge of such property, if any. Where personal service is not practicable, the order shall be published as the court may direct, not less than once a week for six consecutive weeks.

If an absent defendant does not appear or plead within the time allowed, the court may proceed as if the absent defendant had been served with process within the State, but any adjudication shall, as regards the absent defendant without appearance, affect only the property which is the subject of the action. When a part of the property is within another district, but within the same state, such action may be brought in either district.

Any defendant not so personally notified may, at any time within one year after final judgment, enter his appearance, and thereupon the court shall set aside the judgment and permit such defendant to plead on payment of such costs as the court deems just.

**§ 1656. Creation of new district or division or transfer of territory; lien enforcement**

The creation of a new district or division or the transfer of any territory to another district or division shall not affect or divest any lien theretofore acquired in a district court upon property within such district, division or territory.

To enforce such lien, the clerk of the court in which the same is acquired, upon the request and at the cost of the party desiring the same, shall make a certified copy of the record thereof, which, when filed in the proper court of the district or division in which such property is situated after such creation or transfer shall be evidence in all courts and places equally with the original thereof; and, thereafter like proceedings shall be had thereon, and with the same effect, as though the case or proceeding had been originally instituted in such court.

**CHAPTER 113—PROCESS****Sec.**

- 1691. Seal and teste of process.
- 1692. Process and orders affecting property in different districts.
- 1693. Place of arrest in civil action.
- 1694. Patent infringement action.
- 1695. Stockholder's derivative action.

**§ 1691. Seal and teste of process**

All writs and process issuing from a court of the United States shall be under the seal of the court and signed by the clerk thereof.

**§ 1692. Process and orders affecting property in different districts**

In proceedings in a district court where a receiver is appointed for property, real, personal, or mixed, situated in different districts, process may issue and be executed in any such district as if the property lay wholly within one district, but orders affecting the property shall be entered of record in each of such districts.

**§ 1693. Place of arrest in civil action**

Except as otherwise provided by Act of Congress, no person shall be arrested in one district for trial in another in any civil action in a district court.

**§ 1694. Patent infringement action**

In a patent infringement action commenced in a district where the defendant is not a resident but has a regular and established place of business, service of process, summons or subpoena upon such defendant may be made upon his agent or agents conducting such business.

**§ 1695. Stockholder's derivative action**

Process in a stockholder's action in behalf of his corporation may be served upon such corporation in any district where it is organized or licensed to do business or is doing business.

**CHAPTER 115—EVIDENCE; DOCUMENTARY****Sec.**

- 1731. Handwriting.
- 1732. Record made in regular course of business.
- 1733. Government records and papers; copies.
- 1734. Court record lost or destroyed generally.
- 1735. Court record lost or destroyed where United States interested.
- 1736. Congressional Journals.
- 1737. Copy of officer's bond.
- 1738. State and Territorial statutes and judicial proceedings; full faith and credit.
- 1739. State and Territorial nonjudicial records; full faith and credit.
- 1740. Copies of consular papers.
- 1741. Foreign documents generally; copies.
- 1742. Land titles; foreign records.
- 1743. Demand on postmaster.
- 1744. Copies of patent office documents generally.
- 1745. Printed copies of patent specifications and drawings.
- 1746. Copies of foreign patent specifications and drawings.

**§ 1731. Handwriting**

The admitted or proved handwriting of any person shall be admissible, for purposes of comparison, to determine genuineness of other handwriting attributed to such person.

**§ 1732. Record made in regular course of business**

In any court of the United States and in any court established by Act of Congress, any writing or record, whether in the form of an

entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, shall be admissible as evidence of such act, transaction, occurrence, or event, if made in regular course of any business, and if it was the regular course of such business to make such memorandum or record at the time of such act, transaction, occurrence, or event or within a reasonable time thereafter.

All other circumstances of the making of such writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight, but such circumstances shall not affect its admissibility.

"Business."

The term "business," as used in this section, includes business, profession, occupation, and calling of every kind.

#### § 1733. Government records and papers; copies

(a) Books or records of account or minutes of proceedings of any department or agency of the United States shall be admissible to prove the act, transaction or occurrence as a memorandum of which the same were made or kept.

(b) Properly authenticated copies or transcripts of any books, records, papers or documents of any department or agency of the United States shall be admitted in evidence equally with the originals thereof.

#### § 1734. Court record lost or destroyed, generally

(a) A lost or destroyed record of any proceeding in any court of the United States may be supplied on application of any interested party not at fault, by substituting a copy certified by the clerk of any court in which an authentic copy is lodged.

(b) Where a certified copy is not available, any interested person not at fault may file in such court a verified application for an order establishing the lost or destroyed record.

Every other interested person shall be served personally with a copy of the application and with notice of hearing on a day stated, not less than sixty days after service. Service may be made on any nonresident of the district anywhere within the jurisdiction of the United States or in any foreign country.

Proof of service in foreign country.

Proof of service in a foreign country shall be certified by a minister or consul of the United States in such country, under his official seal.

If, after the hearing, the court is satisfied that the statements contained in the application are true, it shall enter an order reciting the substance and effect of the lost or destroyed record. Such order, subject to intervening rights of third persons, shall have the same effect as the original record.

#### § 1735. Court record lost or destroyed where United States interested

(a) When the record of any case or matter in any court of the United States to which the United States is a party, is lost or destroyed, a certified copy of any official paper of a United States attorney, United States marshal or clerk or other certifying or recording officer of any such court, made pursuant to law, on file in any department or agency of the United States and relating to such case or matter, shall, on being filed in the court to which it relates, have the same effect as an original paper filed in such court. If the copy so filed discloses the date and amount of a judgment or decree and the names of the parties thereto, the court may enforce the judgment or decree as though the original record had not been lost or destroyed.

(b) Whenever the United States is interested in any lost or destroyed records or files of a court of the United States, the clerk

of such court and the United States attorney for the district shall take the steps necessary to restore such records or files, under the direction of the judges of such court.

#### § 1736. Congressional Journals

Extracts from the Journals of the Senate and the House of Representatives, and from the Executive Journal of the Senate when the injunction of secrecy is removed, certified by the Secretary of the Senate or the Clerk of the House of Representatives shall be received in evidence with the same effect as the originals would have.

#### § 1737. Copy of officer's bond

Any person to whose custody the bond of any officer of the United States has been committed shall, on proper request and payment of the fee allowed by any Act of Congress, furnish certified copies thereof, which shall be prima facie evidence in any court of the execution, filing and contents of the bond.

#### § 1738. State and Territorial statutes and judicial proceedings; full faith and credit

The Acts of the legislature of any State, Territory, or Possession of the United States, or copies thereof, shall be authenticated by affixing the seal of such State, Territory or Possession thereto.

The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.

Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken.

#### § 1739. State and Territorial nonjudicial records; full faith and credit

All nonjudicial records or books kept in any public office of any State, Territory, or Possession of the United States, or copies thereof, shall be proved or admitted in any court or office in any other State, Territory, or Possession by the attestation of the custodian of such records or books, and the seal of his office annexed, if there be a seal, together with a certificate of a judge of a court of record of the county, parish, or district in which such office may be kept, or of the Governor, or secretary of state, the chancellor or keeper of the great seal, of the State, Territory, or Possession that the said attestation is in due form and by the proper officers.

If the certificate is given by a judge, it shall be further authenticated by the clerk or prothonotary of the court, who shall certify, under his hand and the seal of his office, that such judge is duly commissioned and qualified; or, if given by such Governor, secretary, chancellor, or keeper of the great seal, it shall be under the great seal of the State, Territory, or Possession in which it is made.

Such records or books, or copies thereof, so authenticated, shall have the same full faith and credit in every court and office within the United States and its Territories and Possessions as they have by law or usage in the courts or offices of the State, Territory, or Possession from which they are taken.

#### § 1740. Copies of consular papers

Copies of all official documents and papers in the office of any consul or vice consul of the United States, and of all official entries in the

books or records of any such office, authenticated by the consul or vice consul, shall be admissible equally with the originals.

**§ 1741. Foreign documents, generally; copies**

A copy of any foreign document of record or on file in a public office of a foreign country or political subdivision thereof, certified by the lawful custodian thereof, shall be admissible in evidence when authenticated by a certificate of a consular officer of the United States resident in such foreign country, under the seal of his office, that the copy has been certified by the lawful custodian.

**§ 1742. Land titles; foreign records**

A keeper or person having custody of laws, judgments, orders, decrees, journals, correspondence, or other public documents of any foreign government or its agents, relating to the title to lands claimed by or under the United States, on the application of the head of a department or agency of the United States, may authenticate and certify copies thereof under his hand and seal.

When such copies are certified by an American minister or consul, under his hand and seal of office, to be true copies of the originals, they shall be sealed up by him and returned to the General Counsel for the Department of the Treasury, who shall file them in his office, and cause them to be recorded in a book to be kept for that purpose.

A certified copy of any such law, judgment, order, decree, journal, correspondence, or other public document, so filed, or recorded may be read in evidence, equally with the original, in any court, where the title to land claimed by or under the United States may come into question.

**§ 1743. Demand on postmaster**

The certificate of the Postmaster General or the General Accounting Office of the mailing to a postmaster of a statement of his account and that payment of the balance stated has not been received shall be sufficient evidence of a demand notwithstanding any allowances or credits subsequently made. A copy of such statement shall be attached to the certificate.

**§ 1744. Copies of Patent Office documents, generally**

Copies of letters patent or of any records, books, papers, or drawings belonging to the Patent Office and relating to registered trademarks, labels, or prints, authenticated under the seal of the Patent Office and certified by the Commissioner of Patents, shall be admissible in evidence with the same effect as the originals.

Any person making application and paying the required fee may obtain such certified copies.

**§ 1745. Printed copies of patent specifications and drawings**

Copies of specifications and drawings which the Commissioner of Patents prints for gratuitous distribution and deposits in the capitols of the States and Territories and in the offices of clerks of the district courts, when certified by him and authenticated by the seal of his office, shall be received in all courts as evidence of all matters therein contained.

**§ 1746. Copies of foreign patent specifications and drawings**

Copies of the specifications and drawings of foreign letters patent, certified in the manner provided in section 1744 of this title, shall be prima facie evidence of the fact of the granting of such letters patent and of the date and contents thereof.

*Supra.*

**CHAPTER 117—EVIDENCE; DEPOSITIONS**

Sec.

1781. Foreign witnesses.

1782. Testimony for use in foreign country.

1783. Subpoena of witness in foreign country.

1784. Contempt.

1785. Privilege against incrimination.

**§ 1781. Foreign witnesses**

Whenever a court of the United States issues letters rogatory or a commission to take a deposition in a foreign country, the foreign court or officer executing the same may make return thereof to the nearest United States minister or consul, who shall endorse thereon the place and date of his receipt and any change in the condition of the deposition, and transmit it to the clerk of the issuing court in the manner in which his official dispatches are transmitted to the United States Government.

**§ 1782. Testimony for use in foreign country**

The deposition of any witness residing within the United States to be used in any civil action pending in any court in a foreign country with which the United States is at peace may be taken before a person authorized to administer oaths designated by the district court of any district where the witness resides or may be found.

The practice and procedure in taking such depositions shall conform generally to the practice and procedure for taking depositions to be used in courts of the United States.

**§ 1783. Subpoena of witness in foreign country**

(a) A court of the United States may subpoena, for appearance before it, a citizen or resident of the United States who:

(1) Has been personally notified in a foreign country to appear before a court thereof to testify pursuant to letters rogatory issued by such court of the United States, and who has failed to appear or has failed to answer any question which he would be required to answer were he being examined before such court of the United States; or

(2) is beyond the jurisdiction of the United States and whose testimony in a criminal proceeding is desired by the Attorney General.

(b) The subpoena shall designate the time and place for appearance before such court of the United States, and shall issue to any United States consul in such foreign country. The consul shall make personal service of the subpoena and any order to show cause, rule, judgment or decree on the request of the court of the United States or its marshal, and shall make return thereof to such court after tendering to the witness his necessary travel and attendance expenses, which shall be determined by such court and sent with the subpoena.

**§ 1784. Contempt**

(a) A court of the United States which has issued a subpoena served personally in a foreign country may order the witness who has failed to appear as directed therein to show cause before it at a designated time why he should not be punished for contempt.

(b) If security is given for any damage which the witness might suffer should the charge be dismissed, the court may direct, as a part of such order, that any property of the witness within the United States be levied upon or seized, in the manner provided by law or court rules governing levy or seizure under execution, and held to satisfy any judgment that may be rendered against the witness. The security required by this subsection shall not be required of the United States.

(c) The marshal making such levy or seizure shall forward to any United States consul within the country where the witness may be a copy of such order and a request that the consul make personal service of the order on the witness. The marshal shall also cause the order to be published once each week for six consecutive weeks in some newspaper of general circulation in the district where the court which issued the order sits.

(d) On the return day of such order or any later day to which the hearing may be continued, proof shall be taken. If the charge of recusancy against the witness is sustained, the court may adjudge him guilty of contempt and, notwithstanding any limitation upon the power of the court generally to punish for contempt, may fine him not more than \$100,000 and direct that the fine and costs of the proceeding be satisfied unless paid by a sale of the property levied upon or seized, such sale to be conducted upon the notice required and in the manner provided for sales upon execution. Any such judgment rendered upon service by publication only may be opened for answer within one year.

#### § 1785. Privilege against incrimination

A witness shall not be required on examination under letters rogatory to disclose or produce any evidence tending to incriminate him under the laws of any State or Territory of the United States or any foreign state.

### CHAPTER 119—EVIDENCE; WITNESSES

Sec.

1821. Per diem and mileage generally; subsistence.

1822. Competency of interested persons; share of penalties payable.

1823. United States officers and employees.

1824. Mileage fees under summons as both witness and juror.

1825. Payment of fees.

#### § 1821. Per diem and mileage generally; subsistence

A witness attending in any court of the United States or before a United States commissioner or person taking his deposition pursuant to any order of a court of the United States, shall receive \$2 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 5 cents per mile for going from and returning to his place of residence. Witnesses who are not salaried employees of the Government and who are not in custody and who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of \$3 per day for expenses of subsistence.

#### § 1822. Competency of interested persons; share of penalties payable

Any person interested in a share of any fine, penalty or forfeiture incurred under any Act of Congress, may be examined as a witness in any proceeding for the recovery of such fine, penalty or forfeiture by any party thereto. Such examination shall not deprive the witness of his share.

