(1) ''Conference'' shall mean the Judicial Conference of the United States;

(2) ''Council'' shall mean the Judicial Council of the Circuit;

(3) ''Director'' shall mean the Director of the Administrative Office of the United States Courts;

(4) ''Full-time magistrate judge'' shall mean a full-time United States magistrate judge;

(5) ''Part-time magistrate judge'' shall mean a part-time United States magistrate judge; and

(6) ''United States magistrate judge'' and ''magistrate judge'' shall mean both full-time and part-time United States magistrate judges.

(June 25, 1948, ch. 646, 62 Stat. 917; Pub. L. 90–578, title I, § 101, Oct. 17, 1968, 82 Stat. 1114; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 528a (July 10, 1946, ch. 548, 60 Stat. 525).

Provisions of section 528a of title 28, U.S.C., 1940 ed., for furnishing seal is included in section 638 of this title.

Changes were made in phraseology.

**Editorial Notes**

AMENDMENTS

1968—Pub. L. 90–578 substituted definition provisions for prior requirements obligating the Director to furnish docket books and forms to United States commissioners and, with approval of the chief judge of the district court, a copy of the United States Code, declaring such property to remain United States property, and calling for transmission of such property to successors in office or for its disposal as directed by the Director, now incorporated in section 638(a) and (b) of this title.

**Statutory Notes and Related Subsidiaries**

CHANGE OF NAME

Words ''magistrate judge'' and ''magistrate judges'' substituted for ''magistrate'' and ''magistrates'', respectively, wherever appearing in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578 on Oct. 17, 1968, see section 403 of Pub. L. 90–578, set out as a note under section 631 of this title.

## CHAPTER 44—ALTERNATIVE DISPUTE RESOLUTION



**Editorial Notes**

AMENDMENTS

1998—Pub. L. 105–315, § 12(b)(1), (2), Oct. 30, 1998, 112 Stat. 2998, substituted ''ALTERNATIVE DISPUTE RESOLUTION'' for ''ARBITRATION'' in chapter heading and amended analysis generally, substituting items 651 to 658 for former items 651 ''Authorization of arbitration'', 652 ''Jurisdiction'', 653 ''Powers of arbitrator; arbitration hearing'', 654 ''Arbitration award and judgment'', 655 ''Trial de novo'', 656 ''Certification of arbitrators'', 657 ''Compensation of arbitrators'', and 658 ''District courts that may authorize arbitration''.

### § 651. Authorization of alternative dispute resolution

(a) DEFINITION.—For purposes of this chapter, an alternative dispute resolution process includes any process or procedure, other than an adjudication by a presiding judge, in which a neutral third party participates to assist in the resolution of issues in controversy, through processes such as early neutral evaluation, mediation, minitrial, and arbitration as provided in sections 654 through 658.

(b) AUTHORITY.—Each United States district court shall authorize, by local rule adopted under section 2071(a), the use of alternative dispute resolution processes in all civil actions, including adversary proceedings in bankruptcy, in accordance with this chapter, except that the use of arbitration may be authorized only as provided in section 654. Each United States district court shall devise and implement its own alternative dispute resolution program, by local rule adopted under section 2071(a), to encourage and promote the use of alternative dispute resolution in its district.

(c) EXISTING ALTERNATIVE DISPUTE RESOLUTION PROGRAMS.—In those courts where an alternative dispute resolution program is in place on the date of the enactment of the Alternative Dispute Resolution Act of 1998, the court shall examine the effectiveness of that program and adopt such improvements to the program as are consistent with the provisions and purposes of this chapter.

(d) ADMINISTRATION OF ALTERNATIVE DISPUTE RESOLUTION PROGRAMS.—Each United States district court shall designate an employee, or a judicial officer, who is knowledgeable in alternative dispute resolution practices and processes to implement, administer, oversee, and evaluate the court's alternative dispute resolution program. Such person may also be responsible for recruiting, screening, and training attorneys to serve as neutrals and arbitrators in the court's alternative dispute resolution program.

(e) TITLE 9 NOT AFFECTED.—This chapter shall not affect title 9, United States Code.

