

March 3, 1909.  
[S. 8187.]

[Public, No. 320.]

District of Columbia.  
Foundlings Hospital  
to be Washington  
Home for Foundlings.  
Vol. 16, p. 92,  
amended.

**CHAP. 267.**—An Act To change the name of the Washington Hospital for Foundlings.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act for incorporating a hospital for foundlings in the city of Washington," approved April twenty-second, eighteen hundred and seventy, be, and the same is hereby, amended by changing the name of said institution to the Washington Home for Foundlings.

Approved, March 3, 1909.

March 3, 1909.  
[S. 8520.]

[Public, No. 321.]

District of Columbia.  
Foundlings Home.  
Reports to be made  
to Commissioners,  
D. C.  
Vol. 16, p. 92,  
amended.

**CHAP. 268.**—An Act Requiring reports of the Hospital for Foundlings to be made to the Commissioners of the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section four of "An Act incorporating a hospital for foundlings in the city of Washington," approved April twenty-second, eighteen hundred and seventy (Sixteenth Statutes, page ninety-two), which provides that "It shall be the duty of the president and directors to report to the Secretary of the Interior the condition of said institution on the first day of July in each year," is hereby amended by substituting the words "Commissioners of the District of Columbia" for the said words "Secretary of the Interior."

Approved, March 3, 1909.

March 3, 1909.  
[H. R. 21896.]

[Public, No. 322.]

Hawaii.  
Federal court.  
Vol. 31, p. 158,  
amended.

**CHAP. 269.**—An Act To amend section eighty-six of an Act to provide a government for the Territory of Hawaii, to provide for additional judges, and for other judicial purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section eighty-six of the Act approved April thirtieth, nineteen hundred, entitled "An Act to provide a government for the Territory of Hawaii," be, and the same is hereby, amended so as to read as follows:

"SEC. 86. There shall be established in the said Territory a district court, to consist of two judges, who shall reside therein and be called district judges, and who shall each receive an annual salary of six thousand dollars. The said court while in session shall be presided over by only one of said judges. The two judges shall from time to time, either by order or rules of court, prescribe at what times and in what class of cases each of them shall preside. The said two judges shall have the same powers in all matters coming before said court.

Division of cases.

Appointment.

"The President of the United States, by and with the advice and consent of the Senate of the United States, shall appoint two district judges, a district attorney, and a marshal of the United States for the said district, and said judges, attorney, and marshal shall hold office for six years unless sooner removed by the President.

Jurisdiction.

"The said court shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizable in a circuit court of the United States, and shall proceed therein in the same manner as a circuit court; and the said judges, district attorney, and marshal shall have and exercise in the Territory of Hawaii all the powers conferred by the laws of the United States upon the judges, district attorneys, and marshals of district and circuit courts of the United States.

"Writs of error and appeals from the said district court shall be had and allowed to the circuit court of appeals for the ninth judicial circuit in the same manner as writs of error and appeals are allowed from circuit courts to circuit courts of appeal as provided by law, and appeals and writs of error may be taken to the Supreme Court of the United States from said district court in cases where appeals and writs of error are allowed from the district and circuit courts of the United States to the Supreme Court, and the laws of the United States relating to juries and jury trials shall be applicable to said district court. The laws of the United States relating to appeals, writs of error, removal of causes, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii. Regular terms of said court shall be held in Honolulu on the second Monday in April and October, and special terms may be held at such times and places in said district as the said judges may deem expedient. The said district judges shall appoint a clerk of said court at a salary of three thousand dollars per annum and shall appoint a reporter of said court at a salary of one thousand two hundred dollars per annum: *Provided*, That writs of error and appeals may also be taken from the supreme court of the Territory of Hawaii to the Supreme Court of the United States in all cases where the amount involved, exclusive of costs, exceeds the sum or value of five thousand dollars."