#### § 1823. United States officers and employees

(a) Any officer or employee of the United States or any agency thereof, summoned as a witness on behalf of the United States, shall be paid his necessary expenses incident to travel by common carrier, and if travel is made by privately owned automobile mileage at a rate not to exceed 5 cents per mile, together with a per diem allowance not to exceed \$6 in lieu of subsistence under regulations prescribed by the Attorney General. Such expenses for appearing as a witness in any case involving the activity in connection with which such person is employed, shall be payable from the appropriation otherwise



available for travel expenses of such officer or employee upon proper certification by a certifying officer of the department or agency concerned.

(b) Employees of the United States or an agency thereof in active service called as witnesses on behalf of the District of Columbia in any judicial proceeding in which the government of the District of Columbia is a party, and employees of such government called as witness on behalf of the United States or the District of Columbia in any judicial proceeding in which the United States or the government of the District of Columbia is a party, shall not be paid witness fees, but the period of such service shall be without loss of salary or compensation and shall not be deducted from any authorized leave of absence with pay.

(c) No officer of any court of the United States located in any State, Territory or the District of Columbia shall be entitled to witness fees for attendance before any court or commissioner where he is officiating.

#### § 1824. Mileage fees under summons as both witness and juror

No constructive or double mileage fees shall be allowed by reason of any person being summoned both as a witness and a juror.

#### § 1825. Payment of fees

In any case wherein the United States or an officer or agency thereof, is a party, the United States marshal for the district shall pay all fees of witnesses on the certificate of the United States Attorney or Assistant United States Attorney, and in the proceedings before a United States Commissioner, on the certificate of such commissioner.

Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States or an officer or agency thereof.

### CHAPTER 121—JURIES; TRIAL BY JURY

- Sec.  
 1861. Qualifications.  
 1862. Exemptions.  
 1863. Exclusion or excuse from service.  
 1864. Manner of drawing; jury commissioners and their compensation.  
 1865. Apportionment within district; additional jury commissioners.  
 1866. Special petit juries; talesmen from bystanders.  
 1867. Summoning jurors.  
 1868. Disqualification of marshal or deputy.  
 1869. Frequency of service.  
 1870. Challenges.  
 1871. Fees.  
 1872. Issues of fact in Supreme Court.  
 1873. Admiralty and maritime cases.  
 1874. Actions on bonds and specialties.

#### § 1861. Qualifications

Any citizen of the United States who has attained the age of 21 years and resides within the judicial district, is competent to serve as a grand or petit juror unless:

(1) He has been convicted in a state or federal court of record of a crime punishable by imprisonment for more than one year and his civil rights have not been restored by pardon or amnesty.

(2) He is unable to read, write, speak and understand the English language.

(3) He is incapable, by reason of mental or physical infirmities to render efficient jury service.

(4) He is incompetent to serve as a grand or petit juror by the law of the State in which the district court is held.

**§ 1862. Exemptions**

The following persons shall be exempt from jury service:

(1) Members in active service in the armed forces of the United States.

(2) Members of the Fire or Police departments of any State, District, Territory, Possession or subdivision thereof.

(3) Public officers in the executive, legislative or judicial branches of the government of the United States, or any State, District, Territory, or Possession or subdivision thereof who are actively engaged in the performance of official duties.

**§ 1863. Exclusion or excuse from service**

(a) A district judge for good cause may excuse or exclude from jury service any person called as a juror.

(b) Any class or group of persons may, for the public interest, be excluded from the jury panel or excused from service as jurors by order of the district judge based on a finding that such jury service would entail undue hardship, extreme inconvenience or serious obstruction or delay in the fair and impartial administration of justice.

(c) No citizen shall be excluded from service as grand or petit juror in any court of the United States on account of race or color.

**§ 1864. Manner of drawing; jury commissioners and their compensation**

The names of grand and petit jurors shall be publicly drawn from a box containing the names of not less than three hundred qualified persons at the time of each drawing.

The jury box shall from time to time be refilled by the clerk of court, or his deputy, and a jury commissioner, appointed by the court.

Such jury commissioner shall be a citizen of good standing, residing in the district and a well known member of the principal political party in the district, opposing that to which the clerk, or his deputy then acting, may belong. He shall receive \$5 per day for each day necessarily employed in the performance of his duties.

The jury commissioner and the clerk, or his deputy, shall alternately place one name in the jury box without reference to party affiliations, until the box shall contain at least 300 names or such larger number as the court determines.

This section shall not apply to the District of Columbia.

**§ 1865. Apportionment within district; additional jury commissioners**

(a) Grand and petit jurors shall from time to time be selected from such parts of the district as the court directs so as to be most favorable to an impartial trial, and not to incur unnecessary expense or unduly burden the citizens of any part of the district with jury service. To this end the court may direct the maintenance of separate jury boxes for some or all of the places for holding court in the district and may appoint a jury commissioner for each such place.

(b) Grand or petit jurors summoned for service at one place for holding court in a district may, if the public convenience so requires and the jurors will not be unduly burdened thereby, be directed to serve at another place in the same district.

**§ 1866. Special petit juries; talesmen from bystanders**

Whenever sufficient petit jurors are not available, the court may order a special jury to be drawn or may require the United States marshal to summon a sufficient number of talesmen from the bystanders.

**§ 1867. Summoning jurors**

When the court orders a grand or petit jury to be drawn the clerk shall issue summons for the required number of jurors and deliver them to the marshal for service.

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

Such service shall be made by the marshal who shall attach to his return the addressee's receipt for the registered summons, where service is made by mail.

**§ 1868. Disqualification of marshal or deputy**

Whenever the United States marshal or his deputy is, in the opinion of the court, disqualified to summon grand or petit jurors, the court may appoint some disinterested person who shall take oath to perform such duty truly and impartially.

**§ 1869. Frequency of service**

In any district court, a petit juror may be challenged on the ground that he has been summoned and attended such court as a petit juror at any term held within one year prior to the challenge.

**§ 1870. Challenges**

In civil cases, each party shall be entitled to three peremptory challenges. Several defendants or several plaintiffs shall be considered as a single party for the purposes of making challenges. If there is more than one defendant the court may allow the defendants additional peremptory challenges and permit them to be exercised separately or jointly.

All challenges for cause or favor, whether to the array or panel or to individual jurors, shall be determined by the court.

**§ 1871. Fees**

Grand and petit jurors in district courts or before United States commissioners shall receive the following fees, except as otherwise expressly provided by law:

For actual attendance and for the time necessarily spent in going to and from the place of service, \$4 per day;

For the distance necessarily traveled to and from a juror's residence by the shortest practicable route, 5 cents per mile.

Such fees shall be paid by the United States marshal on the certificate of attendance of the clerk of court.

**§ 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.

**§ 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.

**§ 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.

## CHAPTER 123—FEES AND COSTS

### Sec.

- 1911. Supreme Court.
- 1912. Damages and costs on affirmance.
- 1913. Courts of appeals.
- 1914. District courts; filing and miscellaneous fees; rules of court.
- 1915. Proceedings in forma pauperis.
- 1916. Seamen's suits.
- 1917. District courts; fee on filing notice of or petition for appeal.
- 1918. District courts; fines, forfeitures and criminal proceedings.
- 1919. District courts; dismissal for lack of jurisdiction.
- 1920. Taxation of costs.
- 1921. United States marshal's fees.
- 1922. Witness fees before United States commissioners.
- 1923. Docket fees and costs of briefs.
- 1924. Verification of bill of costs.
- 1925. Admiralty and maritime cases.
- 1926. Court of Customs and Patent Appeals.
- 1927. Counsel's liability for excessive costs.
- 1928. Patent infringement action; disclaimer not filed.
- 1929. Extraordinary expenses not expressly authorized.

### § 1911. Supreme Court

The Supreme Court may fix the fees to be charged by its clerk.

The fees of the clerk, cost of serving process, and other necessary disbursements incidental to any case before the court, may be taxed against the litigants as the court directs.

### § 1912. Damages and costs on affirmance

Where a judgment is affirmed by the Supreme Court or a court of appeals, the court in its discretion may adjudge to the prevailing party just damages for his delay, and single or double costs.

### § 1913. Courts of appeals

The fees and costs to be charged and collected in each court of appeals shall be prescribed from time to time by the Judicial Conference of the United States. Such fees and costs shall be reasonable and uniform in all the circuits.

### § 1914. District court; filing and miscellaneous fees; rules of court

(a) The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of \$15, except that on application for a writ of habeas corpus the filing fee shall be \$5.

(b) The clerk shall collect from the parties such additional fees only as are prescribed by the Judicial Conference of the United States.

(c) Each district court by rule or standing order may require advance payment of fees.

(d) This section shall not apply to the District of Columbia.

### § 1915. Proceedings in forma pauperis

(a) Any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees and costs or security therefor, by a citizen who makes affidavit that he is unable to pay such costs or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that he is entitled to redress.

An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.

(b) In any civil or criminal case the court may, upon the filing of a like affidavit, direct that the expense of furnishing a stenographic transcript and printing the record on appeal, if required by the appellate court, be paid by the United States, and the same shall be paid when authorized by the Director of the Administrative Office of the United States Courts.

(c) The officers of the court shall issue and serve all process, and perform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases.

(d) The court may request an attorney to represent any such person unable to employ counsel and may dismiss the case if the allegation of poverty is untrue, or if satisfied that the action is frivolous or malicious.

(e) Judgment may be rendered for costs at the conclusion of the suit or action as in other cases and if the United States has paid the cost of a stenographic transcript for the prevailing party, the same shall be taxed in favor of the United States.

#### § 1916. Seamen's suits

In all courts of the United States, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without prepaying fees or costs or furnishing security therefor.

#### § 1917. District courts; fee on filing notice of or petition for appeal

Upon the filing of any separate or joint notice of appeal or application for appeal or upon the receipt of any order allowing, or notice of the allowance of, an appeal or of a writ of certiorari \$5 shall be paid to the clerk of the district court, by the appellant or petitioner.

#### § 1918. District courts; fines, forfeitures and criminal proceedings

(a) Costs shall be included in any judgment, order, or decree rendered against any person for the violation of an Act of Congress in which a civil fine or forfeiture of property is provided for.

(b) Whenever any conviction for any offense not capital is obtained in a district court, the court may order that the defendant pay the costs of prosecution.

#### § 1919. District courts; dismissal for lack of jurisdiction

Whenever any action or suit is dismissed in any district court for want of jurisdiction, such court may order the payment of just costs.

#### § 1920. Taxation of costs

A judge or clerk of any court of the United States may tax as costs the following:

- (1) Fees of the clerk and marshal;
- (2) Fees of the court reporter for all or any part of the stenographic transcript necessarily obtained for use in the case;
- (3) Fees and disbursements for printing and witnesses;
- (4) Fees for exemplification and copies of papers necessarily obtained for use in the case;
- (5) Docket fees under section 1923 of this title.

A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree.

#### § 1921. United States marshal's fees

Only the following fees of United States marshals shall be collected and taxed as costs, except as otherwise provided.

For serving a writ of possession, partition, execution, or any final process, the same mileage as is allowed for the service of any other writ, and for making the service, seizing or levying on property, advertising and disposing of the same by sale, set off, or otherwise according to law and receiving and paying over the money, the same fees and poundage as are or shall be allowed for similar services to the sheriffs of the States, respectively, in which the service is rendered;

In all cases in which the vessel or other property is sold by a public auctioneer or by some party other than the marshal or his deputy, the fee herein authorized to be paid to the marshal shall be reduced by the amount paid to said auctioneer or other party;

For sale of vessels or other property under process in admiralty, or under the order of a court of admiralty, and for receiving and paying over the money,  $2\frac{1}{2}$  per centum on any sum under \$500, and  $1\frac{1}{4}$  per centum on the excess of any sum over \$500;

For the keeping of personal property attached on mesne process, such compensation as the court, on petition setting forth the facts under oath, may allow;

For the necessary expenses of keeping boats, vessels, or other property attached or libeled in admiralty, such amount as the court, on petition setting forth the facts under oath, may allow;

For serving a subpoena or summons on a witness or appraiser, 50 cents.

For service of an attachment in rem or libel in admiralty, \$2.00.

For service of any warrant, attachment, summons, capias or other writ in a civil action or proceeding, \$2.00 for each person served.

For every proclamation in admiralty, 30 cents.

For copies of writs or papers furnished at the request of any party, 10 cents a folio of 100 words or major fraction thereof.

For all services in a criminal case except for the summoning of witnesses, a sum to be fixed by the court not exceeding \$25 where conviction is for a misdemeanor and not exceeding \$100 where conviction is for a felony.

Travel expenses.

For necessary travel in serving any process in civil or criminal cases, 6 cents a mile to be computed from the place where the service is returned to the place of service or where more than one person is served, to the place of service which is most remote, adding thereto any additional travel necessary to serve the others. When two or more writs of any kind required to be served in behalf of the same party on the same person may be served at the same time, compensation for travel on only one such writ shall be taxable. The clerk shall insert in each subpoena, the names of as many witnesses in each case as convenience of service will permit.

#### § 1922. Witness fees before United States commissioners

The fees of more than four witnesses shall not be taxed against the United States, in the examination of any criminal case before a United States commissioner, unless their materiality and importance are first approved and certified to by the United States attorney for the district in which the examination is had.

#### § 1923. Docket fees and costs of briefs

(a) Attorney's and proctor's docket fees in courts of the United States may be taxed as costs as follows:

\$20 on trial or final hearing in civil, criminal or admiralty cases, except that in cases of admiralty and maritime jurisdiction where the libellant recovers less than \$50 the proctor's docket fee shall be \$10;

\$20 in admiralty appeals involving not over \$1,000;

\$50 in admiralty appeals involving not over \$5,000;

\$100 in admiralty appeals involving more than \$5,000;

\$5 on discontinuance of a civil action;

\$5 on motion for judgment and other proceedings on recognizances;

\$2.50 for each deposition admitted in evidence.

(b) The docket fees of United States attorneys shall be paid to the clerk of court and by him paid into the Treasury.

(c) In admiralty appeals the court may allow as costs for printing the briefs of the successful party not more than:

\$25 where the amount involved is not over \$1,000;

\$50 where the amount involved is not over \$5,000;

\$75 where the amount involved is over \$5,000.

#### § 1924. Verification of bill of costs

Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed.

#### § 1925. Admiralty and maritime cases

Except as otherwise provided by Act of Congress, the allowance and taxation of costs in admiralty and maritime cases shall be prescribed by rules promulgated by the Supreme Court.

#### § 1926. Court of Customs and Patent Appeals

Fees and costs in the Court of Customs and Patent Appeals shall be fixed by a table of fees adopted by such court and approved by the Supreme Court. The fees and costs so fixed shall not, with respect to any item, exceed the fees and costs charged in the Supreme Court, and shall be accounted for and paid over to the Treasury.