(f) PROGRAM SUPPORT.—The Federal Judicial Center and the Administrative Office of the United States Courts are authorized to assist the district courts in the establishment and improvement of alternative dispute resolution programs by identifying particular practices employed in successful programs and providing additional assistance as needed and appropriate.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4659; amended Pub. L. 105–315, § 3, Oct. 30, 1998, 112 Stat. 2993.)

**Editorial Notes**

REFERENCES IN TEXT

The date of the enactment of the Alternative Dispute Resolution Act of 1998, referred to in subsec. (c), is the

date of enactment of Pub. L. 105–315, which was approved Oct. 30, 1998.

AMENDMENTS

1998—Pub. L. 105–315 amended section generally, substituting provisions relating to authorization of alternative dispute resolution for provisions relating to authorization of arbitration.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Pub. L. 100–702, title IX, § 907, Nov. 19, 1988, 102 Stat. 4664, provided that: ''This title and the amendments made by this title [enacting this chapter and provisions set out as notes under this section and section 652 of this title] shall take effect 180 days after the date of enactment of this Act [Nov. 19, 1988].''

Pub. L. 100–702, title IX, § 906, Nov. 19, 1988, 102 Stat. 4664, as amended by Pub. L. 103–192, § 1(a), Dec. 14, 1993, 107 Stat. 2292, provided that, effective Dec. 31, 1994, this chapter and the item relating to this chapter in the table of chapters at the beginning of part III of this title were repealed, prior to repeal by Pub. L. 103–420, § 3(b), Oct. 25, 1994, 108 Stat. 4345.

Pub. L. 103–192, § 2, Dec. 14, 1993, 107 Stat. 2292, provided that this chapter and the item relating to this chapter in the table of chapters at the beginning of part III of this title continued on or after Dec. 14, 1993, as if they had not been repealed by section 906 of Pub. L. 100–702, formerly set out above, as such section was in effect on the day before Dec. 14, 1993.

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

Pub. L. 105–315, § 2, Oct. 30, 1998, 112 Stat. 2993, provided that: ''Congress finds that—

''(1) alternative dispute resolution, when supported by the bench and bar, and utilizing properly trained neutrals in a program adequately administered by the court, has the potential to provide a variety of benefits, including greater satisfaction of the parties, innovative methods of resolving disputes, and greater efficiency in achieving settlements;

''(2) certain forms of alternative dispute resolution, including mediation, early neutral evaluation, minitrials, and voluntary arbitration, may have potential to reduce the large backlog of cases now pending in some Federal courts throughout the United States, thereby allowing the courts to process their remaining cases more efficiently; and

''(3) the continued growth of Federal appellate court-annexed mediation programs suggests that this form of alternative dispute resolution can be equally effective in resolving disputes in the Federal trial courts; therefore, the district courts should consider including mediation in their local alternative dispute resolution programs.''

MODEL PROCEDURES

Pub. L. 100–702, title IX, § 902, Nov. 19, 1988, 102 Stat. 4663, provided that: ''The Judicial Conference of the United States may develop model rules relating to procedures for arbitration under chapter 44, as added by section 901 of this Act. No model rule may supersede any provision of such chapter 44, this title [enacting this chapter and provisions set out as notes under this section and section 652 of this title], or any law of the United States.''

REPORTS BY DIRECTOR OF ADMINISTRATIVE OFFICE OF UNITED STATES COURTS AND BY FEDERAL JUDICIAL CENTER

Pub. L. 100–702, title IX, § 903, Nov. 19, 1988, 102 Stat. 4663, provided that:

''(a) ANNUAL REPORT BY DIRECTOR OF ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts shall include in the annual report of the activities of the Administrative Office required under section 604(a)(3) [28 U.S.C. 604(a)(3)], statistical information about the implementation of chapter 44, as added by section 901 of this Act.

''(b) REPORT BY FEDERAL JUDICIAL CENTER.—Not later than 5 years after the date of enactment of this Act [Nov. 19, 1988], the Federal Judicial Center, in consultation with the Director of the Administrative Office of the United States Courts, shall submit to the Congress a report on the implementation of chapter 44, as added by section 901 of this Act, which shall include the following:

''(1) A description of the arbitration programs authorized by such chapter, as conceived and as implemented in the judicial districts in which such programs are authorized.

''(2) A determination of the level of satisfaction with the arbitration programs in those judicial districts by a sampling of court personnel, attorneys, and litigants whose cases have been referred to arbitration.

