

TITLE 28.—JUDICIAL CODE AND JUDICIARY

Part I.—JUDICIAL CODE

Chapter 1.—DISTRICT COURTS; ORGANIZATION.

Section 1. (Judicial Code, section 1, amended.) District courts; judges; appointment and residence.—

Act Jan. 10, 1925, c. 83, § 3, 43 Stat. 752, which is the authority for the inclusion in this section of the words "the district of Indiana" was repealed by Act April 21, 1928, c. 393, 45 Stat. 437. The repealed section authorized the appointment of an additional district judge for the district of Indiana. Section 153 of this title provides for two districts in Indiana and two district judges.

See § 3a of this title which provides for the filling of a vacancy in the office of district judge of the northern judicial district of Illinois created by § 3 of this title.

3. Same; residence.—

Vacancy in northern district of California filled.—Act Mar. 3, 1927, c. 336, 44 Stat. 1372, entitled "An Act to authorize the appointment of an additional judge for the district court of the United States for the northern district of California," provides as follows: "[SEC. 1.] That the President is hereby authorized, by and with the advice and consent of the Senate, to appoint a judge to fill a vacancy created in the district court of the United States for the northern district of California, occasioned by the death of Honorable John S. Partridge, who was appointed as an additional judge in said district under the provisions of the Act of Congress entitled 'An Act for the appointment of an additional circuit judge for the fourth judicial district, for the appointment of additional district judges for certain districts, providing for an annual conference of certain judges, and for other purposes,' approved September 14, 1922.

"SEC. 2. The judge appointed hereunder shall reside in said district and his compensation and powers shall be the same as now provided by law for the judges of said district.

"SEC. 3. This Act shall take effect immediately."

The second paragraph of this section is made ineffective as to a vacancy occurring in the office of district judge for the northern judicial district of Illinois, by § 3a of this title.

Eastern district of Illinois.—Act July 3, 1930, c. 852, 46 Stat. 1006, entitled "An Act to make permanent the additional office of district judge created for the eastern district of Illinois by the Act of September 14, 1922," provided, "That the additional office of district judge for the eastern district of Illinois, created by [this section] shall not be subject to the provisions of the third paragraph of [this], section prohibiting the filling of vacancies."

3a. Office of district judge for northern district of Illinois created by section 3; filling vacancy.—A vacancy occurring at any time in the office of district judge for the northern judicial district of Illinois, created by section 3 of this title is authorized to be filled. (May 29, 1928, c. 882, 45 Stat. 974.)

The Act cited to the text was entitled "An Act authorizing the filling of a vacancy occurring in the office of district judge for the northern district of Illinois created by the Act entitled 'An Act for the appointment of an additional circuit judge for the fourth judicial circuit, for the appointment of additional district judges for certain districts, providing for an annual conference of certain judges, and for other purposes,' approved September 14, 1922."

3b. Office of district judge for district of New Jersey created by section 3; filling vacancy.—The President of the United States is hereby authorized and directed, by and with the advice and consent of the Senate, to appoint a judge to fill a vacancy in the District Court of the United States for the District of New Jersey, occasioned by the death of Honorable William A. Remyon, who was appointed as additional judge in said district under section 3 of this title. A vacancy occurring at any time in the office of district judge referred to in this section is authorized to be filled. (May 20, 1932, c. 196, 47 Stat. 161.)

4a. Additional judge for district of Georgia; residence.—The President is authorized to appoint, by and with advice and consent of the Senate, for the United States District Court for

the Middle District of Georgia, a district judge who shall reside in such district. (May 28, 1926, c. 414, § 2 (b), 44 Stat. 672.)

The Act cited to the text was entitled "An Act to amend section 77 of the Judicial Code to create a middle district in the State of Georgia, and for other purposes."

Section 2 (a) of said Act provides in part as follows:

"The district judges for the northern and southern districts of Georgia in office immediately prior to passage of this Act shall be the district judges for such districts as constituted by this Act."

4b. Additional judge for district of Maryland; residence; compensation, duties and powers.—The President of the United States is authorized, by and with the advice and consent of the Senate, to appoint an additional judge of the district court of the United States for the district of Maryland, who shall reside in said district, and whose compensation, duties, and powers shall be the same as now provided by law for the judge of said district. (Mar. 3, 1927, c. 297, § 1, 44 Stat. 1346.)

The Act cited to the text was entitled "An Act to create an additional judge for the district of Maryland."

Section 2 of said Act provides as follows:

"SEC. 2. That this Act [this section] shall take effect immediately."

4c. Additional judge for eastern district of Pennsylvania; residence.—The President is authorized to appoint, by and with the advice and consent of the Senate, an additional district judge for the United States District Court for the Eastern District of Pennsylvania, who shall reside in such district. (Mar. 3, 1927, c. 298, 44 Stat. 1347.)