SEC. 2. That section four of chapter one of title one of an Act entitled "An Act making further provision for a civil government for Alaska, and for other purposes," approved June sixth, nineteen hundred, is hereby amended so as to read as follows:

"SEC. 4. That there is hereby established a district court for the district of Alaska, with the jurisdiction of circuit and district courts of the United States and with general jurisdiction in civil, criminal, equity, and admiralty causes; and four district judges shall be appointed for the district, each at an annual salary of seven thousand five hundred dollars, who shall during their terms of office reside in the divisions of the district to which they may be respectively assigned by the President. The court shall consist of four divisions, which shall also be recording divisions. Division numbered one shall consist of all that part of the district of Alaska lying east of the one hundred and forty-first meridian of west longitude. Division numbered two shall consist of all that territory lying west of a line commencing on the Arctic coast at the one hundred and forty-eighth meridian; thence extending south along the easterly watershed of the Colville River to a point on the Rocky Mountain divide between the headwaters of Colville River on the north and west and the waters of the Chandlar on the south; thence southwesterly along the divide between the waters of the Colville River, the Kotzebue Sound, and Norton Sound on the north and west and the waters of the Yukon on the south to the one hundred and sixty-first meridian of west longitude; thence along said meridian to the Kuskokwim River; thence southwesterly along the center of the channel of said Kuskokwim River to Bering Sea; the said division to include all the islands lying north of the fifty-ninth parallel of north latitude. Division numbered three shall consist of all that territory lying south and west of the line starting on the coast of the Gulf of Alaska at the one hundred and forty-first meridian of west longitude; thence northerly along said meridian to a point due east from Mount Kimball; thence west to summit of Mount Kimball; thence southwesterly along the southerly watershed of the headwaters of Tanana River; thence westerly along the divide between the waters of the

Procedure, etc.

Terms of court.

Clerk.

Reporter.

*Proviso.*  
Appeals, etc., to  
Supreme Court.

Alaska.  
Courts.  
Vol. 31, p. 322,  
amended.

District court established.

Four judges authorized.  
Salary, residence,  
etc.

Recording divisions created.

Division No. 1.

Division No. 2.

Division No. 3.

Gulf of Alaska on the south and the waters of the Yukon on the north to the summit of Mount McKinley; thence continuing westerly along the divide between the waters of the Gulf of Alaska and Bristol Bay on the south and the waters of the Yukon and Kuskokwim on the north to the one hundred and fifty-ninth meridian of west longitude; thence northwesterly to the Kuskokwim River on the one hundred and sixty-first meridian of west longitude; thence southwesterly along the center of said river to Bering Sea; said division to include the Alaska peninsula, the Aleutian Islands, and all islands along the coast of this district south and west of the said district and all lying south of the fifty-ninth parallel of north latitude. Division numbered four shall consist of all that part of the district of Alaska lying east of the second division and north of the third division. One general term of court shall be held each year at Juneau, and such additional terms at other places in the first division as the Attorney-General may direct. One general term of court shall be held each year at Nome, and such additional terms at other places in the second division as the Attorney-General may direct. One general term of court shall be held each year at Valdez, and such additional terms at other places in the third division as the Attorney-General may direct. One general term of court shall be held each year at Fairbanks, and such additional terms at other places in the fourth division as the Attorney-General may direct. Each of the judges is authorized and directed to hold such special terms of court as may be necessary for the public welfare or for the dispatch of the business of the court at such times and places in their respective districts as any of them, respectively, may deem expedient, or as the Attorney-General may direct; and each shall have authority to employ interpreters and to make allowances for the necessary expenses of his court, and to employ an official court stenographer at such compensation as shall be fixed by the Attorney-General. At least thirty days' notice shall be given by the judge, or the clerk, of the time and place of holding the several terms of the court."

Division No. 4.

Terms.  
Juneau.

Nome.

Valdez.

Fairbanks.

Special terms.

Interpreters, etc.

Notice of term.

Vol. 31, p. 324,  
amended.

Four clerks authorized.

Duties.

Receipt, etc., of  
fees, etc.

Accounting.

Proviso.  
Moneys not available for court expenses.

SEC. 3. That section seven of said chapter one of title one is hereby amended so as to read as follows:

"SEC. 7. That four clerks shall be appointed for the court, one of whom shall be assigned to each division thereof, and during his term of office shall reside at such place in the division as the Attorney-General may direct. Each clerk shall, in his division of the district, perform the duties required or authorized by law to be performed by clerks of United States courts in other districts, and such other duties as may be prescribed by the laws of the United States relating to the district of Alaska. He shall preserve copies of all laws applicable to the district and shall preserve all records and record all proceedings and official acts of his division of the court. He shall also collect and receive all moneys arising from the fees of his office, from licenses, fines, forfeitures, judgments, or on any other account authorized by law to be paid to or collected by him, and shall apply the same, except the money derived from licenses, to the incidental expenses of the proper division of the district court and the allowance thereof as directed in written orders, duly made and signed by the judge, and shall account for the same in detail, and for any balances on account thereof, under oath, quarterly, or more frequently if required, to the court, the Attorney-General, and the Secretary of the Treasury: *Provided*, That moneys accruing from violations of the customs laws, civil customs cases, or internal-revenue cases, moneys, not including costs, accruing from civil post-office suits, fines in criminal cases for violations of the postal laws, the net proceeds of sales of public property under section thirty-six hundred and eighteen, Revised Statutes as amended, and any other moneys the disposition of which is otherwise specially provided for by law, shall not be available for the