''(3) A summary of those program features that can be identified as being related to program acceptance both within and across judicial districts.

''(4) A description of the levels of satisfaction relative to the cost per hearing of each program.

''(5) Recommendations to the Congress on whether to terminate or continue chapter 44, or, alternatively, to enact an arbitration provision in title 28, United States Code, authorizing arbitration in all Federal district courts.''

EFFECT ON JUDICIAL RULEMAKING POWERS

Pub. L. 100–702, title IX, § 904, Nov. 19, 1988, 102 Stat. 4663, provided that: ''Nothing in this title [enacting this chapter and provisions set out as notes under this section and section 652 of this title], or in chapter 44, as added by section 901 of this Act, is intended to abridge, modify, or enlarge the rule making powers of the Federal judiciary.''

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 105–315, § 11, Oct. 30, 1998, 112 Stat. 2998, provided that: ''There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out chapter 44 of title 28, United States Code, as amended by this Act.''

Pub. L. 100–702, title IX, § 905, Nov. 19, 1988, 102 Stat. 4664, as amended by Pub. L. 103–192, § 1(b), Dec. 14, 1993, 107 Stat. 2292; Pub. L. 103–420, § 3(a), Oct. 25, 1994, 108 Stat. 4345; Pub. L. 105–53, § 1, Oct. 6, 1997, 111 Stat. 1173, provided that: ''There are authorized to be appropriated for each fiscal year to the judicial branch such sums as may be necessary to carry out the purposes of chapter 44, as added by section 901 of this Act. Funds appropriated under this section shall be allocated by the Administrative Office of the United States Courts to Federal judicial districts and the Federal Judicial Center. The funds so appropriated are authorized to remain available until expended.''

## § 652. Jurisdiction

(a) CONSIDERATION OF ALTERNATIVE DISPUTE RESOLUTION IN APPROPRIATE CASES.—Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c), each district court shall, by local rule adopted under section 2071(a), require that litigants in all civil cases consider the use of an alternative dispute resolution process at an appropriate stage in the litigation. Each district court shall provide litigants in all civil cases with at least one alternative dispute resolution process, including, but not limited to, mediation, early neutral evaluation, minitrial, and arbitration as authorized in sections 654 through 658. Any district court that elects to require the use of al-

ternative dispute resolution in certain cases may do so only with respect to mediation, early neutral evaluation, and, if the parties consent, arbitration.

(b) ACTIONS EXEMPTED FROM CONSIDERATION OF ALTERNATIVE DISPUTE RESOLUTION.—Each district court may exempt from the requirements of this section specific cases or categories of cases in which use of alternative dispute resolution would not be appropriate. In defining these exemptions, each district court shall consult with members of the bar, including the United States Attorney for that district.

(c) AUTHORITY OF THE ATTORNEY GENERAL.—Nothing in this section shall alter or conflict with the authority of the Attorney General to conduct litigation on behalf of the United States, with the authority of any Federal agency authorized to conduct litigation in the United States courts, or with any delegation of litigation authority by the Attorney General.

(d) CONFIDENTIALITY PROVISIONS.—Until such time as rules are adopted under chapter 131 of this title providing for the confidentiality of alternative dispute resolution processes under this chapter, each district court shall, by local rule adopted under section 2071(a), provide for the confidentiality of the alternative dispute resolution processes and to prohibit disclosure of confidential dispute resolution communications.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4659; amended Pub. L. 105–315, § 4, Oct. 30, 1998, 112 Stat. 2994.)

**Editorial Notes**

AMENDMENTS

1998—Pub. L. 105–315 amended section generally, substituting provisions relating to alternative dispute resolution jurisdiction for provisions relating to arbitration jurisdiction.

**Statutory Notes and Related Subsidiaries**

EXCEPTION TO LIMITATION ON MONEY DAMAGES

Pub. L. 100–702, title IX, § 901(c), Nov. 19, 1988, 102 Stat. 4663, provided that notwithstanding establishment by former section 652 of this title of a $100,000 limitation on money damages with respect to cases referred to arbitration, a district court listed in former section 658 of this title whose local rule on Nov. 19, 1988, provided for a limitation on money damages of not more than $150,000, could continue to apply the higher limitation, prior to repeal by Pub. L. 105–315, § 12(a), Oct. 30, 1998, 112 Stat. 2998.

