

or referee in bankruptcy" for "Interest of justice or judge" in item 455.

1963—Pub. L. 88-139, §3(b), Oct. 16, 1963, 77 Stat. 248, substituted "power unrestricted by expiration of sessions" for "powers unrestricted by terms" in item 452.

1951—Act Oct. 31, 1951, ch. 655, §42, 65 Stat. 725, inserted ", Guam" in item 460.

#### CHANGE OF NAME

Words "magistrate judge" substituted for "magistrate" in item 455 pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

### § 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 Court of International Trade and any court created by Act of Congress the judges of which are entitled to hold office during good behavior.

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

The term "judge of the United States" includes judges of the courts of appeals, district courts, Court of International Trade 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.

The terms "district" and "judicial district" means the districts enumerated in Chapter 5 of this title.

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.

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.

(June 25, 1948, ch. 646, 62 Stat. 907; Pub. L. 86-3, §10, Mar. 18, 1959, 73 Stat. 9; Pub. L. 89-571, §3, Sept. 12, 1966, 80 Stat. 764; Pub. L. 95-598, title II, §213, Nov. 6, 1978, 92 Stat. 2661; Pub. L. 96-417, title V, §501(10), Oct. 10, 1980, 94 Stat. 1742; Pub. L. 97-164, title I, §114, Apr. 2, 1982, 96 Stat. 29.)

#### HISTORICAL AND REVISIONS NOTES

This section was inserted to make possible a greater simplification in consolidation of the provisions incorporated in this title.

The definitions of agency and department conform with such definitions in section 6 of revised title 18, U.S.C. (H.R. 3190, 80th Cong.).

#### SENATE REVISION AMENDMENT

Those provisions of this section which related to the Tax Court were eliminated by Senate amendment. See 80th Congress Senate Report No. 1559.

#### Editorial Notes

##### REFERENCES IN TEXT

Section 1 of Title 5, referred to in text, is section 1 of former Title 5, Executive Departments and Govern-

ment Officers and Employees, the provisions of which are covered by section 101 of Title 5, Government Organization and Employees.

#### AMENDMENTS

1982—Pub. L. 97-164 struck out references to the Court of Claims and to the Court of Customs and Patent Appeals in the definitions of "court of the United States" and "judge of the United States".

1980—Pub. L. 96-417 redesignated the Customs Court as the Court of International Trade.

1978—Pub. L. 95-598 directed the amendment of section by inserting references to bankruptcy courts and bankruptcy judges, which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1966—Pub. L. 89-571 removed the United States District Court for the District of Puerto Rico from the definition of "court of the United States".

1959—Pub. L. 86-3 substituted "including the United States District for the District of Puerto Rico" for "including the district courts of the United States for the districts of Hawaii and Puerto Rico" in provisions defining "court of the United States".

#### Editorial Notes

##### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

##### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

##### EFFECTIVE DATE OF 1959 AMENDMENT

Pub. L. 86-3, §10, Mar. 18, 1959, 73 Stat. 9, provided that the amendment made by section 10 of Pub. L. 86-3 shall be effective on admission of the State of Hawaii into the Union. Admission of Hawaii into the Union was accomplished Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 25 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(e) of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding 491 of Title 48, Territories and Insular Possessions.

#### "CIRCUIT COURT OF APPEALS;" "SENIOR CIRCUIT JUDGE," ETC. DEFINED

Act June 25, 1948, ch. 646, §32, 62 Stat. 991, as amended by act May 24, 1949, ch. 139, §127, 63 Stat. 107, provided that:

"(a) All laws of the United States in force on September 1, 1948, in which reference is made to a 'circuit court of appeals'; 'senior circuit judge'; 'senior district judge'; 'presiding judge'; 'chief justice', except when reference to the Chief Justice of the United States is intended; or 'justice', except when used with respect to a justice of the Supreme Court of the United States in his capacity as such or as a circuit justice, are hereby amended by substituting 'court of appeals' for 'circuit court of appeals'; 'chief judge of the circuit' for 'senior circuit judge'; 'chief judge of the district court' for 'senior district judge'; 'chief judge' for 'presiding judge'; 'chief judge' for 'chief justice', except when reference to the Chief Justice of the United States is intended; and 'judge' for 'justice', except when the latter term is used with respect to a justice of the Supreme Court of the United States in his capacity as such or as a circuit justice.

"(b) All laws of the United States in force on September 1, 1948, in which reference is made to the Supreme Court of the District of Columbia or to the District Court of the United States for the District of Co-

lumbia are amended by substituting ‘United States District Court for the District of Columbia’ for such designations.

“(c) All laws of the United States in force on September 1, 1948, in which reference is made to the ‘Conference of Senior Circuit Judges,’ or to the ‘Judicial Conference of Senior Circuit Judges’ are amended by substituting ‘Judicial Conference of the United States’ for such designations.

“(d) This section shall not be construed to amend historical references to courts or judicial offices which have no present or future application to such courts or offices.”

