

Judicial circuit, including those of a circuit justice in such circuit, as such retired Justice may be willing to undertake. (March 1, 1937, c. 21, 50 Stat. 24.)

**§ 377a. Quo warranto; against whom issued.**

Act June 25, 1936, c. 804, 49 Stat. 1921, changed the name of the "Supreme Court of the District of Columbia" to "district court of the United States for the District of Columbia."

**§ 380a. Same; constitutionality of federal statute; application for hearing; appeal to Supreme Court.** No interlocutory or permanent injunction suspending or restraining the enforcement, operation, or execution of, or setting aside, in whole or in part, any Act of Congress upon the ground that such Act or any part thereof is repugnant to the Constitution of the United States shall be issued or granted by any district court of the United States, or by any judge thereof, or by any circuit judge acting as district judge, unless the application for the same shall be presented to a circuit or district judge, and shall be heard and determined by three judges, of whom at least one shall be a circuit judge. When any such application is presented to a judge, he shall immediately request the senior circuit judge (or in his absence, the presiding circuit judge) of the circuit in which such district court is located to designate two other judges to participate in hearing and determining such application. It shall be the duty of the senior circuit judge or the presiding circuit judge, as the case may be, to designate immediately two other judges from such circuit for such purpose, and it shall be the duty of the judges so designated to participate in such hearing and determination. Such application shall not be heard or determined before at least five days' notice of the hearing has been given to the Attorney General and to such other persons as may be defendants in the suit: *Provided* That if of opinion that irreparable loss or damage would result to the petitioner unless a temporary restraining order is granted, the judge to whom the application is made may grant such temporary restraining order at any time before the hearing and determination of the application, but such temporary restraining order shall remain in force only until such hearing and determination upon notice as aforesaid, and such temporary restraining order shall contain a specific finding, based upon evidence submitted to the court making the order and identified by reference thereto, that such irreparable loss or damage would result to the petitioner and specifying the nature of the loss or damage. The said court may, at the time of hearing such application, upon a like finding, continue the temporary stay or suspension, in whole or in part, until decision upon the application. The hearing upon any such application for an interlocutory or permanent injunction shall be given precedence and shall be in every way expedited and be assigned for a hearing at the earliest practicable day. An appeal may be taken directly to the Supreme Court of the United States upon application therefor or notice thereof within thirty days after the entry of the order, decree, or judgment granting or denying, after notice and hearing, an interlocutory or permanent injunction in such case. In the event that an appeal is taken under this section, the record shall be made up and the case docketed in the Supreme Court of the United States within sixty days from the time such appeal is allowed, under such rules as may be prescribed by the proper courts. Appeals under this section shall be heard by the Supreme Court of the United States at the earliest possible time and shall take precedence over all other matters not of a like character. This section shall not be construed to be in derogation of any right of direct appeal to the Supreme Court of the United States under existing provisions of law. (Aug. 24, 1937, c. 754, § 3, 50 Stat. 752.)

Act August 24, 1937, c. 754, § 5, 50 Stat. 753, provided that the term "district court of the United States" should include the District Court of the United States for the District of Columbia, the term "judge" should include Justice, the term "senior circuit judge" should include the Chief Justice of the United States Court of Appeals for the District of Columbia, and the term "circuit" should include the District of Columbia.

**§ 397. (Judicial Code, section 274a.) Amendments to pleadings.**

"Mar. 3, 1911, c. 231, § 274a"; should be inserted in citation preceding "Mar. 3, 1915, c. 90, 38 Stat. 956."

**§ 398. (Judicial Code, section 274b.) Equitable defenses and equitable relief in actions at law.**

"Mar. 3, 1911, c. 231, § 274b"; should be inserted in citation preceding "Mar. 3, 1915, c. 90, 38 Stat. 956."

**§ 399. (Judicial Code, section 274c.) Amendments to show diverse citizenship.**

"Mar. 3, 1911, c. 231, § 274c"; should be inserted in citation preceding "Mar. 3, 1915, c. 90, 38 Stat. 956."

**§ 400. (Judicial Code, section 274d.) Declaratory judgments authorized; procedure.**

"Mar. 3, 1915, c. 90, § 274d" in citation should be "Mar. 3, 1911, c. 231, § 274d."

Paragraph (1) of this section was amended by Act August 30, 1935, c. 829, § 405, 49 Stat. 1027, by adding after the words "actual controversy" the words "(except with respect to Federal taxes)." It was also provided that such amendment should apply to any proceeding pending on August 30, 1935, in any court of the United States.

