

In a letter dated August 8, 1944, the clerk of the Supreme Court advised that many of the early records mentioned in this section were destroyed by fire. Others are on file in the clerk's office.

Minor changes in phraseology were made.

#### Editorial Notes

##### AMENDMENTS

1951—Act Oct. 25, 1951, inserted “until deposited with the National Archives of the United States” in first sentence.

### 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; panels; hearings; quorum.
47.	Disqualification of trial judge to hear appeal.
48.	Terms of court.
49.	Assignment of judges to division to appoint independent counsels.

#### Editorial Notes

##### AMENDMENTS

1983—Pub. L. 97-409, §2(b)(2), Jan. 3, 1983, 96 Stat. 2039, substituted “independent counsels” for “special prosecutors” in item 49.

1978—Pub. L. 95-521, title VI, §602(b), Oct. 26, 1978, 92 Stat. 1874, added item 49.

Pub. L. 95-486, §5(c), Oct. 20, 1978, 92 Stat. 1633, substituted “panels” for “divisions” in item 46.

### § 41. Number and composition of circuits

The thirteen 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 .....	District of the Canal Zone, 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, Guam, Hawaii.
Tenth .....	Colorado, Kansas, New Mexico, Oklahoma, Utah, Wyoming.

#### Circuits

Eleventh ..... Alabama, Florida, Georgia.  
Federal ..... All Federal judicial districts.

(June 25, 1948, ch. 646, 62 Stat. 870; Oct. 31, 1951, ch. 655, §34, 65 Stat. 723; Pub. L. 96-452, §2, Oct. 14, 1980, 94 Stat. 1994; Pub. L. 97-164, title I, §101, Apr. 2, 1982, 96 Stat. 25.)

#### Composition

##### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C. 1940 ed., §211, and section 864 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions (Apr. 12, 1900, ch. 191, §35, 31 Stat. 85; Mar. 3, 1911, ch. 231, §116, 36 Stat. 1131; Jan. 28, 1915, ch. 22, §§1, 2, 38 Stat. 803; Mar. 2, 1917, ch. 145, §42, 39 Stat. 966; Feb. 13, 1925, ch. 229, §§1, 13, 43 Stat. 936, 942; Jan. 31, 1928, ch. 14, §1, 45 Stat. 54; Feb. 28, 1929, ch. 363, §1, 45 Stat. 1346; May 17, 1932, ch. 190, 47 Stat. 158).

Form of section was simplified.

The District of Columbia was added as a separate circuit. This is in accord with the decision of the Supreme Court of the United States which held the Court of Appeals for the District of Columbia to be a circuit court of appeals within the Transfer Act of Sept. 14, 1922, ch. 305, 42 Stat. 837, incorporated in the Judicial Code as §238(a), but repealed by act Feb. 13, 1925, ch. 229, §13, 43 Stat. 942. (See *Swift and Co. v. U.S.*, 1928, 48 S.Ct. 311, 276 U.S. 311, 72 L.Ed. 587.)

In recognizing the District of Columbia as a separate circuit, the Supreme Court recently used this language: “\* \* \* the eleven circuits forming the single federal judiciary \* \* \*”. *Comm’r. v. Bedford’s Estate*, 65 S.Ct. 1157, at page 1160, 325 U.S. 283, 89 L.Ed. 611.

See section 17 of title 28, U.S.C., 1940 ed., providing, “For the purposes of sections 17-23 of this title, the District of Columbia shall be deemed to be a judicial circuit \* \* \*”, and act Dec. 23, 1944, ch. 724, 58 Stat. 925, which amended section 215 of title 28, U.S.C., 1940 ed., incorporated in section 42 of this title. Such amendment provided that for the purposes of said section 215 “the District of Columbia shall be deemed to be a judicial circuit.”

Many other acts of Congress have recognized the District of Columbia as a separate circuit. (See the following acts; Aug. 24, 1937, ch. 754, 50 Stat. 751; Feb. 11, 1938, ch. 25, 52 Stat. 28; Aug. 5, 1939, ch. 433, 53 Stat. 1204; Aug. 7, 1939, ch. 501, 53 Stat. 1223; Dec. 29, 1942, ch. 835, 56 Stat. 1094; May 11, 1944, ch. 192, 58 Stat. 218; Dec. 23, 1944, ch. 724, 58 Stat. 925.)

See also the following acts recognizing the Court of Appeals for the District of Columbia as a circuit court of appeals: Aug. 15, 1921, ch. 64, 42 Stat. 162; July 5, 1935, ch. 372, 49 Stat. 454; Aug. 24, 1937, ch. 754, 50 Stat. 751; Apr. 6, 1942, ch. 210, 56 Stat. 198; May 9, 1942, ch. 295, 56 Stat. 271. See also Rule 81(d) Federal Rules of Civil Procedure.

In the following cases the Supreme Court of the United States has recognized the status of the Court of Appeals of the District of Columbia as a permanent establishment within the federal judicial system: *O’Donoghue v. United States*, 1933, 53 S.Ct. 740, 289 U.S. 516, 77 L.Ed. 1356; *Federal Trade Commission v. Klesner*, 1927, 47 S.Ct. 557, 274 U.S. 145, 71 L.Ed. 972; *Claiborne-Annapolis Ferry v. United States*, 1932, 52 S.Ct. 440, 285 U.S. 382, 76 L.Ed. 808; *United States v. California Canneries*, 1929, 49 S.Ct. 423, 279 U.S. 553, 73 L.Ed. 838.

Alaska, Canal Zone, and Virgin Islands were added to the 9th, 5th, and 3rd Circuits, respectively, to conform to section 1294 of this title.

Some of the provisions of section 864 of title 48, U.S.C., 1940 ed., have been retained in said title. For those which were incorporated in other sections of this revised title, see Distribution Table.

#### Editorial Notes

##### AMENDMENTS

1982—Pub. L. 97-164 increased number of judicial circuits from twelve to thirteen through addition of Federal circuit composed of all Federal judicial districts.