

Feb. 19, 1864.

1863, ch. 100,
vol. xii. p. 794.

CHAP. XI. — *An Act amendatory of and supplementary to "An Act to provide Circuit Courts for the Districts of California and Oregon, and for other Purposes," approved March third, eighteen hundred and sixty-three.*

Terms of the
Federal circuit
court in Cali-
fornia,

in Oregon.

If circuit judge
is absent, district
judge to hold the
term.

Ending of
terms.

Circuit court in
different districts
at same time.

Special sessions
of circuit court,

how appointed
and notified.

Business at
such special
sessions.

No jury trials.

Issues of fact if
jury is waived.

Clerks of cir-
cuit courts.

Appointment.

Revocation.

Oath of clerk.

1862, ch. 128.
Vol. xii. p. 502.

Bond.

Vacancy in
office.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the term of the circuit court of the United States for the districts in California shall be held in the city of San Francisco, in said state, on the first Monday of February, and on the second Monday of June, and on the first Monday of October, of each year; and in the city of Monterey, in said state, on the first Monday of April, and on the second Monday of August, and on the first Monday of December, of each year; and that a term of said circuit court for the State of Oregon shall be held at the city of Portland, in said state, on the first Monday of January, and on the first Monday of May, and on the first Monday of September, of each year.

SEC. 2. *And be it further enacted,* That whenever the circuit judge is absent, or, from any cause, is unable to hold a term of the circuit court as above provided, it shall be the duty of the district judge of the district to hold such term. No term of the circuit court in one district of the tenth circuit shall be deemed to be ended from the commencement of a term in another district. A circuit court may be held in the different districts at the same time.

SEC. 3. *And be it further enacted,* That the circuit judge of said tenth circuit may, at his discretion, appoint special sessions of the circuit court, to be held at the places where the stated sessions thereof are to be holden, as provided in this act, by an order, under his hand and seal, addressed to the marshal and clerk of said court, at least fifteen days previous to the day fixed for the commencement of such special sessions, which order shall be published by the marshal in one or more of the gazettes or newspapers within the district where such sessions are to be holden. At such special sessions it shall be competent for the said court to entertain jurisdiction of and hear and decide all cases in equity, cases in error, or on appeal, issues of law, motions in arrest of judgment, motions for new trial, and all other motions, and to award executions and other final process, and to do and to transact all other business, and direct all other proceedings in all causes pending in the circuit court, except trying any cause by jury, in the same way and with the same force and effect as the same could or might be done at the stated sessions of such court. At said special sessions said court may also try and determine all issues of fact in cases in which, by the stipulation in writing of the parties, or their attorneys, and filed with the clerk, a jury shall be waived.

SEC. 4. *And be it further enacted,* That the clerks of the circuit courts for the districts of California shall be appointed by the circuit judge of the tenth circuit. The appointment shall be in writing under the hand and seal of the circuit judge, and shall be filed in the clerk's office and entered at large upon the records of the court. The circuit judge may revoke the appointment at any time by filing in the office of the clerk a notice in writing under his hand and seal, stating that the appointment is revoked. The revocation shall be entered on the records of the court. The clerk, before entering upon the discharge of his duties, shall take the oath of office prescribed by the act entitled "An act to prescribe an oath of office and for other purposes," approved July two, eighteen hundred and sixty-two, and such oath shall be endorsed upon his appointment. The clerk shall also execute a bond to the United States with two or more sufficient sureties in such sum as the circuit judge may designate, conditioned for the faithful performance of his duties. In case of a vacancy in the office of clerk, the district judge shall have power to fill such vacancy by appointment, which shall continue until an appointment is made by the circuit judge.

SEC. 5. *And be it further enacted*, That the clerks of the circuit courts of the tenth circuit shall have power to appoint one or more deputies, who shall have the same authority, in all respects, as their principal. The appointment shall be in writing, and be signed by the clerk, and shall be filed in his office, and be entered at large upon the records of the court. The clerk may revoke the appointment of any deputy at will by writing filed in the office, and entered upon the records. Each deputy, before entering upon his duties, shall take the oath of office prescribed by the act entitled "An act to prescribe an oath of office and for other purposes," approved July two, eighteen hundred and sixty-two. And such oath shall be endorsed upon his appointment. The clerk may take from each of his deputies a bond with sureties for the faithful performance of his duties, but the clerk and the sureties on his official bond shall be liable for all the official acts of each deputy.

Clerks may appoint deputies, and remove them.

Oath and bond of deputies.
1862, ch. 128.
Vol. xii. p. 502.

Clerk liable for acts of deputy.

SEC. 6. *And be it further enacted*, That the clerks of the circuit courts and district courts of the United States for the districts of California and Oregon shall severally be entitled to charge and receive for the services they may perform double the fees and compensation allowed by the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States and for other purposes," approved February twenty-six, eighteen hundred and fifty-three.

Fees, &c., of clerks.

1853, ch. 80.
Vol. x. p. 161.

SEC. 7. *And be it further enacted*, That issues of fact in civil cases may be tried and determined by the said circuit court without the intervention of a jury, whenever the parties or their attorneys of record file a stipulation in writing with the clerk waiving a jury. Upon the trial of an issue of fact by the court, its decision shall be given in writing and filed with the clerk. In giving the decision, the facts found and the conclusions of law shall be separately stated. The review of the judgment or decree entered upon such findings by the supreme court of the United States upon appeal or writ of error shall be limited to a determination of the sufficiency of the facts found to support the judgment or decree entered, and to the rulings of the court in admitting or rejecting evidence offered, and in the construction of written documents produced and admitted. The supreme court may affirm or modify or reverse the judgment or decree entered, or may, in its discretion, order a new trial or further proceedings to be taken.

Trials of issues of fact without a jury.

Form of decision, appeals, writs of error.

SEC. 8. *And be it further enacted*, That a term of the district court of the United States for the southern district of California shall be held in the city of Monterey, in said state, on the first Monday of February, and on the first Monday of June, and on the first Monday of October, of each year; and a term of the district court of the United States for the northern district of California shall be held in the city of San Francisco, in said state, on the first Monday of April, and on the second Monday of August, and on the first Monday of December, of each year; and a term of the district court of the United States for the district of Oregon shall be held at the city of Portland, in the State of Oregon, on the first Monday of March, and on the first Monday of July, and on the first Monday of November, of each year.

Terms of the Federal district court in California,

in Oregon.

SEC. 9. *And be it further enacted*, That section four of the act entitled "An act to provide circuit courts for the districts of California and Oregon, and for other purposes," approved March third, eighteen hundred and sixty-three; and sections four and five of the act entitled "An act to provide for extending the laws and judicial system of the United States to the State of California," approved September twenty-eight, eighteen hundred and fifty, and all provisions of law inconsistent with this act, be and the same are hereby repealed.

Repeal of former laws and of inconsistent provisions.

1863, ch. 100,
§ 4.
Vol. xii. p. 794.
1850, ch. 86,
§§ 4, 5.
Vol. ix. p. 522.

SEC. 10. *And be it further enacted*, That this act shall take effect on the first Monday of May, one thousand eight hundred and sixty-four.

When act takes effect.