The Act cited to the text was entitled "An Act to provide for the appointment of an additional district judge for the eastern district of Pennsylvania."

4d. Additional judge for district of Connecticut; compensation, duties and powers; residence.—The President of the United States is authorized, by and with the advice and consent of the Senate, to appoint an additional judge of the District Court of the United States for the District of Connecticut whose compensation, duties, and powers shall be the same as now provided by law for other district judges and who shall reside within the said district of Connecticut. (Mar. 3, 1927, c. 300, § 1, 44 Stat. 1348.)

The Act cited to the text was entitled "An Act to provide for the appointment of an additional district judge for the district of Connecticut."

Section 2 of said Act provides as follows:

"SEC. 2. This Act [this section] shall take effect upon its approval by the President."

4e. Additional judge for western district of New York; residence; powers, duties and compensation.—The President of the United States is hereby authorized to appoint, by and with the advice and consent of the Senate, an additional judge of the District Court of the United States for the Western District of New York, who shall reside in said district and who shall possess the same powers, perform the same duties, and receive the same compensation as the present district judge of said district; and the official residence of said judges shall not be in the same or adjoining counties. (Mar. 3, 1927, c. 332, 44 Stat. 1370.)

The Act cited to the text was entitled "An Act to provide for the appointment of an additional judge of the District Court of the United States for the Western District of New York."

4f. Additional judge for northern district of New York; residence; powers, duties and compensation.—The President of the United States shall appoint, by and with the advice and consent of the Senate, an additional judge of the District Court of the United States for the Northern District of New York, who shall reside in said district and who shall possess

the same powers, perform the same duties, and receive the same compensation as the present district judge of said district; and the official residence of said judges shall not be in the same or adjoining counties. (Mar. 3, 1927, c. 338, 44 Stat. 1374.)

The Act cited to the text was entitled "An Act to provide for the appointment of an additional judge of the District Court of the United States for the Northern District of New York."

4g. Additional judge for eastern district of Michigan; salary; residence.—The President is authorized to appoint, by and with the advice and consent of the Senate, one district judge for the eastern district of Michigan in addition to those now authorized by law. He shall be entitled to receive the same salary, payable in the same manner, as is now provided for district judges in said district. This additional district judge shall reside within said district and shall be subject to the general provisions of law relating to district judges of the United States. (Mar. 3, 1927, c. 344, 44 Stat. 1380.)

The Act cited to the text was entitled "An Act to provide for one additional district judge for the eastern district of Michigan."

4h. Additional judge for Southern District of Iowa; residence, qualifications, etc.—The President of the United States, by and with the advice and consent of the Senate, is hereby authorized to appoint an additional judge of the District Court of the United States for the Southern District of Iowa, who shall reside in said district and shall possess the same qualifications and have the same powers and jurisdiction and receive the same compensation and allowances as the present judge of said district. (Jan. 19, 1928, c. 10, § 1, 45 Stat. 52.)

The Act cited to the text was entitled "An Act to authorize the President of the United States to appoint an additional judge of the District Court of the United States for the Southern District of the State of Iowa."

Section 3 of said Act provides as follows:

"This Act [this section and section 4i] shall take effect upon its approval by the President."

4i. Same; vacancy.—When a vacancy shall occur in the office of the existing district judge for said district such vacancy shall not be filled unless authorized by the Congress. (Jan. 19, 1928, c. 10, § 2, 45 Stat. 52.)

See note to § 4h.

4j. Additional judge for Southern District of Florida.—The President of the United States is authorized, by and with the advice and consent of the Senate, to appoint an additional judge of the District Court of the United States for the Southern District of Florida, who shall reside in said district, and whose compensation, duties, and powers shall be the same as now provided by law for the judge of said district. (Jan. 17, 1929, c. 72, § 1, 45 Stat. 1081.)

The Act cited to the text was entitled "An Act to create an additional judge for the Southern District of Florida."

Section 2 of said Act (45 Stat. 1081) provided as follows:

"SEC. 2. That this Act [this section] shall take effect immediately."

4k. Additional judge for District of South Dakota.—The President of the United States is authorized and directed, by and with the advice and consent of the Senate, to appoint an additional judge of the District Court of the United States for the District of South Dakota, who shall reside in said district and whose term of office, compensation, duties, and powers shall be the same as now provided by law for the judge of said district. (Feb. 26, 1929, c. 333, § 1, 45 Stat. 1317.)

The Act cited to the text was entitled "An Act to create an additional judge in the District of South Dakota."

Section 3 of said Act (45 Stat. 1317) provided as follows:

"SEC. 3. This Act [sections 4k and 4l of this title] shall take effect upon its approval by the President."