## § 653. Neutrals

(a) PANEL OF NEUTRALS.—Each district court that authorizes the use of alternative dispute resolution processes shall adopt appropriate processes for making neutrals available for use by the parties for each category of process offered. Each district court shall promulgate its own procedures and criteria for the selection of neutrals on its panels.

(b) QUALIFICATIONS AND TRAINING.—Each person serving as a neutral in an alternative dispute resolution process should be qualified and trained to serve as a neutral in the appropriate alternative dispute resolution process. For this purpose, the district court may use, among others, magistrate judges who have been trained to serve as neutrals in alternative dispute resolution processes, professional neutrals from the private sector, and persons who have been trained to serve as neutrals in alternative dispute resolution processes. Until such time as rules are adopted under chapter 131 of this title relating to the disqualification of neutrals, each district court shall issue rules under section 2071(a) relating to the disqualification of neutrals (including, where appropriate, disqualification under section 455 of this title, other applicable law, and professional responsibility standards).

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4660; amended Pub. L. 105–315, § 5, Oct. 30, 1998, 112 Stat. 2995.)

**Editorial Notes**

AMENDMENTS

1998—Pub. L. 105–315 amended section generally, substituting provisions relating to neutrals in alternative dispute resolution process for provisions relating to powers of arbitrator and arbitration hearing.

## § 654. Arbitration

(a) REFERRAL OF ACTIONS TO ARBITRATION.—Notwithstanding any provision of law to the contrary and except as provided in subsections (a), (b), and (c) of section 652 and subsection (d) of this section, a district court may allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it when the parties consent, except that referral to arbitration may not be made where—

(1) the action is based on an alleged violation of a right secured by the Constitution of the United States;

(2) jurisdiction is based in whole or in part on section 1343 of this title; or

(3) the relief sought consists of money damages in an amount greater than $150,000.

(b) SAFEGUARDS IN CONSENT CASES.—Until such time as rules are adopted under chapter 131 of this title relating to procedures described in this subsection, the district court shall, by local rule adopted under section 2071(a), establish procedures to ensure that any civil action in which arbitration by consent is allowed under subsection (a)—

(1) consent to arbitration is freely and knowingly obtained; and

(2) no party or attorney is prejudiced for refusing to participate in arbitration.

(c) PRESUMPTIONS.—For purposes of subsection (a)(3), a district court may presume damages are not in excess of $150,000 unless counsel certifies that damages exceed such amount.

(d) EXISTING PROGRAMS.—Nothing in this chapter is deemed to affect any program in which arbitration is conducted pursuant to section[1] title IX of the Judicial Improvements and Access to Justice Act (Public Law 100–702), as amended by section 1 of Public Law 105–53.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4660; amended Pub. L. 105–315, § 6, Oct. 30, 1998, 112 Stat. 2995.)

[1] So in original. The word ''section'' probably should not appear.

**Editorial Notes**

REFERENCES IN TEXT

Title IX of the Judicial Improvements and Access to Justice Act (Public Law 100–702), as amended by section 1 of Public Law 105–53, referred to in subsec. (d), is title IX of Pub. L. 100–702, Nov. 19, 1988, 102 Stat. 4659, which enacted this chapter and provisions set out as notes under sections 651 and 652 of this title. Section 1 of Pub. L. 105–53, Oct. 6, 1997, 111 Stat. 1173, amended section 905 of title IX of Pub. L. 100–702, which is set out as a note under section 651 of this title.

AMENDMENTS

1998—Pub. L. 105–315 amended section generally, substituting provisions relating to arbitration for provisions relating to arbitration award and judgment.

### § 655. Arbitrators

(a) POWERS OF ARBITRATORS.—An arbitrator to whom an action is referred under section 654 shall have the power, within the judicial district of the district court which referred the action to arbitration—

(1) to conduct arbitration hearings;

(2) to administer oaths and affirmations; and

(3) to make awards.

(b) STANDARDS FOR CERTIFICATION.—Each district court that authorizes arbitration shall establish standards for the certification of arbitrators and shall certify arbitrators to perform services in accordance with such standards and this chapter. The standards shall include provisions requiring that any arbitrator—

(1) shall take the oath or affirmation described in section 453; and

(2) shall be subject to the disqualification rules under section 455.