#### JUDGES OF THE UNITED STATES

Act June 25, 1948, ch. 646, §2(a), 62 Stat. 985, as amended by act Sept. 3, 1954, ch. 1263, §51(a), 68 Stat. 1245, provided that: “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 [now United States Court of Federal Claims], and the presiding judge of the Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit], in office on the effective date of this Act shall be the chief judges of their respective courts. The Chief Justice of the United States Court of Appeals for the District of Columbia and the Associate Justices thereof, the Chief Justice of the District Court of the United States for the District of Columbia (formerly named the Supreme Court of the District of Columbia) and the Associate Justices thereof, the Chief Justice of the Court of Claims [now United States Court of Federal Claims], and the presiding judge of the Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit], in office on the effective date of this Act, shall be judges of the United States within the meaning of Section 451 of Title 28, Judiciary and Judicial Procedure, of the United States Code, set out in Section 1 of this Act. The Chief Justice of the United States Court of Appeals for the District of Columbia and the Associate Justices thereof, in office on the effective date of this Act, shall be circuit judges of the District of Columbia Circuit and vested with all the rights, powers, and duties thereof, and the said Chief Justice of the United States Court of Appeals for the District of Columbia shall be Chief Judge of said Circuit. The Chief Justice of the District Court of the United States for the District of Columbia (formerly named the Supreme Court of the District of Columbia) and the Associate Justices thereof, in office on the effective date of this Act, shall be district judges for the District of Columbia and vested with all the rights, powers, and duties thereof.”

Act Sept. 3, 1954, ch. 1263, §51(b), 68 Stat. 1246, provided that this amendment should take effect as of Sept. 1, 1948.

#### § 452. Courts always open; powers unrestricted by expiration of sessions

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 session of a court in no way affects the power of the court to do any act or take any proceeding.

(June 25, 1948, ch. 646, 62 Stat. 907; Pub. L. 88-139, §2, Oct. 16, 1963, 77 Stat. 248.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§13 and 302 (Mar. 3, 1911, ch. 231, §§9, 189, 36 Stat. 1088, 1143; Mar. 2, 1929, ch. 488, §1, 45 Stat. 1475).

Sections 13 and 302 of title 28, U.S.C., 1940 ed., related only to district courts and the Court of Customs and Patent Appeals, and this section has been written to cover all other courts of the United States.

Other provisions of said section 302 of title 28, U.S.C., 1940 ed., are incorporated in sections 214, 456, and 604 of this title.

The phrase “always open” means “never closed” and signifies the time when a court can exercise its functions. With respect to matters enumerated by statute or rule as to which the court is “always open,” there is no time when the court is without power to act. (Ex parte Branch, 63 Ala. 383, 387.)

Section 13 of title 28, U.S.C., 1940 ed., provided that “The district courts, as courts of admiralty and as courts of equity, shall be deemed always open \* \* \* for enumerated purposes, and that the judge ‘at chambers or in the clerk’s office, and in vacation as well as in term,’ may make orders and issue process. The revised section omits all reference to the nature of the action or proceeding and enumeration of the acts which may be performed by the court. This is in accord with Rules 45(c) and 56 of the new Federal Rules of Criminal Procedure which contain similar provisions with respect to criminal procedure both in the courts of appeals and in the district courts.

Rules 6(c) and 77(a) of the Federal Rules of Civil Procedure contain provisions similar to the second and first paragraphs, respectively, of this section with respect to civil actions in district courts.

#### Editorial Notes

##### AMENDMENTS

1963—Pub. L. 88-139 substituted “expiration of sessions” for “terms” in section catchline, and “session” for “term” in text.

#### § 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 \_\_\_\_\_ under the Constitution and laws of the United States. So help me God.”

(June 25, 1948, ch. 646, 62 Stat. 907; Pub. L. 101-650, title IV, §404, Dec. 1, 1990, 104 Stat. 5124.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§241, 372, and District of Columbia Code, 1940 ed., §§11-203, 11-303 (R.S.D.C., §752, 18 Stat. pt. II, 90; Feb. 9, 1893, ch. 74, §3, 27 Stat. 435; Mar. 3, 1901, ch. 854, §223, 31 Stat. 1224; Mar. 3, 1911, ch. 231, §§136, 137, 257, 36 Stat. 1135, 1161; Feb. 25, 1919, ch. 29, §4, 40 Stat. 1157).

This section consolidates sections 11-203 and 11-303 of District of Columbia Code, 1940 ed., and section 372 of title 28, U.S.C., 1940 ed., with that portion of section 241 of said title 28 providing that judges of the Court of Claims shall take an oath of office. The remainder of said section 241 comprises sections 171 and 173 of this title.

The phrase “justice or judge of the United States” was substituted for “justices of the Supreme Court, the circuit judges, and the district judges” appearing in said section 372, in order to extend the provisions of this section to judges of the Court of Claims, Customs Court, and Court of Customs and Patent Appeals and to all judges of any court which may be created by enactment of Congress. See definition in section 451 of this title.

The Attorney General has ruled that the expression “any judge of any court of the United States” applied to the Chief Justice and all judges of the Court of Claims. (21 Op. Atty. Gen. 449.)