#### § 1927. Counsel's liability for excessive costs

Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case as to increase costs unreasonably and vexatiously may be required by the court to satisfy personally such excess costs.

#### § 1928. Patent infringement action; disclaimer not filed

Whenever a judgment is rendered for the plaintiff in any patent infringement action involving a part of a patent and it appears that the patentee, in his specifications, claimed to be, but was not, the original and first inventor or discoverer of any material or substantial part of the thing patented, no costs shall be included in such judgment, unless the proper disclaimer has been filed in the Patent Office prior to the commencement of the action.

#### § 1929. Extraordinary expenses not expressly authorized

Where the ministerial officers of the United States incur extraordinary expense in executing Acts of Congress, the payment of which is not specifically provided for, the Attorney General may allow the payment thereof.

### CHAPTER 125—JUDGMENTS

#### Sec.

1961. Interest.

1962. Lien.

1963. Registration in other districts.

#### § 1961. Interest

Interest shall be allowed on any money judgment in a civil case recovered in a district court. Execution therefor may be levied by the

marshal, in any case where, by the law of the State in which such court is held, execution may be levied for interest on judgments recovered in the courts of the State. Such interest shall be calculated from the date of the entry of the judgment, at the rate allowed by State law.

#### § 1962. Lien

Every judgment rendered by a district court within a State shall be a lien on the property located in such State in the same manner, to the same extent and under the same conditions as a judgment of a court of general jurisdiction in such State, and shall cease to be a lien in the same manner and time. Whenever the law of any State requires a judgment of a State court to be registered, recorded, docketed or indexed, or any other act to be done, in a particular manner, or in a certain office or county or parish before such lien attaches, such requirements shall apply only if the law of such State authorizes the judgment of a court of the United States to be registered, recorded, docketed, indexed or otherwise conformed to rules and requirements relating to judgments of the courts of the State.

#### § 1963. Registration in other districts

A judgment in an action for the recovery of money or property entered in any district court which has become final by appeal or expiration of time for appeal may be registered in any other district by filing therein a certified copy of such judgment. A judgment so registered shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner.

A certified copy of the satisfaction of any judgment in whole or in part may be registered in like manner in any district in which the judgment is a lien.

### CHAPTER 127—EXECUTIONS AND JUDICIAL SALES

#### Sec.

- 2001. Sale of realty generally.
- 2002. Notice of sale of realty.
- 2003. Marshal's incapacity after levy on or sale of realty.
- 2004. Sale of personalty generally.
- 2005. Appraisal of goods taken on execution.
- 2006. Execution against revenue officer.
- 2007. Imprisonment for debt.

#### § 2001. Sale of realty generally

(a) Any realty or interest therein sold under any order or decree of any court of the United States shall be sold as a whole or in separate parcels at public sale at the courthouse of the county, parish, or city in which the greater part of the property is located, or upon the premises or some parcel thereof located therein, as the court directs. Such sale shall be upon such terms and conditions as the court directs.

Property in the possession of a receiver or receivers appointed by one or more district courts shall be sold at public sale in the district wherein any such receiver was first appointed, at the courthouse of the county, parish, or city situated therein in which the greater part of the property in such district is located, or on the premises or some parcel thereof located in such county, parish, or city, as such court directs, unless the court orders the sale of the property or one or more parcels thereof in one or more ancillary districts.

(b) After a hearing, of which notice to all interested parties shall be given by publication or otherwise as the court directs, the court may order the sale of such realty or interest or any part thereof at private sale for cash or other consideration and upon such terms and conditions as the court approves, if it finds that the best interests of



the estate will be conserved thereby. Before confirmation of any private sale, the court shall appoint three disinterested persons to appraise such property or different groups of three appraisers each to appraise properties of different classes or situated in different localities. No private sale shall be confirmed at a price less than two-thirds of the appraised value. Before confirmation of any private sale, the terms thereof shall be published in such newspaper or newspapers of general circulation as the court directs at least ten days before confirmation. The private sale shall not be confirmed if a bona fide offer is made, under conditions prescribed by the court, which guarantees at least a 10 per centum increase over the price offered in the private sale.

(c) This section shall not apply to sales and proceedings under Title 11 or by receivers or conservators of banks appointed by the Comptroller of the Currency.

#### § 2002. Notice of sale of realty

A public sale of realty or interest therein under any order, judgment or decree of any court of the United States shall not be made without notice published once a week for at least four weeks prior to the sale in at least one newspaper regularly issued and of general circulation in the county, state, or judicial district of the United States wherein the realty is situated.

If such realty is situated in more than one county, state, district or circuit, such notice shall be published in one or more of the counties, states, or districts wherein it is situated, as the court directs. The notice shall be substantially in such form and contain such description of the property by reference or otherwise as the court approves. The court may direct that the publication be made in other newspapers.

This section shall not apply to sales and proceedings under Title II or by receivers or conservators of banks appointed by the Comptroller of the Currency.

#### § 2003. Marshal's incapacity after levy on or sale of realty

Whenever a United States marshal dies, is removed from office, or the term of his commission expires, after levying on realty or any interest therein under a writ of execution issued by a court of the United States, and before sale or other final disposition thereof, like process shall issue to the succeeding marshal and the same proceedings shall be had as if such contingency had not occurred.

Whenever any such contingency arises after a marshal has sold any realty or interest therein and before a deed is executed, the court may, on application by the purchaser, or the plaintiff in whose action the sale was made, setting forth the facts of the case and the reason why the title was not perfected by such marshal, order the succeeding marshal to perfect the title and execute a deed to the purchaser, upon payment of the purchase money and unpaid costs.

#### § 2004. Sale of personalty generally

Any personalty sold under any order or decree of any court of the United States shall be sold in accordance with section 2001 of this title, unless the court orders otherwise.

This section shall not apply to sales and proceedings under Title 11 or by receivers or conservators of banks appointed by the Comptroller of the Currency.

#### § 2005. Appraisal of goods taken on execution

Whenever State law requires that goods taken on execution be appraised before sale, goods taken under execution issued from a court of the United States shall be appraised in like manner.

The United States marshal shall summon the appraisers in the same manner as the sheriff is required to summon appraisers under State law.

If the appraisers fail to attend and perform their required duties, the marshal may sell the goods without an appraisal. Appraisers attending and performing their duties, shall receive the fees allowed for appraisals under State law.

**§ 2006. Execution against revenue officer**

Execution shall not issue against a collector or other revenue officer on a final judgment in any proceeding against him for any of his acts, or for the recovery of any money exacted by or paid to him and subsequently paid into the Treasury, in performing his official duties, if the court certifies that:

(1) probable cause existed; or

(2) the officer acted under the directions of the Secretary of the Treasury or other proper Government officer.

When such certificate has been issued, the amount of the judgment shall be paid out of the proper appropriation by the Treasury.

**§ 2007. Imprisonment for debt**

(a) A person shall not be imprisoned for debt on a writ of execution or other process issued from a court of the United States in any State wherein imprisonment for debt has been abolished. All modifications, conditions, and restrictions upon such imprisonment provided by State law shall apply to any writ of execution or process issued from a court of the United States in accordance with the procedure applicable in such State.

(b) Any person arrested or imprisoned in any State on a writ of execution or other process issued from any court of the United States in a civil action shall have the same jail privileges and be governed by the same regulations as persons confined in like cases on process issued from the courts of such State. The same requirements governing discharge as are applicable in such State shall apply. Any proceedings for discharge shall be conducted before a United States commissioner for the judicial district wherein the defendant is held.

**CHAPTER 129—MONEYS PAID INTO COURT**

Sec.

2041. Deposit.

2042. Withdrawal.

**§ 2041. Deposit**

All moneys paid into any court of the United States, or received by the officers thereof, in any case pending or adjudicated in such court, shall be forthwith deposited with the Treasurer of the United States or a designated depository, in the name and to the credit of such court.

This section shall not prevent the delivery of any such money to the rightful owners upon security, according to agreement of parties, under the direction of the court.

**§ 2042. Withdrawal**

No money deposited shall be withdrawn except by order of court.

In every case in which the right to withdraw money deposited in court has been adjudicated or is not in dispute and such money has remained so deposited for at least five years unclaimed by the person entitled thereto, such court shall cause such money to be deposited in the Treasury in the name and to the credit of the United States. Any claimant entitled to any such money may, on petition to the court and upon notice to the United States attorney and full proof of the right thereto, obtain an order directing payment to him.

## CHAPTER 131. RULES OF COURTS

Sec.

2071. Rule-making power generally,  
 2072. Rules of civil procedure for district courts.  
 2073. Admiralty rules for district courts.

### § 2071. Rule-making power generally

Each court established pursuant to Act of Congress may from time to time prescribe rules for the conduct of its business. Such rules shall be consistent with Acts of Congress and rules prescribed by the Supreme Court.

### § 2072. Rules of civil procedure for district courts

The Supreme Court shall have the power to prescribe, by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure of the district courts of the United States in civil actions.

Such rules shall not abridge, enlarge or modify any substantive right and shall preserve the right of trial by jury as at common law and as declared by the Seventh Amendment to the Constitution.

Such rules shall not take effect until they have been reported to Congress by the Attorney General at the beginning of a regular session and until after the close of such session.

All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect. Nothing in this title anything therein to the contrary notwithstanding, shall in any way limit, supersede, or repeal any such rules heretofore prescribed by the Supreme Court.

### § 2073. Admiralty rules for district courts

The Supreme Court shall have the power to prescribe, by general rules, the forms of process, writs, pleadings, and motions and the practice and procedure in admiralty and maritime cases in the district courts of the United States and all courts exercising admiralty jurisdiction in the Territories and Possessions of the United States.

Such rules shall not abridge or modify any substantive right.

Such rules shall not take effect until they have been reported to Congress by the Attorney General at the beginning of a regular session and until after the close of such session.

All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect. Nothing in this title anything therein to the contrary notwithstanding, shall in any way limit, supersede, or repeal any such rules heretofore prescribed by the Supreme Court.

## 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 improvidently taken regarded as writ of certiorari.  
 2104. Appeals from state courts.  
 2105. Scope of review; abatement.  
 2106. Determination.  
 2107. Time for appeal to court of appeals.  
 2108. Proof of amount in controversy.  
 2109. Quorum of Supreme Court justices absent.  
 2110. Time for appeal to court of claims in tort claims cases.

### § 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 of this title, holding unconstitutional in

*Ante*, p. 928; *post*, p. 968.

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.

(b) Any other direct appeal to the Supreme Court which is authorized by law, from a decision of a district court in any civil action, suit or proceeding, shall be taken within thirty days from the judgment, order or decree, appealed from, if interlocutory, and within sixty days if final.

(c) Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree unless, upon application for writ of certiorari, for good cause, the Supreme Court or a justice thereof allows an additional time not exceeding sixty days.

(d) An application to the Supreme Court for a writ of certiorari to review a case before judgment has been rendered in the court of appeals may be made at any time before judgment.

(e) In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. The stay may be granted by a judge of the court rendering the judgment or decree or by a justice of the Supreme Court, and may be conditioned on the giving of security, approved by such judge or justice, that if the aggrieved party fails to make application for such writ within the period allotted therefor, or fails to obtain an order granting his application, or fails to make his plea good in the Supreme Court, he shall answer for all damages and costs which the other party may sustain by reason of the stay.

#### § 2102. Priority of criminal case on appeal from State court

Criminal cases on review from State courts shall have priority, on the docket of the Supreme Court, over all cases except cases to which the United States is a party and such other cases as the court may decide to be of public importance.

#### § 2103. Appeal from State court improvidently taken regarded as writ of certiorari

If an appeal to the Supreme Court is improvidently taken from the decision of the highest court of a State in a case where the proper mode of a review is by petition for certiorari, this alone shall not be ground for dismissal; but the papers whereon the appeal was taken shall be regarded and acted on as a petition for writ of certiorari and as if duly presented to the Supreme Court at the time the appeal was taken. Where in such a case there appears to be no reasonable ground for granting a petition for writ of certiorari it shall be competent for the Supreme Court to adjudge to the respondent reasonable damages for his delay, and single or double costs.

#### § 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.

**§ 2105. Scope of review ; abatement**

There shall be no reversal in the Supreme Court or a court of appeals for error in ruling upon matters in abatement which do not involve jurisdiction.

**§ 2106. Determination**

The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances.

**§ 2107. Time for appeal to court of appeals**

Except as otherwise provided in this section, no appeal shall bring any judgment, order or decree in an action, suit or proceeding of a civil nature before a court of appeals for review unless notice of appeal is filed, within thirty days after the entry of such judgment, order or decree.

In any such action, suit or proceeding in which the United States or an officer or agency thereof is a party, the time as to all parties shall be sixty days from such entry.

In any action, suit or proceeding in admiralty, the notice of appeal may be filed within ninety days after the entry of the order, judgment or decree appealed from.

The district court, in any such action, suit or proceeding, may extend the time for appeal not exceeding thirty days from the expiration of the original time herein prescribed, upon a showing of excusable neglect based on failure of a party to learn of the entry of the judgment, order or decree.

*Extension of time.*

This section shall not apply to bankruptcy matters or other proceedings under Title 11.

**§ 2108. Proof of amount in controversy**

Where the power of any court of appeals to review a case depends upon the amount or value in controversy, such amount or value, if not otherwise satisfactorily disclosed upon the record, may be shown and ascertained by the oath of a party to the case or by other competent evidence.

**§ 2109. Quorum of Supreme Court justices absent**

If a case brought to the Supreme Court by direct appeal from a district court cannot be heard and determined because of the absence of a quorum of qualified justices, the Chief Justice of the United States may order it remitted to the court of appeals for the circuit including the district in which the case arose, to be heard and determined by that court either sitting in banc or specially constituted and composed of the three circuit judges senior in commission who are able to sit, as such order may direct. The decision of such court shall be final and conclusive. In the event of the disqualification or disability of one or more of such circuit judges, such court shall be filled as provided in chapter 15 of this title.

*Ante, p. 902.*

In any other case brought to the Supreme Court for review, which cannot be heard and determined because of the absence of a quorum of qualified justices, if a majority of the qualified justices shall be of opinion that the case cannot be heard and determined at the next ensuing term, the court shall enter its order affirming the judgment of the court from which the case was brought for review with the same effect as upon affirmance by an equally divided court.

**§ 2110. Time for appeal to Court of Claims in tort claims cases***Ante*, p. 942.

Appeals to the Court of Claims in tort claims cases, as provided in section 1504 of this title, shall be taken within three months after the entry of the final judgment of the district court.