**§ 401. Intervention by United States; constitutionality of federal statute.** Whenever the constitutionality of any Act of Congress affecting the public interest is drawn in question in any court of the United States in any suit or proceeding to which the United States, or any agency thereof, or any officer or employee thereof, as such officer or employee, is not a party, the court having jurisdiction of the suit or proceeding shall certify such fact to the Attorney General. In any such case the court shall permit the United States to intervene and become a party for presentation of evidence (if evidence is otherwise receivable in such suit or proceeding) and argument upon the question of the constitutionality of such Act. In any such suit or proceeding the United States shall, subject to the applicable provisions of law, have all the rights of a party and the liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the constitutionality of such Act. (Aug. 24, 1937, c. 754, § 1, 50 Stat. 751.)

Act August 24, 1937, c. 754, § 5, 50 Stat. 753, defined the term "court of the United States" as meaning the courts of record of Alaska, Hawaii, and Puerto Rico, the United States Customs Court, the United States Court of Customs and Patent Appeals, the Court of Claims, any district court of the United States, any circuit court of appeals, and the Supreme Court of the United States.

## Chapter 11.—JURIES

**§ 421. (Judicial Code, section 281, amended.)**

**Same; when, how and by whom summoned; length of service.** No grand jury shall be summoned to attend any district court unless the judge thereof, in his own discretion or upon a notification by the district attorney that such jury will be needed, orders a venire to issue therefor. If the United States attorney for any district which has a city or borough containing at least three hundred thousand inhabitants shall certify in writing to a district judge of the district that the exigencies of the public service require it, the judge may, in his discretion, also order a venire to issue for a second grand jury. If the United States attorney for the southern district of New York shall certify in writing to the senior district judge of said district that the exigencies of the public service require it, said judge may, in his discretion, also order a venire to issue for a third grand jury. The district court may in term order a grand jury to be summoned at such time, and to serve such time as it may direct, whenever, in its judgment, it may be proper to do so. A district judge may, upon request of the district attorney or of the grand jury or on his own motion, by order authorize any grand jury to continue to sit during the term succeeding the term at which such request is made, solely to finish investigations begun but not finished by such grand jury, but no grand jury shall be permitted to sit in all during more than three terms. Nothing herein shall operate to extend beyond the time permitted by law the imprisonment before indictment

found of a person accused of crime or offense, or the time during which a person so accused may be held under recognizance before indictment found. (As amended Aug. 24, 1937, c. 746, 50 Stat. 748.)

§ 422. (Judicial Code, section 285.) Same; discharge.

Act June 25, 1936, c. 804, 49 Stat. 1921, changed the name of the "Supreme Court of the District of Columbia" to "district court of the United States for the District of Columbia."

#### Chapter 12.—GENERAL PROVISIONS

§ 430. (Judicial Code, section 289.) Circuit courts abolished; records.

The catchline of this section should read as above.

#### Chapter 14.—HABEAS CORPUS

§ 463. Review.

Act June 25, 1936, c. 804, 49 Stat. 1921, changed the name of the "Supreme Court of the District of Columbia" to "district court of the United States for the District of Columbia."

#### Chapter 15.—DISTRICT ATTORNEYS, MARSHALS, CLERKS, AND OTHER COURT OFFICERS, AND COMMISSIONERS

§ 503. Marshals; duties. It shall be the duty of the marshal of each district to attend the district courts when sitting therein and to execute all lawful precepts issued under the authority of the United States; and he shall have power to command all necessary assistance in the execution of his duty. (As amended June 15, 1935, c. 259, § 1, 49 Stat. 377.)

§ 504a. Same; arrests without warrant; carrying firearms. In addition to all other powers, United States marshals and their deputies shall have the power to make arrests without warrant for any offense against the laws of the United States, committed in their presence or for any felony cognizable under the laws of the United States in cases where such felony has in fact been or is being committed and they have reasonable grounds to believe that the person to be arrested has committed or is committing it. The marshals and their deputies shall also have the power to carry firearms. (June 15, 1935, c. 259, § 2, 49 Stat. 378.)

§ 511. District attorneys and marshals; vacancies; filled temporarily.

Act June 25, 1936, c. 804, 49 Stat. 1921, changed the name of the "Supreme Court of the District of Columbia" to "district court of the United States for the District of Columbia."

§ 530. Law books for judges transmitted to successors.