expenses of the court, but shall be paid over or deposited as provided by law for other districts. And 'after all payments ordered by the judge shall have been made, any balances remaining in the hands of the clerk shall be by him deposited to the credit of the United States and be covered into the Treasury of the United States at such times and under such rules and regulations as the Secretary of the Treasury may prescribe. The clerk shall be ex officio recorder of instruments as hereinafter provided and also register of wills for the division, and shall establish secure offices for the safe-keeping of his official records where terms of his division of the court are held. He may appoint necessary deputies and employ other necessary clerical assistance to aid him in the expeditious discharge of the duties of his office, with the approval and at compensation to be fixed by the court or judge, subject to the approval of the Attorney-General. Any person so appointed or employed shall be paid by the clerk on the order of the judge, as other court expenses are paid.' "

SEC. 4. That section eight of said chapter one of title one is hereby amended so as to read as follows:

"SEC. 8. That four district attorneys shall be appointed for the district, one of whom shall be assigned to each division and shall reside at such place in the division as the Attorney-General shall direct. They shall each perform the duties required to be performed by United States district attorneys in other districts, and such other duties as may be required by law; and they shall each receive a salary of five thousand dollars per annum and shall not while in office accept retainers or engage in any other law business in the district than that pertaining to the duties of their office. The Attorney-General may, upon the recommendation of the district attorney, appoint and at pleasure remove one or more assistant district attorneys and one or more clerical assistants, who shall receive such compensation as the Attorney-General may fix, to be paid as other assistant United States district attorneys and clerical assistants are paid. In the case of the death or disability of a district attorney the judge may appoint a suitable person to fill the office until his successor is appointed and qualified or until the disability is removed."

SEC. 5. That section eleven of chapter one, title one, of said Act is hereby amended so as to read as follows:

"SEC. 11. That an accurate detailed account of all fees earned and expenses incurred by commissioners and deputy marshals shall be prepared in duplicate quarterly, duly verified by the oath of the commissioner or deputy marshal rendering the account, and forwarded to the clerk for the proper division of the district court and approved by the judge thereof, if found to be in accordance with law. After approval by the judge the original of each such account shall be forwarded by the clerk to the Department of Justice for revision and the duplicate filed in the court. All net fees earned in excess of the sum of three thousand dollars per calendar year or in excess of that rate for a less period, by any commissioner or deputy marshal, shall be annually paid to the clerk of the proper division of the court to be available for incidental expenses of the district court of the proper division, such payment of such incidental expenses to be accompanied by a verified detailed statement of said clerk."

SEC. 6. That four United States marshals shall be appointed for the district, one of whom shall be assigned to each division, and shall reside at such place in the division as the Attorney-General shall direct.

SEC. 7. That section seven hundred and twenty-eight of chapter seventy-four, title two, of said Act is hereby amended so as to read as follows:

"SEC. 728. That each deputy clerk has the power to perform any act or duty relating to the clerk's office that his principal has, and his

Deposit of regular balances.

Other duties, etc.

Deputies, etc.

Vol. 31, p. 324, amended.

Four district attorneys authorized.

Duties.

Salaries.

Assistants.

Vacancies.

Accounts of commissioners and deputy marshals.

Vol. 31, p. 326, amended.

Quarterly statement to Department of Justice.

Excess of fees to clerk.

Four marshals authorized.

Vol. 31, p. 324, amended.

Vol. 31, p. 447, amended.

Deputy clerks. Duties.