**PART VI—PARTICULAR PROCEEDINGS**

Chapter	Sec.
151. Declaratory Judgments.....	2201
153. Habeas Corpus.....	2241
155. Injunctions; Three-Judge Courts.....	2281
157. Interstate Commerce Commission Orders; Enforcement and Review.....	2321
159. Interpleader.....	2361
161. United States as Party Generally.....	2401
163. Fines, Penalties and Forfeitures.....	2461
165. Court of Claims Procedure.....	2501
167. Court of Customs and Patent Appeals Procedure.....	2601
169. Customs Court Procedure.....	2631
171. Tort Claims Procedure.....	2671

**CHAPTER 151—DECLARATORY JUDGMENTS**

Sec.
2201. Creation of remedy.
2202. Further relief.

**§ 2201. Creation of remedy**

In a case of actual controversy within its jurisdiction, except with respect to Federal taxes, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment and decree and shall be reviewable as such.

**§ 2202. Further relief**

Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.

**CHAPTER 153—HABEAS CORPUS**

Sec.
2241. Power to grant writ.
2242. Application.
2243. Issuance of writ; return; hearing; decision.
2244. Finality of determination.
2245. Certificate of trial judge admissible in evidence.
2246. Evidence; depositions; affidavits.
2247. Documentary evidence.
2248. Return or answer; conclusiveness.
2249. Certified copies of indictment, plea and judgment; duty of respondent.
2250. Indigent petitioner entitled to documents without cost.
2251. Stay of State court proceedings.
2252. Notice.
2253. Appeal.
2254. State custody; remedies in State Courts.
2255. Federal custody; remedies on motion attacking sentence.

**§ 2241. Power to grant writ**

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

(b) The Supreme Court, any justice thereof and any circuit judge may decline to entertain an application for a writ of habeas corpus

and may transfer the application for hearing and determination to the district court having jurisdiction to entertain it.

(c) The writ of habeas corpus shall not extend to a prisoner unless—

(1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof;  
or

(2) He is in custody for an act done or omitted in pursuance of an Act of Congress, or an order, process, judgment or decree of a court or judge of the United States; or

(3) He is in custody in violation of the Constitution or laws or treaties of the United States; or

(4) He, being a citizen of a foreign state and domiciled therein is in custody for an act done or omitted under any alleged right, title, authority, privilege, protection, or exemption claimed under the commission, order or sanction of any foreign state, or under color thereof, the validity and effect of which depend upon the law of nations; or

(5) It is necessary to bring him into court to testify or for trial.

#### § 2242. Application

Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.

It shall allege the facts concerning the applicant's commitment or detention, the name of the person who has custody over him and by virtue of what claim or authority, if known.

It may be amended or supplemented as provided in the rules of procedure applicable to civil actions.

If addressed to the Supreme Court, a justice thereof or a circuit judge it shall state the reasons for not making application to the district court of the district in which the applicant is held.

#### § 2243. Issuance of writ; return; hearing; decision

A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.

The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.

When the writ or order is returned a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed.

Unless the application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained.

The applicant or the person detained may, under oath, deny any of the facts set forth in the return or allege any other material facts.

The return and all suggestions made against it may be amended, by leave of court, before or after being filed.

The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require.

#### § 2244. Finality of determination

No circuit or district judge shall be required to entertain an application for a writ of habeas corpus to inquire into the detention of a

person pursuant to a judgment of a court of the United States, or of any State, if it appears that the legality of such detention has been determined by a judge or court of the United States on a prior application for a writ of habeas corpus and the petition presents no new ground not theretofore presented and determined, and the judge or court is satisfied that the ends of justice will not be served by such inquiry.

**§ 2245. Certificate of trial judge admissible in evidence**

On the hearing of an application for a writ of habeas corpus to inquire into the legality of the detention of a person pursuant to a judgment the certificate of the judge who presided at the trial resulting in the judgment, setting forth the facts occurring at the trial, shall be admissible in evidence. Copies of the certificate shall be filed with the court in which the application is pending and in the court in which the trial took place.

**§ 2246. Evidence; depositions; affidavits**

On application for a writ of habeas corpus, evidence may be taken orally or by deposition, or, in the discretion of the judge, by affidavit. If affidavits are admitted any party shall have the right to propound written interrogatories to the affiants, or to file answering affidavits.

**§ 2247. Documentary evidence**

On application for a writ of habeas corpus documentary evidence, transcripts of proceedings upon arraignment, plea and sentence and a transcript of the oral testimony introduced on any previous similar application by or in behalf of the same petitioner, shall be admissible in evidence.

**§ 2248. Return or answer; conclusiveness**

The allegations of a return to the writ of habeas corpus or of an answer to an order to show cause in a habeas corpus proceeding, if not traversed, shall be accepted as true except to the extent that the judge finds from the evidence that they are not true.

**§ 2249. Certified copies of indictment, plea and judgment; duty of respondent**

On application for a writ of habeas corpus to inquire into the detention of any person pursuant to a judgment of a court of the United States, the respondent shall promptly file with the court certified copies of the indictment, plea of petitioner and the judgment, or such of them as may be material to the questions raised, if the petitioner fails to attach them to his petition, and same shall be attached to the return to the writ, or to the answer to the order to show cause.

**§ 2250. Indigent petitioner entitled to documents without cost**

If on any application for a writ of habeas corpus an order has been made permitting the petitioner to prosecute the application in forma pauperis, the clerk of any court of the United States shall furnish to the petitioner without cost certified copies of such documents or parts of the record on file in his office as may be required by order of the judge before whom the application is pending.

**§ 2251. Stay of State court proceedings**

A justice or judge of the United States before whom a habeas corpus proceeding is pending, may, before final judgment or after final judgment of discharge, or pending appeal, stay any proceeding against the person detained in any State court or by or under the authority of any State for any matter involved in the habeas corpus proceeding.

After the granting of such a stay, any such proceeding in any State court or by or under the authority of any State shall be void. If no stay



is granted, any such proceeding shall be as valid as if no habeas corpus proceedings or appeal were pending.

**§ 2252. Notice**

Prior to the hearing of a habeas corpus proceeding in behalf of a person in custody of State officers or by virtue of State laws notice shall be served on the attorney general or other appropriate officer of such State as the justice or judge at the time of issuing the writ shall direct.

**§ 2253. Appeal**

In a habeas corpus proceeding before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

There shall be no right of appeal from such order in a proceeding to test the validity of a warrant of removal issued pursuant to section 3041 of Title 18 or the detention pending removal proceedings.

*Ante*, p. 816.

An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, unless the justice or judge who rendered the order or a circuit justice or judge issues a certificate of probable cause.

**§ 2254. State custody; remedies in State courts**

An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the prisoner.

An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented.

**§ 2255. Federal custody; remedies on motion attacking sentence**

A prisoner in custody under sentence of a court of the United States claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

A motion for such relief may be made at any time.

Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate.

A court may entertain and determine such motion without requiring the production of the prisoner at the hearing.

The sentencing court shall not be required to entertain a second or successive motion for similar relief on behalf of the same prisoner.

An appeal may be taken to the court of appeals from the order

entered on the motion as from a final judgment on application for a writ of habeas corpus.

An application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section, shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced him, or that such court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

## CHAPTER 155—INJUNCTIONS; THREE-JUDGE COURTS

Sec.

2281. Injunction against enforcement of State statute; three-judge court required.

2282. Injunction against enforcement of Federal statute; three-judge court required.

2283. Stay of State court proceedings.

2284. Three-judge district court; composition; procedure.

### § 2281. Injunction against enforcement of State statute; three-judge court required

An interlocutory or permanent injunction restraining the enforcement, operation or execution of any State statute by restraining the action of any officer of such State in the enforcement or execution of such statute or of an order made by an administrative board or commission acting under State statutes, shall not be granted by any district court or judge thereof upon the ground of the unconstitutionality of such statute unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title.

*Infra.*

### § 2282. Injunction against enforcement of Federal statute; three-judge court required

An interlocutory or permanent injunction restraining the enforcement, operation or execution of any Act of Congress for repugnance to the Constitution of the United States shall not be granted by any district court or judge thereof unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title.

### § 2283. Stay of State court proceedings

A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

### § 2284. Three-judge district court; composition; procedure

In any action or proceeding required by Act of Congress to be heard and determined by a district court of three judges the composition and procedure of the court, except as otherwise provided by law, shall be as follows:

(1) The district judge to whom the application for injunction or other relief is presented shall constitute one member of such court. On the filing of the application, he shall immediately notify the chief judge of the circuit, who shall designate two other judges, at least one of whom shall be a circuit judge. Such judges shall serve as members of the court to hear and determine the action or proceeding.

(2) If the action involves the enforcement, operation or execution of State statutes or State administrative orders, at least five days notice of the hearing shall be given to the governor and attorney general of the State.

If the action involves the enforcement, operation or execution of

an Act of Congress or an order of any department or agency of the United States, at least five days' notice of the hearing shall be given to the Attorney General of the United States, to the United States attorney for the district, and to such other persons as may be defendants.

Such notice shall be given by registered mail by the clerk, and shall be complete on the mailing thereof.

(3) In any such case in which an application for an interlocutory injunction is made, the district judge to whom the application is made may, at any time, grant a temporary restraining order to prevent irreparable damage. The order, unless previously revoked by the district judge, shall remain in force only until the hearing and determination by the full court. It shall contain a specific finding, based upon evidence submitted to such judge and identified by reference thereto, that specified irreparable damage will result if the order is not granted.

(4) In any such case the application shall be given precedence and assigned for a hearing at the earliest practicable day. Two judges must concur in granting the application.

(5) Any one of the three judges of the court may perform all functions, conduct all proceedings except the trial, and enter all orders required or permitted by the rules of civil procedure. A single judge shall not appoint a master or order a reference, or hear and determine any application for an interlocutory injunction or motion to vacate the same, or dismiss the action, or enter a summary or final judgment. The action of a single judge shall be reviewable by the full court at any time before final hearing.

A district court of three judges shall, before final hearing, stay any action pending therein to enjoin, suspend or restrain the enforcement or execution of a State statute or order thereunder, whenever it appears that a State court of competent jurisdiction has stayed proceedings under such statute or order pending the determination in such State court of an action to enforce the same. If the action in the State court is not prosecuted diligently and in good faith, the district court of three judges may vacate its stay after hearing upon ten days notice served upon the attorney general of the State.

## CHAPTER 157—INTERSTATE COMMERCE COMMISSION ORDERS; ENFORCEMENT AND REVIEW

Sec.

- 2321. Procedure generally; process.
- 2322. United States as party.
- 2323. Duties of Attorney General; intervenors.
- 2324. Stay of Commission's order.
- 2325. Injunction; three-judge court required.

### § 2321. Procedure generally; process

The procedure in the district courts in actions to enforce, suspend, enjoin, annul or set aside in whole or in part any order of the Interstate Commerce Commission other than for the payment of money or the collection of fines, penalties and forfeitures, shall be as provided in this chapter.

The orders, writs, and process of the district courts may, in the cases specified in this section and in the cases and proceedings under sections 20, 43, and 49 of Title 49, run, be served, and be returnable anywhere in the United States.

*Ante*, p. 295.

### § 2322. United States as party

All actions specified in section 2321 of this title shall be brought by or against the United States.

*Supra*.

**§ 2323. Duties of Attorney General; intervenors***Ante*, pp. 969, 295.

The Attorney General shall represent the Government in the actions specified in section 2321 of this title and in actions under sections 20, 43, and 49 of Title 49, in the district courts, and in the Supreme Court of the United States upon appeal from the district courts.

The Interstate Commerce Commission and any party or parties in interest to the proceeding before the Commission, in which an order or requirement is made, may appear as parties of their own motion and as of right, and be represented by their counsel, in any action involving the validity of such order or requirement or any part thereof, and the interest of such party.

Communities, associations, corporations, firms, and individuals interested in the controversy or question before the Commission, or in any action commenced under the aforesaid sections may intervene in said action at any time after commencement thereof.

The Attorney General shall not dispose of or discontinue said action or proceeding over the objection of such party or intervenor, who may prosecute, defend, or continue said action or proceeding unaffected by the action or nonaction of the Attorney General therein.

**§ 2324. Stay of Commission's order**

The pendency of an action to enjoin, set aside, annul, or suspend any order of the Interstate Commerce Commission shall not of itself stay or suspend the operation of the order, but the court may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the action.

**§ 2325. Injunction; three-judge court required**

An interlocutory or permanent injunction restraining the enforcement, operation or execution, in whole or in part, of any order of the Interstate Commerce Commission shall not be granted unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title.

*Ante*, p. 968.**CHAPTER 159—INTERPLEADER**

Sec.

2361. Process and procedure.

**§ 2361. Process and procedure**

In any interpleader action, a district court may issue its process for all claimants and enter its order restraining them from instituting any proceeding in any State or United States court affecting the property, instrument or obligation involved in the interpleader action until further order of the court. Such process and order shall be returnable at such time as the court or judge thereof directs, and shall be addressed to and served by the United States marshals for the respective districts where the claimants reside or may be found.

Such district court shall hear and determine the case, and may discharge the plaintiff from further liability, make the injunction permanent, and make all appropriate orders to enforce its judgment.

**CHAPTER 161—UNITED STATES AS PARTY GENERALLY**

Sec.

2401. Time for commencing action against United States.

2402. Jury trial denied in actions against United States.

2403. Intervention by United States; constitutional question.

2404. Death of defendant in damage action.

2405. Garnishment.

2406. Credits in actions by United States; prior disallowance.

2407. Delinquents for public money; judgment at return term; continuance.

2408. Security not required of United States.

2409. Partition actions involving United States.

2410. Actions affecting property on which United States has lien.

Sec.

2411. Interest on judgments against United States.

2412. Costs.

2413. Executions in favor of United States.

2414. Payment of judgments against the United States.

### § 2401. Time for commencing action against United States

(a) Every civil action commenced against the United States shall be barred unless the complaint is filed within six years after the right of action first accrues. The action of any person under legal disability or beyond the seas at the time the claim accrues may be commenced within three years after the disability ceases.

(b) A tort claim against the United States shall be forever barred unless action is begun thereon within one year after such claim accrues, or unless, if it is a claim not exceeding \$1,000, it is presented in writing to the appropriate Federal agency within one year after such claim accrues. If a claim not exceeding \$1,000 has been presented in writing to the appropriate Federal agency within that period of time, suit thereon shall not be barred until the expiration of a period of six months after either the date of withdrawal of such claim from the agency or the date of mailing notice by the agency of final disposition of the claim.

### § 2402. Jury trial denied in actions against United States

Any action against the United States under section 1346 of this title shall be tried by the court without a jury.