(c) IMMUNITY.—All individuals serving as arbitrators in an alternative dispute resolution program under this chapter are performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4661; amended Pub. L. 105–315, § 7, Oct. 30, 1998, 112 Stat. 2996.)

**Editorial Notes**

AMENDMENTS

1998—Pub. L. 105–315 amended section generally, substituting provisions relating to arbitrators for provisions relating to trial de novo.

### § 656. Subpoenas

Rule 45 of the Federal Rules of Civil Procedure (relating to subpoenas) applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4662; amended Pub. L. 105–315, § 8, Oct. 30, 1998, 112 Stat. 2996.)

**Editorial Notes**

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to this title.

AMENDMENTS

1998—Pub. L. 105–315 amended section generally, substituting provisions relating to subpoenas for provisions relating to certification of arbitrators.

### § 657. Arbitration award and judgment

(a) FILING AND EFFECT OF ARBITRATION AWARD.—An arbitration award made by an arbitrator under this chapter, along with proof of service of such award on the other party by the prevailing party or by the plaintiff, shall be filed promptly after the arbitration hearing is concluded with the clerk of the district court that referred the case to arbitration. Such award shall be entered as the judgment of the court after the time has expired for requesting a trial de novo. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that the judgment shall not be subject to review in any other court by appeal or otherwise.

(b) SEALING OF ARBITRATION AWARD.—The district court shall provide, by local rule adopted under section 2071(a), that the contents of any arbitration award made under this chapter shall not be made known to any judge who might be assigned to the case until the district court has entered final judgment in the action or the action has otherwise terminated.

(c) TRIAL DE NOVO OF ARBITRATION AWARDS.—

(1) TIME FOR FILING DEMAND.—Within 30 days after the filing of an arbitration award with a district court under subsection (a), any party may file a written demand for a trial de novo in the district court.

(2) ACTION RESTORED TO COURT DOCKET.—Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration.

(3) EXCLUSION OF EVIDENCE OF ARBITRATION.—The court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, unless—

(A) the evidence would otherwise be admissible in the court under the Federal Rules of Evidence; or

(B) the parties have otherwise stipulated.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4662; amended Pub. L. 105–315, § 9, Oct. 30, 1998, 112 Stat. 2997.)

**Editorial Notes**

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (c)(3)(A), are set out in the Appendix to this title.

AMENDMENTS

1998—Pub. L. 105–315 amended section generally, substituting provisions relating to arbitration award and judgment for provisions relating to compensation of arbitrators.

### § 658. Compensation of arbitrators and neutrals

(a) COMPENSATION.—The district court shall, subject to regulations approved by the Judicial Conference of the United States, establish the

amount of compensation, if any, that each arbitrator or neutral shall receive for services rendered in each case under this chapter.

(b) TRANSPORTATION ALLOWANCES.—Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators and other neutrals for actual transportation expenses necessarily incurred in the performance of duties under this chapter.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4662; amended Pub. L. 105–315, § 10, Oct. 30, 1998, 112 Stat. 2997.)

**Editorial Notes**

AMENDMENTS

1998—Pub. L. 105–315 amended section generally, substituting provisions relating to compensation of arbitrators and neutrals for provisions relating to district courts that may authorize arbitration.

## CHAPTER 45—SUPREME COURT



**Editorial Notes**

AMENDMENTS

2008—Pub. L. 110–402, § 1(b)(3)(B), Oct. 13, 2008, 122 Stat. 4254, added item 677 and struck out former item 677 ''Administrative Assistant to the Chief Justice''.

1972—Pub. L. 92–238, § 2, Mar. 1, 1972, 86 Stat. 46, added item 677.

### § 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.

[(b) Repealed. Pub. L. 92–310, title II, § 206(c), June 6, 1972, 86 Stat. 203.]

(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.

(d) The clerk shall pay into the Treasury all fees, costs, and other moneys collected by him. He shall make annual returns thereof to the Court under regulations prescribed by it.