- principal is responsible for his conduct and for all money received by him in his official capacity."
- Terms of present officers not affected. SEC. 8. That nothing in this Act shall be construed to limit or terminate the term of office of any of the judges, district attorneys, or marshals now serving in Alaska; but each shall serve out the term for which he was appointed unless sooner removed. The judge, district attorney, and marshal now serving in the third division of said district shall hereafter have their residence and hold their respective offices in the fourth division created by this Act: *Provided*, That the President may, in his discretion, change the assignment of any of said officers from one division to another.
- Officers in third division. SEC. 9. That section seven hundred and seventy-one of chapter eighty, title two, of said Act, approved June sixth, nineteen hundred, be, and the same is hereby, repealed, and the Attorney-General is authorized and directed to prescribe a schedule of fees for the services rendered by the United States commissioners acting as ex officio probate judges.
- Proviso.*  
Assignments. SEC. 10. That when, in the opinion of the Attorney-General, it will be impossible for the accounts of any court official or other person whose accounts pertain to the United States courts in Alaska to be transmitted to the Department of Justice within the period prescribed by law, the Attorney-General may modify, as he may deem proper, any requirement of law concerning the time when such accounts shall be rendered and transmitted.
- Schedule of commissioners' fees repealed. Vol. 31, p. 454, repealed.  
Schedule to be prepared. SEC. 11. That hereafter the supreme court of the Territory of New Mexico shall consist of a chief justice and six associate justices, any four of whom shall constitute a quorum: *Provided*, That the judge who presided at the trial of a cause in the court below shall not sit at the hearing of the same case on appeal or writ of error in the supreme court of the Territory.
- Modification of time for transmitting accounts allowed. SEC. 12. That it shall be the duty of the President to appoint one additional associate justice of said supreme court in manner now provided by law, who shall hold his office for the term of four years and until his successor is appointed and qualified.
- New Mexico. Supreme court increased to seven justices. *Proviso.*  
Restriction. Vol. 33, p. 542, amended. SEC. 13. That the said Territory shall be divided into seven judicial districts, and a district court shall be held in each district by one of the justices of the supreme court at such time and place as is or may be prescribed by law. Each judge, after assignment, shall reside in the district to which he is assigned.
- Appointment of additional justice. SEC. 14. That the chief justice and his associates are hereby vested with power and authority, and they are hereby directed, to divide said Territory into seven judicial districts and make such assignments of the judges provided for in section twelve of this Act as shall in their judgment be meet and proper: *Provided*, That one of said judges shall reside and hold a district court in the city of Roswell.
- Seven districts established. SEC. 15. That two terms of said court shall be held annually within each of said districts at such places within said district as may be designated by the chief justice and his associates, or a majority of them.
- Residence required. SEC. 16. That all offenses committed before the passage of this Act shall be prosecuted, tried, and determined in the same manner and with the same effect, except as to the number of judges, as if this Act had not passed.
- Division and assignments. SEC. 17. That the northwestern division of the northern judicial district of the State of Alabama is hereby established, composed of the counties of Lauderdale, Colbert, Marion, Franklin, and Winston. All other counties now in the northern division of the northern judicial district of the State of Alabama shall constitute the northeastern division of the northern district of Alabama, and the courts of the northeastern division of said northern district of Alabama shall be held at Huntsville, as now provided by law.
- Proviso.*  
Court at Roswell. Alabama northern district. Northwestern division. Counties composing Northeastern division. Vol. 32, p. 832, amended.  
R. S., sec. 532, p. 89. Terms at Huntsville. Vol. 32, p. 832.
- Two terms annually. Pending causes.

SEC. 18. That a term of the circuit and the district courts of the northwestern division of the northern judicial district of the State of Alabama shall be held at Florence, in Lauderdale County, in said State, on the first Monday in February and on the first Monday in November of each year: *Provided, however,* That suitable rooms and accommodations are furnished for holding of said courts free of all expenses to the Government.

Terms at Florence.

SEC. 19. That all civil process issued against persons residing in said counties of Lauderdale, Colbert, Marion, Franklin, and Winston cognizable before the United States court shall be made returnable to the courts of the United States respectively to be held at Florence, as provided by this Act, and all prosecutions for offenses committed in any of said counties shall be tried in the appropriate United States court at Florence: *Provided,* That no process or prosecutions commenced or suits instituted before the passage of this Act shall be in any way affected by the provisions hereof, and that all prosecutions heretofore commenced for offenses heretofore committed against the United States in any of the said counties of Lauderdale, Colbert, Marion, Franklin, and Winston shall be prosecuted and tried as though this Act had not been passed.

*Proviso.*  
Court rooms.

Return of process.

*Proviso.*  
Pending cases.

SEC. 20. That it shall be the duty of the clerks, marshals, and other officers of the northern judicial district to attend said terms of said court and perform the duties pertaining to their positions, and no additional clerk or marshal shall be appointed in said district; and that the clerks of the circuit and district courts of said northern district shall maintain an office, in charge of themselves or a deputy, at Florence, which shall be kept open at all times for the transaction of the business of said division.