*Ante*, p. 933.

### § 2403. Intervention by United States; constitutional question

In any action, suit or proceeding in a court of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The United States shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

### § 2404. Death of defendant in damage action

A civil action for damages commenced by or on behalf of the United States or in which it is interested shall not abate on the death of a defendant but shall survive and be enforceable against his estate as well as against surviving defendants.

### § 2405. Garnishment

In any action or suit commenced by the United States against a corporation for the recovery of money upon a bill, note, or other security, the debtors of the corporation may be summoned as garnishees. Any person so summoned shall appear in open court and depose in writing to the amount of his indebtedness to the corporation at the time of the service of the summons and at the time of making the deposition, and judgment may be entered in favor of the United States for the sum admitted by the garnishee to be due the corporation as if it had been due the United States. A judgment shall not be entered against any garnishee until after judgment has been rendered against the corporation, nor until the sum in which the garnishee is indebted is actually due.

When any garnishee deposes in open court that he is not and was not at the time of the service of the summons indebted to the corporation, an issue may be tendered by the United States upon such

deposition. If, upon the trial of that issue, a verdict is rendered against the garnishee, judgment shall be entered in favor of the United States, pursuant to such verdict, with costs.

Any garnishee who fails to appear at the term to which he is summoned shall be subject to attachment for contempt.

**§ 2406. Credits in actions by United States; prior disallowance**

In an action by the United States against an individual, evidence supporting the defendant's claim for a credit shall not be admitted unless he first proves that such claim has been disallowed, in whole or in part, by the General Accounting Office, or that he has, at the time of the trial, obtained possession of vouchers not previously procurable and has been prevented from presenting such claim to the General Accounting Office by absence from the United States or unavoidable accident.

**§ 2407. Delinquents for public money; judgment at return term; continuance**

In an action by the United States against any person accountable for public money who fails to pay into the Treasury the sum reported due the United States, upon the adjustment of his account the court shall grant judgment upon motion unless a continuance is granted as specified in this section.

A continuance may be granted if the defendant, in open court and in the presence of the United States attorney, states under oath that he is equitably entitled to credits which have been disallowed by the General Accounting Office prior to the commencement of the action, specifying each particular claim so rejected, and stating that he cannot safely come to trial.

A continuance may also be granted if such an action is commenced on a bond or other sealed instrument and the court requires the original instrument to be produced.

**§ 2408. Security not required of United States**

Security for damages or costs shall not be required of the United States, any department or agency thereof or any party acting under the direction of any such department or agency on the issuance of process or the institution or prosecution of any proceeding.

Costs taxable, under other Acts of Congress, against the United States or any such department, agency or party shall be paid out of the contingent fund of the department or agency which directed the proceedings to be instituted.

**§ 2409. Partition actions involving United States**

Any civil action by any tenant in common or joint tenant owning an undivided interest in lands, where the United States is one of such tenants in common or joint tenants, against the United States alone or against the United States and any other of such owners, shall proceed, and be determined, in the same manner as would a similar action between private persons.

Whenever in such action the court orders a sale of the property or any part thereof the Attorney General may bid for the same in behalf of the United States. If the United States is the purchaser, the amount of the purchase money shall be paid from the Treasury upon a warrant drawn by the Secretary of the Treasury on the requisition of the Attorney General.

**§ 2410. Actions affecting property on which United States has lien**

(a) Under the conditions prescribed in this section and section 1444 of this title for the protection of the United States, the United States may be named a party in any civil action or suit in any district court,

including the District Court for the Territory of Alaska, or in any State court having jurisdiction of the subject matter, to quiet title to or for the foreclosure of a mortgage or other lien upon real or personal property on which the United States has or claims a mortgage or other lien.

(b) The complaint shall set forth with particularity the nature of the interest or lien of the United States. The United States may appear and answer, plead or demur within sixty days after service, or such further time as the court may allow.

(c) A judicial sale in such action or suit shall have the same effect respecting the discharge of the property from liens and encumbrances held by the United States as may be provided with respect to such matters by the local law of the place where the property is situated. A sale to satisfy a lien inferior to one of the United States, shall be made subject to and without disturbing the lien of the United States, unless the United States consents that the property may be sold free of its lien and the proceeds divided as the parties may be entitled. Where a sale of real estate is made to satisfy a lien prior to that of the United States, the United States shall have one year from the date of sale within which to redeem. In any case where the debt owing the United States is due, the United States may ask, by way of affirmative relief, for the foreclosure of its own lien and where property is sold to satisfy a first lien held by the United States, the United States may bid at the sale such sum, not exceeding the amount of its claim with expenses of sale, as may be directed by the head of the department or agency of the United States which has charge of the administration of the laws in respect of which the claim of the United States arises.

(d) Whenever any person has a lien upon any real or personal property, duly recorded in the jurisdiction in which the property is located, and a junior lien, other than a tax lien, in favor of the United States attaches to such property, such person may make a written request to the officer charged with the administration of the laws in respect of which the lien of the United States arises, to have the same extinguished. If after appropriate investigation, it appears to such officer that the proceeds from the sale of the property would be insufficient to wholly or partly satisfy the lien of the United States, or that the claim of the United States has been satisfied or by lapse of time or otherwise has become unenforceable, such officer shall so report to the Comptroller General who may issue a certificate releasing the property from such lien.

#### § 2411. Interest on judgments against United States

On all final judgments rendered against the United States in actions instituted under section 1346 of this title, interest shall be computed at the rate of 4 per centum per annum from the date of the judgment up to, but not exceeding, thirty days after the date of approval of any appropriation Act providing for payment of the judgment.

*Ante*, p. 933.

#### § 2412. Costs

(a) The United States shall be liable for fees and costs only when such liability is expressly provided for by Act of Congress.

(b) In an action under subsection (a) of section 1346 or section 1491 of this title, if the United States puts in issue plaintiff's right to recover, the district court or Court of Claims may allow costs to the prevailing party from the time of joining such issue. Such costs shall include only those actually incurred for witnesses and fees paid to the clerk.

*Ante*, pp. 933, 940.

(c) In an action under subsection (b) of section 1346 of this title, costs shall be allowed in all courts to the successful claimant, but such costs shall not include attorneys' fees.

*Ante*, p. 933.

**§ 2413. Executions in favor of United States**

A writ of execution on a judgment obtained for the use of the United States in any court thereof shall be issued from and made returnable to the court which rendered the judgment, but may be executed in any other State, in any Territory, or in the District of Columbia.

**§ 2414. Payment of judgments against the United States**

Payment of final judgments rendered by a district court against the United States shall be made on settlements by the General Accounting Office.

Whenever the Attorney General determines that no appeal shall be taken from a judgment against the United States or that no further review will be sought from a decision affirming the same, he shall so certify and the judgment shall be deemed final.

**CHAPTER 163—FINES, PENALTIES AND FORFEITURES**

Sec.

2461. Mode of recovery.

2462. Time for commencing proceedings.

2463. Property taken under revenue law not repleviable.

2464. Security; special bond.

2465. Return of property to claimant; certificate of reasonable cause; liability for wrongful seizure.

**§ 2461. Mode of recovery**

(a) Whenever a civil fine, penalty or pecuniary forfeiture is prescribed for the violation of an Act of Congress without specifying the mode of recovery or enforcement thereof, it may be recovered in a civil action.

(b) Unless otherwise provided by Act of Congress, whenever a forfeiture of property is prescribed as a penalty for violation of an Act of Congress and the seizure takes place on the high seas or on navigable waters within the admiralty and maritime jurisdiction of the United States, such forfeiture may be enforced by libel in admiralty but in cases of seizures on land the forfeiture may be enforced by a proceeding by libel which shall conform as near as may be to proceedings in admiralty.

**§ 2462. Time for commencing proceedings**

Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued if, within the same period, the offender or the property is found within the United States in order that proper service may be made thereon.

**§ 2463. Property taken under revenue law not repleviable**

All property taken or detained under any revenue law of the United States shall not be repleviable, but shall be deemed to be in the custody of the law and subject only to the orders and decrees of the courts of the United States having jurisdiction thereof.

**§ 2464. Security; special bond**

(a) Except in cases of seizures for forfeiture under any law of the United States, whenever a warrant of arrest or other process in rem is issued in any admiralty case, the United States marshal shall stay the execution of such process, or discharge the property arrested if the process has been levied, on receiving from the respondent or claimant of the property a bond or stipulation in double the amount claimed by the libellant, with sufficient surety, to be approved by the judge of the district court where the case is pending, or, in his absence,



by the collector of the port, conditioned to answer the decree of the court in such case. Such bond or stipulation shall be returned to the court, and judgment or decree thereon, against both the principal and sureties, may be secured at the time of rendering the decree in the original case. The owner of any vessel may deliver to the marshal a bond or stipulation, with sufficient surety, to be approved by the judge of the district court, conditioned to answer the decree of such court in all or any cases that are brought thereafter in such court against the vessel. Thereupon the execution of all such process against such vessel shall be stayed so long as the amount secured by such bond or stipulation is at least double the aggregate amount claimed by libellants in such suits which are begun and pending against such vessel. Similar judgments or decrees and remedies may be had on such bond or stipulation as if a special bond or stipulation had been filed in each of such suits.

(b) The court may make necessary orders to carry this section into effect, particularly in giving proper notice of any such suit. Such bond or stipulation shall be indorsed by the clerk with a minute of the suits wherein process is so stayed. Further security may be required by the court at any time.

(c) If a special bond or stipulation in the particular case is given under this section, the liability as to said case on the general bond or stipulation shall cease. The parties may stipulate the amount of the bond or stipulation for the release of a vessel or other property to be not more than the amount claimed in the libel, with interest, plus an allowance for libellant's costs. In the event of the inability or refusal of the parties to so stipulate, the court shall fix the amount, but if not so fixed then a bond shall be required in the amount prescribed in this section.

**§ 2465. Return of property to claimant; certificate of reasonable cause; liability for wrongful seizure**

Upon the entry of judgment for the claimant in any proceeding to condemn or forfeit property seized under any Act of Congress, such property shall be returned forthwith to the claimant or his agent; but if it appears that there was reasonable cause for the seizure, the court shall cause a proper certificate thereof to be entered and the claimant shall not, in such case, be entitled to costs, nor shall the person who made the seizure, nor the prosecutor, be liable to suit or judgment on account of such suit or prosecution.

**CHAPTER 165—COURT OF CLAIMS PROCEDURE**

Sec.

- 2501. Time for filing suit.
- 2502. Aliens' privilege to sue.
- 2503. Proceedings before commissioners generally.
- 2504. Plaintiff's testimony.
- 2505. Place of taking evidence.
- 2506. Interest of witness.
- 2507. Calls on departments for information.
- 2508. Counterclaim or set-off.
- 2509. Congressional reference cases.
- 2510. Departmental reference cases.
- 2511. Accounts of officers, agents or contractors.
- 2512. Disbursing officers; relief.
- 2513. Unjust conviction and imprisonment.
- 2514. Forfeiture of fraudulent claims.
- 2515. New trial, stay of judgment.
- 2516. Interest on claims and judgments.
- 2517. Payment of judgments.
- 2518. Certification of judgments for appropriation.
- 2519. Conclusiveness of judgment.
- 2520. Fees; cost of printing record.

**§ 2501. Time for filing suit**

Every claim of which the Court of Claims has jurisdiction shall be barred unless the petition thereon is filed, or the claim is referred by the Senate or House of Representatives, or by the head of an executive department within six years after such claim first accrues.

*Ante*, p. 941.

Every claim under section 1497 of this title shall be barred unless the petition thereon is filed within two years after the termination of the river and harbor improvements operations on which the claim is based.

A petition on the claim of a person under legal disability or beyond the seas at the time the claim accrues may be filed within three years after the disability ceases.

A suit for the fees of an officer of the United States shall not be filed until his account for such fees has been finally acted upon, unless the General Accounting Office fails to act within six months after receiving the account.

**§ 2502. Aliens' privilege to sue**

Citizens or subjects of any foreign government which accords to citizens of the United States the right to prosecute claims against their government in its courts may sue the United States in the Court of Claims if the subject matter of the suit is otherwise within such court's jurisdiction.

**§ 2503. Proceedings before commissioners generally**

Parties to any suit in the Court of Claims may appear before a commissioner in person or by attorney, produce evidence and examine witnesses. Commissioners, including reporter-commissioners taking testimony, may administer oaths or affirmations to witnesses. Subpoenas requiring the attendance of witnesses before commissioners may be issued by the court and compliance therewith shall be compelled under appropriate rules and orders of the court. Subpoenas for witnesses or for the production of testimony may issue out of the court by the clerk and shall be served by the United States marshal to whom they are directed.

The rules of the court shall provide for a finding and report of facts by a commissioner, and when directed by the court his recommendations for conclusions of law, to be filed in court with the testimony upon which the same is based, and for opportunity to file exceptions thereto, and a hearing thereon within such reasonable time as the court's rules or order may prescribe. This section shall not prevent the court from passing upon all questions and findings regardless of whether exceptions were taken before a commissioner.

**§ 2504. Plaintiff's testimony**

The Court of Claims may, at the instance of the Attorney General, order any plaintiff to appear, upon reasonable notice, before any commissioner of the court and be examined on oath as to all matters pertaining to his claim. Such examination shall be reduced to writing by the commissioner, and shall be returned to and filed in the court, and may, at the discretion of the attorneys for the United States, be read and used as evidence on the trial. If any plaintiff, after such order is made and due and reasonable notice thereof is given to him, fails to appear, or refuses to testify or answer fully as to all material matters within his knowledge, the court may order that the case shall not be tried until he fully complies with such order.

**§ 2505. Place of taking evidence**

Any judge of the Court of Claims may sit at any place within the United States to take evidence and report findings.

If convenient, testimony shall be taken in the county where the witness resides.

#### § 2506. Interest of witness

A witness in a suit in the Court of Claims shall not be exempt or disqualified because he is a party to or interested in such suit.

#### § 2507. Calls on departments for information

The Court of Claims may call upon any department or agency of the United States for any information or papers it deems necessary, and may use all recorded and printed reports made by the committees of the Senate or House of Representatives.

The head of any department or agency may refuse to comply when, in his opinion, compliance will be injurious to the public interest.

#### § 2508. Counterclaim or set-off; registration of judgment

Upon the trial of any suit in the Court of Claims in which any set-off, counterclaim, claim for damages, or other demand is set up on the part of the United States against any plaintiff making claim against the United States in said court, the court shall hear and determine such claim or demand both for and against the United States and plaintiff.

If upon the whole case it finds that the plaintiff is indebted to the United States it shall render judgment to that effect, and such judgment shall be final and reviewable.