Repealed in part, Act Mar. 22, 1935, c. 39, § 1, 49 Stat. 83; May 15, 1936, c. 195, § 1, 49 Stat. 1328; repealed Act June 16, 1937, c. 359, § 1, Title 11, 50 Stat. 279.

§ 531. Appointment of relative as receiver or trustee. It shall be unlawful for the Judge of any court of the United States to appoint as Receiver, or Trustee, any person related to such Judge by consanguinity, or affinity, within the fourth degree.

Any person who commits any act declared by this section to be unlawful shall, upon conviction, be fined not more than \$10,000 or imprisoned not more than five years, or both. (Aug. 25, 1937, c. 777, 50 Stat. 810.)

#### Chapter 16.—FEES, COMPENSATION, AND ACCOUNTS OF OFFICERS

##### CLERKS' FEES, SALARIES, EXPENSES, AND ACCOUNTS

§ 557. Same; salaries in lieu of fees; collection and disposition of fees.

Act June 25, 1936, c. 804, 49 Stat. 1921, changed the name of the "Supreme Court of the District of Columbia" to "district court of the United States for the District of Columbia."

§ 558. Same; salaries; amount.

Act June 25, 1936, c. 804, 49 Stat. 1921, changed the name of the "Supreme Court of the District of Columbia" to "district court of the United States for the District of Columbia."

§ 560. Same; traveling expenses.

Act June 25, 1936, c. 804, 49 Stat. 1921, changed the name of the "Supreme Court of the District of Columbia" to "district court of the United States for the District of Columbia."

§ 562. Same; deputies and clerical assistants; compensation; traveling expenses.

Act June 25, 1936, c. 804, 49 Stat. 1921, changed the name of the "Supreme Court of the District of Columbia" to "district court of the United States for the District of Columbia."

§ 563. Same; office expenses.

"May 17, 1928" in citation should be "May 17, 1932."

§ 564. Same; salaries; when and by whom payable.

"May 17, 1928" in citation should be "May 17, 1932."

§ 565. Same; expense accounts.

"May 17, 1928" in citation should be "May 17, 1932."

§ 566. Same; office expenses; payment.

"May 17, 1928" in citation should be "May 17, 1932."

§ 567. Same; accounts.

"May 17, 1928" in citation should be "May 17, 1932."

Act June 25, 1936, c. 804, 49 Stat. 1921, changed the name of the "Supreme Court of the District of Columbia" to "district court of the United States for the District of Columbia."

##### FEES OF ATTORNEYS, SOLICITORS, AND PROCTORS

§ 572. Attorneys, solicitors, and proctors.

\* \* \* \* \*

On appeals in admiralty, where the amount involved is not over \$1,000 a proctor's docket fee of \$20; where the amount involved is from \$1,000 to \$5,000 a proctor's docket fee of \$50; where the amount involved is over \$5,000 a proctor's docket fee of \$100. On such appeals cost of brief of successful party to be taxed, where amount involved is not over \$1,000 at not exceeding \$25; where amount involved is between \$1,000 and \$5,000 at not exceeding \$50; where amount involved is over \$5,000 at not exceeding \$75. (As amended Aug. 3, 1935, c. 431, § 1, 49 Stat. 513.)

Act Aug. 3, 1935, amended section by inserting above paragraph after the first paragraph of section.

§ 572a. Fees in receivership, bankruptcy, or reorganization proceedings—(a) Agreement fixing fee unlawful. It shall be unlawful for any party in interest, or any attorney for any party in interest, in any receivership, bankruptcy, or reorganization proceeding, in or under the supervision of any court of the United States, to enter into any agreement, written or oral, express or implied, with any other party in interest, or any attorney of any other party in interest, in such proceeding for the purpose of fixing the amount of the fees or other compensation to be paid to any party in interest or any attorney of any party in interest in such proceeding, for services rendered in connection therewith when such fees or other compensation are to be paid from the assets of the estate in receivership, bankruptcy or reorganization. As used in this section, the term "party in interest" includes any debtor, creditor, receiver, or trustee and any representative of any of them.

(b) Judicial approval unlawful. It shall be unlawful for the judge of any court of the United States to approve the payment of any fees or compensation the amount of which is fixed as the result of any act declared to be unlawful by subsection (a) of this section.

(c) Penalties. Any person who commits any act declared by this section to be unlawful shall, upon conviction, be fined not more than \$10,000 or imprisoned not more than five years, or both. (Aug. 25, 1937, c. 777, 50 Stat. 810.)