Attendance of officers.

Office at Florence.

SEC. 21. That the United States district attorney for the eastern district of Oklahoma shall receive a salary of four thousand dollars per annum, payable monthly, in twelve equal installments.

Oklahoma.  
Salaries.  
District attorneys.

The United States district attorney for the western district of Oklahoma shall receive a salary of four thousand dollars per annum, payable monthly, in twelve equal installments.

The United States marshal for the eastern district of Oklahoma shall receive a salary of four thousand dollars per annum, payable monthly, in twelve equal installments.

Marshals.

The United States marshal for the western district of Oklahoma shall receive a salary of four thousand dollars per annum, payable monthly, in twelve equal installments.

SEC. 22. That section eighteen of an Act entitled "An Act to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States," approved June sixteenth, nineteen hundred and six, be, and the same is hereby, amended so as to read as follows:

State courts.  
Vol. 34, p. 277  
amended.

"SEC. 18. That the supreme court or other court of last resort of said State shall be deemed to be the successor of Territorial appellate courts, and shall take and possess any and all jurisdiction as such not herein otherwise specifically provided for, and shall receive and retain the custody of all books, dockets, records, and files not transferred to other courts as herein provided, subject to the duty to furnish transcript of all book entries in any specific case transferred to complete the record thereof. That all books, dockets, records, and files relating to the organization, management, and control of corporations which at the time of the approval of the Act of which this Act is amendatory were in the custody and possession of the

Authority of supreme, etc., courts.

Dockets, records, etc.

Transfer of Indian Territory records, etc., of corporations to secretary of state.

clerk of the United States court of appeals for the Indian Territory shall be transferred to the custody of the secretary of state of the State of Oklahoma, and the then clerk of said court shall certify to the identity of said books, dockets, records, and files, and when the said clerk of the United States court of appeals for the Indian Territory has certified all books, records, documents, and files in his office relating to corporations to the secretary of the State of Oklahoma, it shall be the duty of the secretary of the State of Oklahoma to receive and retain the custody and control of the said records, books, documents, and files certified to him by the clerk of the court of appeals for the Indian Territory, and when received by the secretary of state of Oklahoma the same shall become a part of the records of the office of the secretary of the State, and the secretary of state is hereby empowered to furnish copies and to certify to the same, whose certificate, when made under the great seal of the State of Oklahoma, shall have the same force and effect as if the said books, records, documents, and files had been originally filed in the office of the secretary of the State of Oklahoma."

Duty of secretary of state.

Certified copies.

In effect July 1, 1909.  
Repeal.

SEC. 23. That this Act shall take effect and be in force on and after the first day of July, nineteen hundred and nine. In so far only as the provisions of this Act are in conflict with other or prior Acts the other or prior Acts are hereby repealed.

Approved, March 3, 1909.

March 3, 1909.  
[H. R. 24834.]  
[Public, No. 323.]  
Public lands.  
Confirmation of entries on lands erroneously deemed non-mineral.

Preservation of coal rights to United States.  
Disposal under coal-land laws.

Right of owner of surface.

Provisos.  
Domestic use of coal.

Rights of entryman.

CHAP. 270.—An Act For the protection of the surface rights of entrymen.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any person who has in good faith located, selected, or entered under the nonmineral land laws of the United States any lands which subsequently are classified, claimed, or reported as being valuable for coal, may, if he shall so elect, and upon making satisfactory proof of compliance with the laws under which such lands are claimed, receive a patent therefor, which shall contain a reservation to the United States of all coal in said lands, and the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal, but no person shall enter upon said lands to prospect for, or mine and remove coal therefrom, without previous consent of the owner under such patent, except upon such conditions as to security for and payment of all damages to such owner caused thereby as may be determined by a court of competent jurisdiction: *Provided*, That the owner under such patent shall have the right to mine coal for use on the land for domestic purposes prior to the disposal by the United States of the coal deposit: *Provided further*, That nothing herein contained shall be held to affect or abridge the right of any locator, selector, or entryman to a hearing for the purpose of determining the character of the land located, selected, or entered by him. Such locator, selector or entryman who has heretofore made or shall hereafter make final proof showing good faith and satisfactory compliance with the law under which his land is claimed shall be entitled to a patent without reservation unless at the time of such final proof and entry it shall be shown that the land is chiefly valuable for coal.

Approved, March 3, 1909.