The transcript of such judgment, filed in the clerk's office of any district court, shall be entered upon the records, and be a judgment of such district court and enforceable as such.

#### § 2509. Congressional reference cases

Whenever any bill, except for a pension, is referred to the Court of Claims by either House of Congress, such court shall proceed with the same in accordance with its rules and report to such House, the facts in the case, including facts relating to delay or laches, facts bearing upon the question whether the bar of any statute of limitation should be removed, or facts claimed to excuse the claimant for not having resorted to any established legal remedy.

The court shall also report conclusions sufficient to inform Congress whether the demand is a legal or equitable claim or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

#### § 2510. Departmental reference cases

A claim or matter referred to the Court of Claims by the head of an executive department shall be proceeded with as are other cases pending in such court, under its rules.

The court shall report its findings of fact and conclusions of law to the head of the department who referred the claim or matter.

The Secretary of the Treasury may, upon the certificate of the Comptroller General of the United States, direct any claim or matter, of which, by reason of the subject matter or character, the Court of Claims might take jurisdiction on the voluntary action of the claimant, to be transmitted, with all the vouchers, papers, documents, and proofs pertaining thereto, to such court for trial and adjudication.

#### § 2511. Accounts of officers, agents or contractors

Notice of suit under section 1494 of this title shall be given to the Attorney General and to the head of the department requested to settle the account in question.

The judgment of the Court of Claims in such suit, or of the Supreme Court upon review, shall be conclusive upon the parties, and payment of the amount found due shall discharge the obligation.

*Ante*, p. 941.

A right of action shall accrue to the United States upon the judgment, but such right and any right of action on the original indebtedness shall be barred unless an action thereon is brought within three years after judgment.

**§ 2512. Disbursing officers; relief**

Whenever the Court of Claims finds that any loss by a disbursing officer of the United States was without his fault or negligence, it shall render a judgment setting forth the amount thereof, and the General Accounting Office shall allow the officer such amount as a credit in the settlement of his accounts.

**§ 2513. Unjust conviction and imprisonment**

*Ante*, p. 941.

(a) Any person suing under section 1495 of this title must allege and prove that:

(1) His conviction has been reversed or set aside on the ground that he is not guilty of the offense of which he was convicted, or on new trial or rehearing he was found not guilty of such offense, as appears from the record or certificate of the court setting aside or reversing such conviction, or that he has been pardoned upon the stated ground of innocence and unjust conviction and

(2) He did not commit any of the acts charged or his acts, deeds, or omissions in connection with such charge constituted no offense against the United States, or any State, Territory or the District of Columbia, and he did not by misconduct or neglect cause or bring about his own prosecution.

(b) Proof of the requisite facts shall be by a certificate of the court or pardon wherein such facts are alleged to appear, and other evidence thereof shall not be received.

(c) No pardon or certified copy of a pardon shall be filed with the Court of Claims unless it contains recitals that the pardon was granted after applicant had exhausted all recourse to the courts and that the time for any court to exercise its jurisdiction had expired.

(d) The Court may permit the plaintiff to prosecute such action *in forma pauperis*.

(e) The amount of damages awarded shall not exceed the sum of \$5,000.

**§ 2514. Forfeiture of fraudulent claims**

A claim against the United States shall be forfeited to the United States by any person who corruptly practices or attempts to practice any fraud against the United States in the proof, statement, establishment, or allowance thereof.

In such cases the Court of Claims shall specifically find such fraud or attempt and render judgment of forfeiture.

**§ 2515. New trial; stay of judgment**

(a) The Court of Claims may grant a plaintiff a new trial on any ground established by rules of common law or equity applicable as between private parties.

(b) Such court, at any time while any suit is pending before it, or after proceedings for review have been instituted, or within two years after the final disposition of the suit, may grant the United States a new trial and stay the payment of any judgment upon satisfactory evidence, cumulative or otherwise, that any fraud, wrong, or injustice has been done the United States.

**§ 2516. Interest on claims and judgments**

(a) Interest on a claim against the United States shall be allowed in a judgment of the Court of Claims only under a contract or Act of Congress expressly providing for payment thereof.

(b) Interest on judgments against the United States affirmed by the Supreme Court after review on petition of the United States shall be paid at the rate of four per cent per annum from the date of the filing of the transcript of the judgment in the Treasury Department to the date of the mandate of affirmance. Such interest shall not be allowed after the term of the Supreme Court at which the judgment was affirmed.

#### § 2517. Payment of judgments

(a) Every final judgment rendered by the Court of Claims against the United States shall be paid out of any general appropriation therefor, on presentation to the General Accounting Office of a certification of the judgment by the clerk and chief judge of the court.

(b) Payment of any such judgment and of interest thereon shall be a full discharge to the United States of all claims and demands arising out of the matters involved in the case or controversy.

#### § 2518. Certification of judgments for appropriation

The Secretary of the Treasury shall certify to Congress for appropriation only such judgments of the Court of Claims as are not to be reviewed or are entered upon mandate of the Supreme Court.

#### § 2519. Conclusiveness of judgment

A final judgment of the Court of Claims against any plaintiff shall forever bar any further claim, suit, or demand against the United States arising out of the matters involved in the case or controversy.

#### § 2520. Fees; cost of printing record

(a) The Court of Claims shall by rules impose a fee not exceeding \$10, for the filing of any petition and the hearing of any case before the court, a judge, or a commissioner.

(b) The clerk shall collect a fee of 10 cents a folio for preparing and certifying a transcript of the record for the purpose of a writ of certiorari sought by the plaintiff, and for furnishing certified copies of judgments or other documents. Not less than \$5 shall be charged for each certified copy of findings of fact and opinion of the court to be filed in the Supreme Court.

(c) The clerk shall also collect for each certified copy of the court's findings of fact and opinion a fee of 25 cents for five pages or less, 35 cents for those over five and not more than ten pages, 45 cents for those over ten and not more than twenty pages, and 50 cents for those of more than twenty pages.

(d) The cost of printing the record in every pending case in the court shall be taxed against the losing party, collected by the clerk of the court, except when the judgment is against the United States, and paid into the Treasury.

### CHAPTER 167—COURT OF CUSTOMS AND PATENT APPEALS PROCEDURE

Sec.

2601. Customs Court decisions.

2602. Precedence of classification cases.

#### § 2601. Customs Court decisions

Any party to a proceeding before the Customs Court who is dissatisfied with the decision of such court as to the construction of the law and the facts respecting the classification of imported merchandise and the rate of duty imposed thereon under such classification, or with any other appealable decision of such court, may, not later than sixty days after the entry of the decision, apply to the Court of Customs and Patent Appeals for a review of all questions of law and fact.

In cases arising in the Territories and Possessions ninety days shall be allowed for making such application.

The application shall be made by filing in the office of the clerk of the Court of Customs and Patent Appeals a concise statement of errors of law and fact complained of; and a copy of such statement shall be served on the collector, or on the importer, owner, consignee, or agent, as the case may be. Thereupon the Court of Customs and Patent Appeals shall immediately order the Customs Court to transmit the record and evidence taken, together with a certified statement of the facts involved in the case and the decision thereon; and all the evidence taken by and before the Customs Court shall be competent evidence before the Court of Customs and Patent Appeals. The decision of the Court of Customs and Patent Appeals shall be final unless set aside or modified by the Supreme Court, and the case shall be remanded to the Customs Court for further proceedings to be taken in pursuance of such decision.

#### § 2602. Precedence of classification cases

Every proceeding in the Court of Customs and Patent Appeals, relating to classification of merchandise or rate of duty assessed thereon, and arising under section 1516 (b) of Title 19, shall be given precedence over other cases on the docket of such court, and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

*Post*, p. 1002.

### CHAPTER 169—CUSTOMS COURT PROCEDURE

Sec.

2631. Appeal for reappraisalment; assignment to single judge; hearing.

2632. Notice.

2633. Evidence of value, upon reappraisalment; burden of proof.

2634. Witnesses; inspection of documents.

2635. Decision of single judge in reappraisalment appeal.

2636. Review of single judge's decision; disqualification of judges; remand; presumption.

2637. Review of decisions of divisions.

2638. Precedence of classification cases.

2639. Analysis of imported merchandise.

2640. Rehearing or retrial.

2641. Frivolous protest or appeal.

2642. Disqualification of judge.

#### § 2631. Appeal for reappraisalment; assignment to single judge; hearing

Every written appeal to the Customs Court for a reappraisalment of merchandise shall be assigned to one of the judges of such court who shall after affording the parties an opportunity to be heard on the merits, determine the value of such merchandise.

His determination shall be made from the evidence in the record and that adduced at the hearing, notwithstanding that the merchandise and samples thereof are not available for examination and without regard to any invalidity of the original appraisalment.

#### § 2632. Notice

Reasonable notice of the time and place of hearing before a judge or division of the Customs Court shall be given to all parties to any proceeding, under rules prescribed by such court.

#### § 2633. Evidence of value, upon reappraisalment; burden of proof

In finding the value of merchandise, in reappraisalment proceedings before a single judge of the Customs Court, affidavits and depositions of persons whose attendance cannot reasonably be had, price lists and

catalogues, reports or depositions of consuls, customs agents, collectors, appraisers, assistant appraisers, examiners, and other officers of the Government may be admitted in evidence. Copies of official documents, when certified by an official duly authorized by the Secretary of the Treasury, may be admitted in evidence with the same force and effect as original documents.

The value found by the appraiser shall be presumed to be the value of the merchandise. The burden shall rest upon the party who challenges its correctness to prove otherwise.

#### § 2634. Witnesses; inspection of documents

(a) In any proceeding in the Customs Court, under rules prescribed by such court, the parties and their attorneys shall have an opportunity to introduce evidence, to hear and cross-examine the witnesses of the other party and to inspect all samples and all papers admitted or offered as evidence, except as provided in subsection (b) of this section.

(b) In reappraisal or classification proceedings instituted under section 1516 of Title 19, an American manufacturer, producer, or wholesaler shall not have the right to inspect any documents or papers of the consignee or importer disclosing any information which the Customs Court or any judge or division thereof deems unnecessary or improper to be disclosed to him.

*Post*, p. 1002.

#### § 2635. Decision of single judge in reappraisal appeal

The judge assigned to hear an appeal for reappraisal of merchandise shall render his decision in writing, together with a statement of the reasons therefor and of the facts on which his decision is based.

#### § 2636. Review of single judge's decision; disqualification of judges; remand; presumption

(a) The decision of a single judge in a reappraisal proceeding shall be final and conclusive upon all parties unless within 30 days from the date it is filed with the collector of customs an application for its review is filed with or mailed to the Customs Court by the collector or other person authorized by the Secretary of the Treasury, and a copy of such application mailed to the consignee, or his agent or attorney, or filed by the consignee, or his agent or attorney, with the collector, by whom the same shall be forwarded forthwith to such court.

(b) The chief judge of the Customs Court shall assign every application for review of the decision of a single judge of such court in a reappraisal proceeding to a division of three judges who shall consider the case upon the samples of the merchandise, if any, and the record made before the single judge. The division shall, after hearing argument on the part of any of the interested parties requesting to be heard, affirm, reverse, or modify the decision of the single judge or remand the case to such judge for further proceedings, and shall render its decision in writing, together with a statement of the reasons therefor and of the facts on which the decision is based, and shall forward it to the collector of customs.

(c) A judge of the Customs Court shall not sit to hear or decide any case on review in which he has previously participated.

(d) If upon the hearing of a protest, the court declares an appraisal of merchandise made after the effective date of the Customs Administrative Act of 1938 to have been invalid or void, it shall remand the matter to a single judge who shall determine the proper dutiable value of such merchandise in the manner provided by this chapter. In such proceeding no presumption of correctness shall attach to the invoice or entered values.

52 Stat. 1077.  
19 U. S. C. § 1001  
*et seq.*; Supp. I, § 1001  
*et seq.*

**§ 2637. Review of decisions of divisions***Ante*, p. 979.

The decision of a division of the Customs Court, in any matter within its jurisdiction shall be the decision of such court, and shall be final and conclusive upon all parties, unless a party to such proceeding takes an appeal to the Court of Customs and Patent Appeals within the time and manner provided in section 2601 of this title, but if the decision relates to a reappraisal of merchandise, such appeal to the Court of Customs and Patent Appeals shall be upon questions of law only.

**§ 2638. Precedence of classification cases***Post*, p. 1002.

Every proceeding in the Customs Court, relating to classification of merchandise or rate of duty assessed thereon, and arising under section 1516 (b) of Title 19, shall be given precedence over other cases on the docket of such court, and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

**§ 2639. Analysis of imported merchandise**

A division or a single judge may order an analysis of imported merchandise and reports thereon by laboratories or bureaus of the United States.

**§ 2640. Rehearing or retrial**

A division which has decided a case or a single judge who has decided an appeal for a reappraisal may, upon motion of either party made within thirty days next after such decision, grant a rehearing or retrial.

**§ 2641. Frivolous protest or appeal***Ante*, p. 943; *post*, pp. 990, 1002.

The Customs Court shall, upon motion of counsel for the Government and may, upon its own motion, decide whether any appeal for reappraisal or protest filed under this chapter, under sections 1501, 1514, 1515 or 1516 of Title 19 or under section 1583 of this title is frivolous. If the court decides that such appeal or protest is frivolous, it shall assess a penalty of not less than \$5 nor more than \$250 against the person filing such appeal or protest.

All frivolous appeals for reappraisal or protests filed by the same person and raising the same issue shall be consolidated in one proceeding for the purpose of imposing such penalty.

**CHAPTER 171—TORT CLAIMS PROCEDURE****Sec.**

- 2671. Definitions.
- 2672. Administrative adjustment of claims of \$1,000 or less.
- 2673. Reports to Congress.
- 2674. Liability of United States.
- 2675. Disposition by federal agency as prerequisite; evidence.
- 2676. Judgment as bar.
- 2677. Compromise.
- 2678. Attorney fees; penalty.
- 2679. Exclusiveness of remedy.
- 2680. Exceptions.

**§ 2671. Definitions***Ante*, pp. 963, 971.

As used in this chapter and sections 1346 (b) and 2401 (b) of this title, the term—

"Federal agency."

"Federal agency" includes the executive departments and independent establishment of the United States, and corporations primarily acting as, instrumentalities or agencies of the United States but does not include any contractor with the United States.

"Employee of the government."

"Employee of the government" includes officers or employees of any federal agency, members of the military or naval forces of the United States, and persons acting on behalf of a federal agency in an official capacity, temporarily or permanently in the



service of the United States, whether with or without compensation.