4l. Same; vacancy.—When a vacancy shall occur in the office of the existing judge for said district such vacancy shall not

be filled unless authorized by the Congress. (Feb. 26, 1929, c. 333, § 2, 45 Stat. 1317.)

See note to § 4k.

4m. Additional judges for Southern District of New York.—The President of the United States is authorized to appoint, by and with the advice and consent of the Senate, three additional judges of the District Court of the United States for the Southern District of New York, who shall reside in said district and who shall possess the same powers, perform the same duties, and receive the same compensation as the present district judges of said district. (Feb. 26, 1929, c. 334, 45 Stat. 1317.)

The Act cited to the text was entitled "An Act to provide for the appointment of three additional judges of the District Court of the United States for the Southern District of New York."

4n. Additional judge for Eastern and Western Districts of South Carolina.—The President is hereby authorized to appoint, by and with the advice and consent of the Senate, one additional district judge for the United States District Court for the Eastern and Western Districts of South Carolina, who shall, at the time of his appointment be a resident and a citizen of the State of South Carolina. (Feb. 26, 1929, c. 337, 45 Stat. 1319.)

The Act cited to the text was entitled "An Act to provide for the appointment of one additional district judge for the Eastern and Western districts of South Carolina."

4o. Additional judge for Middle District of Pennsylvania.—The President of the United States, by and with the advice and consent of the Senate, is hereby authorized to appoint an additional judge of the District Court of the United States for the Middle District of Pennsylvania, who shall reside in said district and shall possess the same qualifications and have the same powers and jurisdiction and receive the same compensation and allowances as the present judge of said district. (Feb. 28, 1929, c. 358, § 1, 45 Stat. 1344.)

The Act cited to the text was entitled "An Act to authorize the President of the United States to appoint an additional judge of the District Court of the United States for the Middle District of the State of Pennsylvania."

Section 2 of said Act (45 Stat. 1344) provided as follows:

"SEC. 2. This Act shall take effect upon its approval by the President."

4p. Additional judges for Eastern District of New York.—The President of the United States is authorized to appoint, by and with the advice and consent of the Senate, two additional judges of the District Court of the United States for the Eastern District of New York, who shall reside in said district and who shall possess the same powers, perform the same duties, and receive the same compensation as the present district judges of said district. (Feb. 28, 1929, c. 380, 45 Stat. 1409.)

The Act cited to the text was entitled "An Act to provide for the appointment of two additional judges of the District Court of the United States for the Eastern District of New York."

4q. Additional judge for Northern District of Mississippi.—The President is hereby authorized to appoint, by and with the advice and consent of the Senate, a judge of the District Court of the United States for the Northern District of Mississippi, who shall reside in such district and whose compensation, duties, and powers shall be the same as now provided by law for other district judges. (Mar. 1, 1929, c. 418, § 1, 45 Stat. 1422.)

The Act cited to the text was entitled "An Act to authorize the appointment of a district judge for the northern district of Mississippi."

Section 2 of said Act (45 Stat. 1422) provided as follows:

"SEC. 2. Upon the appointment of such judge, the present judge of the District Courts of the United States for the Northern and Southern Districts of Mississippi shall be the judge of the District

Court of the United States for the Southern District of Mississippi. Such judge for the southern district of Mississippi shall reside in such district."

4r. Additional judge for District of Minnesota.—The President is authorized to appoint, by and with the advice and consent of the Senate, an additional district judge of the District Court of the United States for the District of Minnesota, who shall reside in said district and whose compensation, duties, and powers shall be the same as now provided by law for the judges of said district. A vacancy occurring at any time in the office of district judge created by this section is authorized to be filled. (May 28, 1930, c. 346, § 1, 46 Stat. 431.)

The Act cited to the text was entitled "An Act to provide for the appointment of an additional district judge for the district of Minnesota."

Section 2 of said Act (46 Stat. 431) provided as follows: "Sec. 2. This Act [this section] shall take effect from and after its approval."

4s. Additional judge for Southern District of Florida.—The President of the United States is authorized by and with the consent of the Senate, to appoint an additional judge of the District Court of the United States for the Southern District of Florida, who shall reside in said district, and whose compensation, duties, and powers shall be the same as now provided by law for judges of said district. (June 27, 1930, c. 635, § 1, 46 Stat. 820.)

Section 2 of the Act cited to the text (46 Stat. 820) provided "That this Act [this section] shall take effect immediately."

4t. Additional judge for Southern District of California.—The President is authorized to appoint, by and with the advice and consent of the Senate, an additional district judge for the District Court of the United States for the Southern District of California. The judge so appointed shall reside in said district and his compensation and powers shall be the same as now provided by law for the judges of said district. A vacancy occurring at any time in the office of the district judge herein provided for is authorized to be filled. (June 27, 1930, c. 633, 46 Stat. 819.)