(June 25, 1948, ch. 646, 62 Stat. 918; Pub. L. 88–279, § 1, Mar. 10, 1964, 78 Stat. 158; Pub. L. 92–310, title II, § 206(c), June 6, 1972, 86 Stat. 203.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 325, 326, 327, 541 and 542 (Feb. 22, 1875, ch. 95, §§ 2, 3, 18 Stat. 333; Mar. 3, 1883, ch. 143, 22 Stat. 631; Mar. 15, 1898, ch. 68, § 8, 30 Stat. 317; Mar. 3, 1911, ch. 231, §§ 219, 220, 221, 291, 36 Stat. 1152, 1153, 1167; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

This section consolidates sections 541 and 542 of title 28, U.S.C., 1940 ed., with parts of sections 325, 326 and 327 of such title.

The provisions in said section 325 relating to appointment of a marshal and reporter are incorporated in sections 672 and 673 of this title.

The provisions in section 327 of title 28, U.S.C., 1940 ed., relating to duties and liabilities of the clerk's deputies are incorporated in section 954 of this title.

The provision of section 326 of title 28, U.S.C., 1940 ed., that a duly certified copy of the clerk's bond should be competent evidence in any court, is incorporated in section 1737 of this title.

The provision that the clerk shall be subject to removal by the Court is new. Section 327 of title 28, U.S.C., 1940 ed., contained a similar provision as to deputies, but fixed no term of office for the clerk and made no provision for his removal. The Supreme Court held, in 1839, that a district judge had power to remove his clerk at pleasure in absence of any law fixing the clerk's tenure. *In re Hennen*, 38 U.S. 230, 13 Pet. 230, 10 L.Ed. 138. (See, also *Myers v. U.S.*, 1926, 47 S.Ct. 21, 272 U.S. 52, 71 L.Ed. 160.)

The provision in section 326 of title 28, U.S.C., 1940 ed., that the clerk's bond be not less than $5,000 and not more than $20,000 was omitted. The Supreme Court should have wide discretion in such administrative matters. (See Hearings before Appropriations Committee, House of Representatives, 78th Cong., 2d sess., on Judiciary Appropriation Bill for 1945, page 102.)

A provision of section 326 of title 28, U.S.C., 1940 ed., that a renewed or augmented bond should be required upon the Attorney General's motion and after thirty days' notice was omitted. The manner of requiring such bond is left to the Court's discretion by the revised section.

A further provision of section 326 of title 28, U.S.C., 1940 ed., that the failure to furnish such renewed or augmented bond should vacate the clerk's office was omitted as unnecessary, since the clerk is removable by the Court under this section.

The references in section 541 of title 28, U.S.C., 1940 ed., to return ''under oath'' to be made ''on the 1st day of January of each year, or thirty days thereafter'' and ''on a form prescribed by the Attorney General'', were omitted as fully covered by the revised language ''annual returns'' under ''regulations prescribed by the Court''. Verification seems unnecessary especially as clerks of the courts of appeals are not required to submit similar returns under oath (see section 711 of this title). ''Court'' was substituted for ''Attorney General'', since the latter's powers and functions in court administrative matters have been transferred to the Director of the Administration Office of the United States Courts. (See sections 604 and 607 of this title.) The Director, however, exercises no authority in Supreme Court matters.

Section 542 of title 28, U.S.C., 1940 ed., provided that the clerk ''shall not retain'', out of fees received, more than $6,000 annually above clerk hire and expenses; that the surplus should be paid into the Treasury. Such indirect and unusual provision is simplified in this section by providing that his salary shall be fixed by the Court. Such salary limitation is omitted as inconsistent with larger salaries paid other clerks of courts.

The provisions that the Court shall fix the compensation of deputy clerks, and that the clerk shall fix the compensation of assistants and messengers with the approval of the Chief Justice, are new. Current appropriation Acts providing that the compensation of officers and employees of the Supreme Court, other than clerk and reporter shall be fixed by the court, unnecessarily burden the court with administrative details. Provision for allowance and approval of payments of compensation and office expenses by the clerk upon allowance and approval by the Chief Justice, instead of by the Court, was inserted with the approval of the Judicial Conference Committee on Revision of the Judicial Code as not inconsistent with section 542 of title 28, U.S.C., 1940 ed.

References in sections 541 and 542 of title 28, U.S.C., 1940 ed., to certification of expenses by the justices and for audit and allowances by the General Accounting Of-