“Acting within the scope of his office or employment”, in the case of a member of the military or naval forces of the United States, means acting in line of duty.

### § 2672. Administrative adjustment of claims of \$1,000 or less

The head of each federal agency, or his designee for the purpose, acting on behalf of the United States, may consider, ascertain, adjust, determine, and settle any claim for money damages of \$1,000 or less against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

Subject to the provisions of this title relating to civil actions on tort claims against the United States, any such award or determination shall be final and conclusive on all officers of the government, except when procured by means of fraud.

Finality of award.

Any award made pursuant to this section, and any award, compromise, or settlement made by the Attorney General pursuant to section 2678 of this title, shall be paid by the head of the federal agency concerned out of such agency's appropriations therefor, which appropriations are hereby authorized.

Post, p. 984.

The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant, and shall constitute a complete release of any claim against the United States and against the employee of the government whose act or omission gave rise to the claim, by reason of the same subject matter.

### § 2673. Reports to Congress

The head of each federal agency shall report annually to Congress all claims paid by it under section 2672 of this title, stating the name of each claimant, the amount claimed, the amount awarded, and a brief description of the claim.

Supra.

### § 2674. Liability of United States

The United States shall be liable, respecting the provisions of this title relating to tort claims, in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.

If, however, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the United States shall be liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons respectively, for whose benefit the action was brought, in lieu thereof.

### § 2675. Disposition by federal agency as prerequisite; evidence

(a) An action shall not be instituted upon a claim against the United States which has been presented to a federal agency, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of an employee of the government while acting within the scope of his authority, unless such federal agency has made final disposition of the claim.

(b) The claimant, however, may, upon fifteen days written notice, withdraw such claim from consideration of the federal agency and

commence action thereon. Action under this subsection shall not be instituted for any sum in excess of the amount of the claim presented to the federal agency, except where the increased amount is based upon newly discovered evidence not reasonably discoverable at the time of presenting the claim to the federal agency, or upon allegation and proof of intervening facts, relating to the amount of the claim.

(c) Disposition of any claim by the Attorney General or other head of a federal agency shall not be competent evidence of liability or amount of damages.

#### § 2676. Judgment as bar

*Ante*, p. 933.

The judgment in an action under section 1346 (b) of this title shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of the government whose act or omission gave rise to the claim.

#### § 2677. Compromise

The Attorney General, with the approval of the court, may arbitrate, compromise, or settle any claim cognizable under section 1346 (b) of this title, after the commencement of an action thereon.

#### § 2678. Attorney fees; penalty

*Ante*, p. 933.

*Ante*, p. 933.

*Supra*.

The court rendering a judgment for the plaintiff pursuant to section 1346 (b) of this title, or the head of the federal agency or his designee making an award pursuant to section 2672 of this title, or the Attorney General making a disposition pursuant to section 2677 of this title, may, as a part of such judgment, award, or settlement, determine and allow reasonable attorney fees, which, if the recovery is \$500 or more, shall not exceed 10 per centum of the amount recovered under section 2672 of this title, or 20 per centum of the amount recovered under section 1346 (b) of this title, to be paid out of but not in addition to the amount of judgment, award, or settlement recovered, to the attorneys representing the claimant.

Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this section, if recovery be had, shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

#### § 2679. Exclusiveness of remedy

*Ante*, p. 933.

The authority of any federal agency to sue and be sued in its own name shall not be construed to authorize suits against such federal agency on claims which are cognizable under section 1346 (b) of this title, and the remedies provided by this title in such cases shall be exclusive.

#### § 2680. Exceptions

*Ante*, p. 933.

The provisions of this chapter and section 1346 (b) of this title shall not apply to—

(a) Any claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government, whether or not the discretion involved be abused.

(b) Any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.

(c) Any claim arising in respect of the assessment or collection of any tax or customs duty, or the detention of any goods or merchandise by any officer of customs or excise or any other law-enforcement officer.

(d) Any claim for which a remedy is provided by sections 741-752, 781-790 of Title 46, relating to claims or suits in admiralty against the United States.

(e) Any claim arising out of an act or omission of any employee of the Government in administering the provisions of sections 1-31 of Title 50, Appendix.

(f) Any claim for damages caused by the imposition or establishment of a quarantine by the United States.

(g) Any claim arising from injury to vessels, or to the cargo, crew, or passengers of vessels, while passing through the locks of the Panama Canal or while in Canal Zone waters.

(h) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

(i) Any claim for damages caused by the fiscal operations of the Treasury or by the regulation of the monetary system.

(j) Any claim arising out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war.

(k) Any claim arising in a foreign country.

(l) Any claim arising from the activities of the Tennessee Valley Authority.

SEC. 2. (a) The Chief Justices of the United States Court of Appeals for the District of Columbia, the District Court of the United States for the District of Columbia and the Court of Claims, and the presiding judge of the Court of Customs and Patent Appeals, in office on the effective date of this Act, shall be the chief judges of their respective courts.

(b) The provisions of title 28, Judiciary and Judicial Procedure, of the United States Code, set out in section 1 of this Act, with respect to the organization of each of the several courts therein provided for and of the Administrative Office of the United States Courts, shall be construed as continuations of existing law, and the tenure of the judges, officers, and employees thereof and of the United States attorneys and marshals and their deputies and assistants, in office on the effective date of this Act, shall not be affected by its enactment, but each of them shall continue to serve in the same capacity under the appropriate provisions of title 28, as set out in section 1 of this Act, pursuant to his prior appointment: *Provided, however,* That each circuit court of appeals shall, as in said title 28 set out, hereafter be known as a United States court of appeals. No loss of rights, interruption of jurisdiction, or prejudice to matters pending in any of such courts on the effective date of this Act shall result from its enactment.

(c) The sum of \$7,500 specified in this Act as the salary which the Assistant Director of the Administrative Office of the United States Courts shall receive, and the sum of \$7,500 specified in this Act as the salary which each commissioner whom the Court of Claims may appoint shall receive, shall each respectively be that basic compensation on which shall be computed and paid the additional basic compensation mentioned in section 521 of the Act of June 30, 1945 (ch. 212, 59 Stat. 301), as amended by the Act of May 24, 1946 (ch. 270, sec. 6, 60 Stat. 217).

(d) Anything in this Act to the contrary notwithstanding, the provisions of section 14 of the Act of July 1, 1944 (ch. 358, 58 Stat. 663), are not hereby repealed.

SEC. 3. Section 366 of the Revised Statutes (5 U. S. C., section 315), as amended, is amended to read as follows:

"Sec. 366. Every attorney specially retained under authority of

50 U. S. C., Supp. I,  
app. § 4 *et seq.*

Chief judges.

*Ante*, p. 869.

Continuance in of-  
fice of judges, etc.

Salary of Assistant  
Director of Adminis-  
trative Office of U. S.  
Courts.

5 U. S. C. §§ 934, 935.

41 U. S. C. § 114.

Attorneys under  
authority of Depart-  
ment of Justice.

the Department of Justice shall be commissioned as special assistant to the Attorney General or special attorney and shall take the oath required by law. Foreign counsel employed in special cases shall not be required to take such oath.”

SEC. 4. Section 5261 of the Revised Statutes (45 U. S. C., section 87) is amended to read as follows:

Suits by railroad companies.

45 U. S. C. § 86.

“SEC. 5261. Any railroad company from whom payments for freight and transportation have been withheld under the provisions of section 5260 may bring suit in the Court of Claims to recover the price of such freight and transportation.”

SEC. 5. Section 3 of the Act approved February 23, 1887 (chapter 210, 24 Stat. 409, 410; 21 U. S. C., section 193) is amended by striking out the present third sentence thereof, and by striking out the final sentence thereof and substituting in lieu of such final sentence the following:

Opium.

“Every package of opium or package containing opium, either in whole or in part, brought, taken, or transported, trafficked, or dealt in contrary to the provisions of this section, shall be forfeited to the United States, for the benefit of China.”

SEC. 6. Section 1 of the Act approved August 1, 1888 (chapter 728, 25 Stat. 357; 40 U. S. C., sec. 257) is amended to read as follows:

Procurement of real estate for public use.

“That in every case in which the Secretary of the Treasury or any other officer of the Government has been, or hereafter shall be, authorized to procure real estate for the erection of a public building or for other public uses, he may acquire the same for the United States by condemnation, under judicial process, whenever in his opinion it is necessary or advantageous to the Government to do so, and the Attorney General of the United States, upon every application of the Secretary of the Treasury, under this Act, or such other officer, shall cause proceedings to be commenced for condemnation within thirty days from receipt of the application at the Department of Justice.”

SEC. 7. Section 13 of the Act approved July 31, 1894 (chapter 174, 28 Stat. 210) is hereby amended by striking out the second paragraph thereof (5 U. S. C., section 321), and by amending the first paragraph thereof (31 U. S. C., section 84) to read as follows:

Transmission of accounts to GAO.

“SEC. 13. Before transmission to the General Accounting Office, the accounts of United States attorneys, assistant attorneys, and marshals, made out and approved as required by law, and accounts relating to prisoners convicted or held for trial in any court of the United States, and all other accounts relating to the Department of Justice, shall be sent with their vouchers to the Attorney General and examined under his supervision. Before transmission to the General Accounting Office, the accounts of United States Commissioners, clerks of court and other officers of the courts of the United States, except the Supreme Court of the United States and consular courts, made out and approved as required by law, shall be sent with their vouchers to the Director of the Administrative Office of the United States Courts and examined under his supervision.”

SEC. 8. Section 86 of the Act approved April 30, 1900 (chapter 339, 31 Stat. 158; 48 U. S. C., secs. 641, 642, 643-645), as amended, is amended to read as follows:

Removal of causes, etc., as between courts of U. S. and Hawaii.

“SEC. 86. The laws of the United States relating to removal of causes, appeals and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii.”

SEC. 9. The first paragraph of section 4 of the Act approved June 6, 1900 (chapter 786, 31 Stat. 322; 48 U. S. C., section 101, first paragraph), as amended, is amended to read as follows:

Ante, p. 283.

"SEC. 4. There is hereby established a district court for the District of Alaska, with the jurisdiction of district courts of the United States and with general jurisdiction in civil, criminal, equity, and admiralty causes; and four district judges shall be appointed for the district, each at an annual salary of \$15,000, who shall during their terms of office reside in the divisions of the district to which they may be respectively assigned by the President. The court shall consist of four divisions, which shall also be recording divisions."

District court for Alaska.

SEC. 10. Section 7 of the Act approved June 6, 1900 (chapter 786, 31 Stat. 324; 48 U. S. C., section 106), as amended, is amended by striking out the words "Attorney General" wherever such words appear in such section, and substituting in lieu thereof the words "Director of the Administrative Office of the United States Courts"; also by striking out the seventh sentence thereof (such sentence being the third sentence after the proviso in such section) and substituting in lieu of such sentence the following: "He may appoint necessary deputies and employ other necessary clerical assistance to aid him in the expeditious discharge of the duties of his office, with the approval of the court or judge, and, subject to the approval of the Director of the Administrative Office of the United States Courts, fix the compensation of such deputies and the compensation for such clerical assistance."

Duties of clerks.

SEC. 11. Section 8 of the Act approved June 6, 1900 (chapter 786, 31 Stat. 324; 48 U. S. C., section 109), as amended by the Act approved March 3, 1909, ch. 269, § 4, 35 Stat. 841, is amended to read as follows:

"SEC. 8. Four district attorneys shall be appointed for the district, one of whom shall be assigned to each division and shall reside at such place in the division as the Attorney General shall direct. They shall each perform the duties required to be performed by United States attorneys in other districts, and such other duties as may be required by law. The Attorney General shall fix the salaries of such district attorneys, and such attorneys shall not while in office accept retainers or engage in any other law business in the district than that pertaining to the duties of their office. The Attorney General may, upon the recommendation of the district attorney, appoint and at pleasure remove one or more assistant district attorneys and one or more clerical assistants, who shall receive such compensation as the Attorney General shall fix, to be paid as assistant United States attorneys and clerical assistants in other districts are paid. In the case of the death or disability of a district attorney the judge may appoint a suitable person to fill the office until his successor is appointed and qualified or until the disability is removed."

Appointment of district attorneys.

SEC. 12. The first paragraph of section 9 of the Act approved June 6, 1900 (chapter 786, 31 Stat. 324; 48 U. S. C., section 110, part) is amended to read as follows:

"SEC. 9. Four United States marshals shall be appointed for the district, at salaries which shall be fixed by the Attorney General, one of whom shall be assigned to each division, and shall reside at such place in the division as the Attorney General shall direct. Each marshal shall have authority and be required to appoint, subject to the approval of the Attorney General, such deputy marshals as he may deem necessary for the efficient execution of the law and the orders of the court and of the commissioners appointed as herein provided."

Appointment of U. S. marshals.

SEC. 13. Section 10 of the Act approved June 6, 1900 (chapter 786, 31 Stat. 325; 48 U. S. C., sections 62, 63, 107, 110, 112, 113, 114) is amended to read as follows:

"SEC. 10. The governor, attorneys, judges, and the marshals provided for in this Act shall be appointed by the President, by and

Governor, attorneys, judges, and marshals.

with the advice and consent of the Senate, and shall hold their respective offices for the term of four years and until their successors are appointed and qualified, unless sooner removed by the President for cause.

Salaries.

"The governor shall receive an annual salary of \$10,000, payable from the Treasury of the United States.

"The salaries of the judges, marshals, clerks, and district attorneys shall be payable from the Treasury of the United States, as like officers are paid in other districts.

Collection of fees,  
etc.

"Each clerk shall collect all money arising from the fees of his office or on any other account authorized by law to be paid to or collected by him, and shall report the same and the disposition thereof in detail, under oath, quarterly, or more frequently if required, to the court, the Director of the Administrative Office of the United States Courts, and the Secretary of the Treasury, and all public money received by him and his deputies for fees or on any other account shall be paid out by the clerk on the order of the court, duly made and signed by the judge, and any balance remaining in his hands after all payments ordered by the court shall have been made shall be by him covered into the Treasury of the United States at such times and under such rules and regulations as the Secretary of the Treasury may prescribe. The clerk may employ, with the approval of the court, necessary clerical assistants and other employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

Traveling expenses.

"The governor shall, in addition to his salary, be paid his actual traveling and subsistence expenses when traveling in the discharge of his official duties. The judges shall be entitled to the same travel and subsistence allowances as those of United States District Judges in other districts. The marshals, clerks of court, and district attorneys shall, in addition to their salaries, be paid their actual traveling and subsistence expenses in accordance with the Subsistence Expense Act of 1926 (chapter 457, 44 Stat. 688), as amended, and government travel regulations, when traveling in the discharge of their official duties.