4u. Additional judges for Northern District of Illinois.—The President is authorized to appoint, by and with the advice and consent of the Senate, two additional district judges for the United States district court for the northern district of Illinois. The judges so appointed shall reside in said district and their compensation and powers shall be the same as now provided by law for the judges of said district. A vacancy occurring at any time in the offices herein provided for is authorized to be filled. (Feb. 25, 1931, c. 206, 46 Stat. 1417.)

4v. Additional judge for Southern District of Illinois.—The President of the United States is authorized and directed to appoint, by and with the advice and consent of the Senate, an additional judge of the District Court of the United States for the Southern District of Illinois. (Feb. 20, 1931, c. 244, 46 Stat. 1106.)

4w. Additional judge for Eastern District of Michigan.—The President of the United States is authorized and directed to appoint, by and with the advice and consent of the Senate, an additional judge of the District Court of the United States for the Eastern District of Michigan. (Feb. 20, 1931, c. 245, 46 Stat. 1197.)

5. (Judicial Code, section 2, amended.) District judges; salaries.—Each of the district judges, including the judges in Porto Rico, Hawaii, and Alaska exercising Federal jurisdiction, shall receive a salary of \$10,000 a year, to be paid in monthly installments. (As amended Dec. 13, 1926, c. 6, § 1, 44 Stat. 919.)

The amendment, which consisted in changing the salary of the district judges from \$7,500 to \$10,000, read as follows: "To each of the district judges the sum of \$10,000 per year."

Section 2 provides as follows:

"This Act shall take effect on the first day of the first month next following its approval."

This section is affected by section 22 of Title 20 which provides that the salary of the judges of the courts of the United States shall be included in gross income for the purposes of computing income tax.

★6. Clerks of certain courts; appointment.—

The second sentence of this section relates to the District of Columbia and should be transferred to the District of Columbia Code.

★9. (Judicial Code, section 5.) Criers and bailiffs.—

To make this section a correct reproduction of section 5 of Act Mar. 3, 1911, cited thereto, the word "five" should be substituted for the words "The number appropriated for by Congress" appearing in line 4. The use of the latter words was undoubtedly thought to be authorized by the third citation. But that citation relates to an appropriation act merely limiting the number of bailiffs and criers under the particular appropriation to "three bailiffs and one crier in each court, except in the southern district of New York and the northern district of Illinois." Similar provisions appear in current appropriation acts and the third citation would therefore appear to be no authority for any change in the language of section 5 of Act Mar. 3, 1911, which is a permanent provision.

★17. (Judicial Code, section 13, amended.) Disability of judge; accumulation of business; designation of another judge.—

After "provided" in line 9 from end of this section substitute colon for period and add the words "Provided, however, That".

★20. (Judicial Code, section 16.) New appointment and revocation.—

The second citation to this section should begin "Mar. 3" instead of "Mar. 4".

★22. (Judicial Code, section 18, amended.) Circuit judge designated to hold district court; powers.—

The words "and Patent" should be inserted after "Customs" in line 7 of this section by virtue of section 301a of this title, and the citation "Mar. 2, 1920, c. 488, § 1, 45 Stat. 1175" added.

Chapter 2.—DISTRICT COURTS; JURISDICTION.

Section 41. (Judicial Code, section 24 amended.) Original jurisdiction.—

(7) Suits under patent, copyright, and trade-mark laws.—

Original jurisdiction in all trade-mark cases arising in the Philippine Islands is conferred upon the courts of first instance of the Philippine Islands and appellate jurisdiction upon the Supreme Court of the Philippine Islands identical with the jurisdiction conferred upon the courts of the United States by section 97 of Title 15, by the Act of August 5, 1900, c. 8, § 26, 36 Stat. 177.

(8) Suits under interstate commerce laws.—

The subdivision heading has been changed to read as set out above.

(20) Suits against United States.—

That part of this subdivision from the semicolon in the fourteenth line to the period following, was repealed by § 1200 of Act Feb. 26, 1926, c. 27, 44 Stat. 125, to take effect as of that date, but was reenacted without change by § 1122 (c) of said Act of 1926 (44 Stat. 121) to take effect as of the above date.

United States as party defendant in suits to foreclose mortgages or other liens, see sections 901-903 of this title.

(26) Original jurisdiction of bills of interpleader by [casualty, surety, or] insurance companies [; fraternal or beneficial societies;] hearings; injunction; orders and decrees.—That the district courts of the United States shall have original jurisdiction to entertain and determine suits in equity begun by bills of interpleader duly verified, filed by any casualty company, surety company, insurance company or association or fraternal or beneficial society, and averring that one or more persons who are bona fide claimants against such company, association, or society resides or reside within the territorial jurisdiction of said court; that such company, association, or society has in its custody or possession money or property of the value of \$500