5 U. S. C. § 821.

"Accounts for such expenses of judges, marshals, district attorneys, and clerks shall be rendered and paid as are accounts of judges, marshals, district attorneys, and clerks for like expenses in other districts."

Clerk of District  
Court of U. S. for  
D. C.  
D. C. Code, Supp.  
VI, § 11-401.

SEC. 14. The catchline to section 174 of the Act approved March 3, 1901 (ch. 854, 31 Stat. 1218; D. C. Code, 1940 ed., section 11-401), as amended, is amended by striking out the words, "Oath; bond; deputy" and substituting in lieu thereof the word, "Deputy"; the first sentence of such section as amended, is hereby repealed, and the second sentence of such section as amended, is amended to read as follows:

"The clerk of the United States District Court for the District of Columbia may assign any of the deputy clerks in his office to duty in the general or special terms of the court, except in the probate term."

U. S. Court of Ap-  
peals for D. C.

SEC. 15. Section 224 of the Act approved March 3, 1901 (chapter 854, 31 Stat. 1224, 1225; D. C. Code, 1940 ed., section 11-204), as amended by the Act approved June 30, 1902 (chapter 1329, 32 Stat. 528), is amended to read as follows:

"SEC. 224. Deputy clerk signing for clerk.—The deputy clerk for the United States Court of Appeals for the District of Columbia may sign the name of the clerk of such court to any official act required by law or by the practice of the court to be performed by the clerk, and may authenticate said signature by affixing the seal of the court thereto

when the impress of the seal is necessary to its authentication. In such case the signature shall be—

By \_\_\_\_\_, *Clerk,*  
\_\_\_\_\_ *Deputy Clerk.*"

SEC. 16. The opening paragraph of section 1108 of the Act approved March 3, 1901 (chapter 854, 31 Stat. 1363; D. C. Code, 1940 ed., section 11-1501) is amended by striking out the word "commissioners" appearing therein and by also striking out the comma immediately following such word.

Compensation of  
court officers, D. C.

SEC. 17. Section 2 of the Act approved February 11, 1903 (chapter 544, 32 Stat. 823; 15 U. S. C., sec. 29, 49 U. S. C., sec. 45), as amended, is amended to read as follows:

"SEC. 2. In every civil action brought in any district court of the United States under any of said Acts, wherein the United States is complainant, an appeal from the final judgment of the district court will lie only to the Supreme Court."

Appeal from judg-  
ment of district court.

SEC. 18. The second sentence of the second paragraph of section 6 of the Act approved April 22, 1908 (chapter 149, 35 Stat. 65, 66; 45 U. S. C., section 56), as added by the Act approved April 5, 1910 (chapter 143, section 1, 36 Stat. 291), is amended to read as follows:

"The jurisdiction of the courts of the United States under this Act shall be concurrent with that of the courts of the several States."

Concurrent juris-  
diction.

SEC. 19. The final sentence of section 1 of the Act approved June 19, 1912 (chapter 174, 37 Stat. 137; 40 U. S. C., section 324) is amended to read as follows:

"Any contractor or subcontractor aggrieved by the withholding of any penalty as hereinbefore provided shall have the right within six months thereafter to appeal to the head of the department making the contract on behalf of the United States or the Territory, and in the case of a contract made by the District of Columbia to the Commissioners thereof, who shall have power to review the action imposing the penalty, and in all such appeals from such final order whereby a contractor or subcontractor may be aggrieved by the imposition of the penalty hereinbefore provided, such contractor or subcontractor may, within six months after decision by such head of a department or the Commissioners of the District of Columbia, file a claim in the Court of Claims."

Appeal by contrac-  
tors or subcontractors.

SEC. 20. Section 41 of the Act approved March 2, 1917 (chapter 145, 39 Stat. 965; 48 U. S. C., section 863), as amended, is amended to read as follows:

"SEC. 41. The United States District Court for the District of Puerto Rico shall, in addition to its other jurisdiction, have jurisdiction for the naturalization of aliens and Puerto Ricans, and, for this purpose, residence in Puerto Rico shall be counted in the same manner as residence elsewhere in the United States. Said district court shall have jurisdiction of all controversies where all of the parties on either side of the controversy are citizens or subjects of a foreign State or States, or citizens of a State, Territory, or District of the United States not domiciled in Puerto Rico, wherein the matter in dispute exceeds, exclusive of interest or cost, the sum or value of \$3,000, and of all controversies in which there is a separable controversy involving such jurisdictional amount and in which all of the parties on either side of such separable controversy are citizens or subjects of the character aforesaid. The salaries of the judge and officials of the United States District Court for the District of Puerto Rico, together with the court expenses, shall be paid from the United States revenues in the same manner as in other United States district courts. In case of vacancy or of the death, absence, or other legal disability on the part of the judge of the said United States District Court for the District of Puerto Rico, the President of the United States is authorized to

U. S. District Court  
for Puerto Rico.

designate one of the judges of the Supreme Court of Puerto Rico to discharge the duties of judge of said court until such absence or disability shall be removed, and thereupon such judge so designated for said service shall be fully authorized and empowered to perform the duties of said office during such absence or disability of such regular judge, and to sign all necessary papers and records as the acting judge of said court without extra compensation."

SEC. 21. Section 42 of the Act approved March 2, 1917 (ch. 145, 39 Stat. 966; 48 U. S. C., section 864) is amended to read as follows:

"SEC. 42. The laws of the United States relating to appeals, certiorari, removal of causes, and other matters or proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the United States District Court for the District of Puerto Rico and the courts of Puerto Rico.

"All pleadings and proceedings in the District Court of the United States for Puerto Rico shall be conducted in the English language."

SEC. 22. Section 1 of the Act approved May 28, 1926 (chapter 411, 44 Stat. 669; 19 U. S. C., section 405a), is amended to read as follows:

U. S. Customs  
Court.

"That the Board of General Appraisers shall hereafter be known as the United States Customs Court and the members thereof shall hereafter be known as the judges of the United States Customs Court."

28 U. S. C. § 861b.

Substitution of ap-  
peal for writ of error.

SEC. 23. Section 2 of the Act approved January 31, 1928 (chapter 14, 45 Stat. 54), as amended, is amended to read as follows:

"SEC. 2. All Acts of Congress referring to writs of error shall be construed as amended to the extent necessary to substitute appeal for writ of error."

SEC. 24. The first sentence of the Act approved December 20, 1928 (chapter 41, 45 Stat. 1056; D. C. Code, 1940 ed., section 11-301, first sentence) is hereby repealed, and the second and third sentences thereof (D. C. Code, 1940 ed., section 11-301, second and third sentences) are amended to read as follows:

Chief judge of U. S.  
District Court for  
D. C.

"The chief judge of the United States District Court for the District of Columbia shall assign from time to time, and for such period or periods as he may determine, one of the judges of the said court to hear cases involving the condemnation of land in the District of Columbia, and it shall be the primary duty of the judge so assigned to preside at the hearing of such cases, and only when not engaged in such cases shall he be subject to assignment to the other business of the court. The chief judge may assign for service in condemnation cases any judge of said court in case of disability of the judge so serving or for any other reason."

Transmittal of ap-  
peal to U. S. Customs  
Court.

SEC. 25. Subsection (a) of section 501 of the Act approved June 17, 1930 (chapter 497, Title IV, 46 Stat. 730; 19 U. S. C., section 1501 (a)), as amended, is amended by striking out the fourth sentence thereof and inserting in lieu of such sentence the following: "Every such appeal shall be transmitted with the entry and the accompanying papers by the collector to the United States Customs Court."

SEC. 26. Section 509 of the Act approved June 17, 1930 (chapter 497, Title IV, 46 Stat. 733; 19 U. S. C., section 1509) is amended by striking out the words, "Collectors, appraisers, and judges and divisions of the United States Customs Court" at the beginning of such section, and inserting in lieu thereof the words, "Collectors and appraisers".

SEC. 27. Section 3 of the Act approved May 7, 1934 (chapter 222, 48 Stat. 668; 40 U. S. C., section 13c) is amended to read as follows:

U. S. Supreme  
Court Building.

"SEC. 3. All other duties and work required for the operation, domestic care, and custody of the building shall be performed under the direction of the Marshal of the Supreme Court of the United States,



who shall be superintendent of the United States Supreme Court Building”.

SEC. 28. Section 26 of the Act approved June 22, 1936 (chapter 699, section 26, 49 Stat. 1813), as amended by the Act approved August 5, 1939 (chapter 430, 53 Stat. 1203; U. S. C., 48 U. S. C., section 1405y) is amended by adding to the first paragraph thereof, the following:

“In the case of a vacancy in the office of district attorney, the District Court of the Virgin Islands may appoint a district attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of court”.

Virgin Islands.  
Appointment of  
district attorney.

SEC. 29. Section 5 of the Act approved June 26, 1936 (chapter 831, 49 Stat. 1968; 25 U. S. C., section 505) is amended by striking out the third, fourth, and fifth sentences thereof, and substituting in lieu of such sentences the following sentence: “Within thirty days after such service or within such extended time as the trial court may permit, the Secretary of the Interior may intervene in such action or may remove such action to the United States district court.”

Indians, Okla-  
homa.  
Suits involving co-  
operative associations.

SEC. 30. Section 3 of the Act approved May 24, 1940 (chapter 209, 54 Stat. 220; 28 U. S. C., 1940 edition, section 5a) is amended to read as follows:

“SEC. 3. The salary of the judge of the District Court of the Virgin Islands of the United States shall be at the rate of \$15,000 per year.”.

Judge of District  
Court of Virgin Is-  
lands.

SEC. 31. Section 42 of Title 7 of the Canal Zone Code (48 U. S. C., section 1353) is amended by inserting at the end thereof a new subsection to read as follows:

“e. In case of a vacancy in the office of district attorney or marshal the district court may appoint a person to exercise the duties of the vacant office until such vacancy is filled. The order of appointment by the court shall be filed with the clerk of court.”

Canal Zone.  
District attorney  
and marshal.

SEC. 32. As used in any statute of the United States:

“Circuit court of appeals” means a “United States court of appeals”;  
“Senior circuit judge” means “chief judge of a judicial circuit”;  
“Senior district judge” means “chief judge of a United States district court”;

Definitions.

“Chief Justice” means “chief judge” except when reference to the Chief Justice of the United States is intended;

“Justice” means “judge” except when used with respect to a justice of the Supreme Court of the United States in his capacity as such or as circuit justice;

“Presiding judge” means “chief judge.”

SEC. 33. No inference of a legislative construction is to be drawn by reason of the chapter in Title 28, Judiciary and Judicial Procedure, as set out in section 1 of this Act, in which any section is placed, nor by reason of the catchlines used in such title.

*Ante*, p. 869.

SEC. 34. If any part of Title 28, Judiciary and Judicial Procedure, as set out in section 1 of this Act, shall be held invalid, the remainder shall not be affected thereby.

Separability of pro-  
visions.

SEC. 35. Sections 61 and 62 of Title 7 of the Canal Zone Code are hereby repealed.

Repeals.

SEC. 36. Section 1141 (a) of the Internal Revenue Code is hereby amended to read as follows:

53 Stat. 164.  
26 U. S. C. § 1141 (a).

“The circuit courts of appeals and the United States Court of Appeals for the District of Columbia shall have exclusive jurisdiction to review the decisions of the Tax Court, except as provided in section 1254 of title 28 of the United States Code, in the same manner and to the same extent as decisions of the district courts in civil actions tried without a jury; and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section

Review of decisions  
of Tax Court.

*Ante*, p. 928.

members of such person's family who shall accompany such person and who propose to live with such person, shall not become public charges and will have safe and sanitary housing without displacing some other person from such housing. The spouse and unmarried dependent child or children under twenty-one years of age of such an eligible displaced person shall, if otherwise qualified for admission into the United States for permanent residence, also be deemed eligible displaced persons.

(d) "Eligible displaced person" shall also mean a native of Czechoslovakia who has fled as a direct result of persecution or fear of persecution from that country since January 1, 1948, and (1) who is on the effective date of this Act in Italy or the American sector, the British sector, or the French sector of either Berlin or Vienna, or the American zone, the British zone, or the French zone of either Germany or Austria, and (2) who is qualified under the immigration laws of the United States for admission into the United States for permanent residence, and (3) for whom assurances in accordance with the regulations of the Commission have been given that such person, if admitted into the United States, will be suitably employed without displacing some other person from employment and that such person, and the members of such person's family who shall accompany such person and who propose to live with such person, shall not become public charges and will have safe and sanitary housing without displacing some other person from such housing. The spouse and unmarried dependent child or children under twenty-one years of age of such an eligible displaced person shall, if otherwise qualified for admission into the United States for permanent residence, also be deemed eligible displaced persons.

(e) "Eligible displaced orphan" means a displaced person (1) who is under the age of sixteen years, and (2) who is qualified under the immigration laws of the United States for admission into the United States for permanent residence, and (3) who is an orphan because of the death or disappearance of both parents, and (4) who, on or before the effective date of this Act, was in Italy or in the American sector, the British sector, or the French sector of either Berlin or Vienna or the American zone, the British zone or the French zone of either Germany or Austria, and (5) for whom satisfactory assurances in accordance with the regulations of the Commission have been given that such person, if admitted into the United States, will be cared for properly.

SEC. 3. (a) During the two fiscal years following the passage of this Act a number of immigration visas not to exceed two hundred and two thousand may be issued without regard to quota limitations for those years to eligible displaced persons as quota immigrants, as provided in subsection (b) of this section: *Provided*, That not less than 40 per centum of the visas issued pursuant to this Act shall be available exclusively to eligible displaced persons whose place of origin or country of nationality has been de facto annexed by a foreign power: *Provided further*, That not more than two thousand visas shall be issued to eligible displaced persons as defined in subsection (d) of section 2 of this Act.

(b) Upon the issuance of an immigration visa to any eligible displaced person as provided for in this Act, the consular officer shall use a quota number from the immigration quota of the country of the alien's nationality as defined in section 12 of the Act of May 26, 1924 (U. S. C., title 8, sec. 212), for the fiscal year then current at the time or, if no such quota number is available for said fiscal year, in that event for the first succeeding fiscal year in which a quota number is available: *Provided*, That not more than 50 per centum of any quota shall be so used in any fiscal year: *Provided further*, That eligible displaced orphans may be issued special nonquota immigration visas, except that

Spouse and dependent children.

"Eligible displaced person."

Spouse and dependent children.

"Eligible displaced orphan."

Issuance of visas without regard to quotas.

Limitation.

*Supra*.

Quota deduction.

43 Stat. 160.

Special nonquota visas.