

# TITLE XIII. THE JUDICIARY.

## CHAPTER ONE.

### JUDICIAL DISTRICTS.

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**SEC. 530.** The United States shall be divided into judicial districts as follows: United States divided into judicial districts.

24 Sept., 1789, c. 20, s. 1, v. 1, p. 73. 26 June, 1876, c. 147, v. 18, p. 61.

**SEC. 531.** The States of California, Connecticut, Delaware, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, Oregon, Rhode Island, Vermont, and West Virginia, each, constitute one judicial district. States constituting one district.

Cal., 27 July, 1866, c. 280, s. 1, v. 14, p. 300. Ind., 3 March, 1817, c. 100, s. 2, v. 3, p. 390. Kans., 29 Jan., 1861, c. 20, s. 4, v. 12, p. 128. La., 27 July, 1866, c. 280, s. 1, v. 14, p. 300. Minn., 11 May, 1858, c. 31, s. 3, v. 11, p. 285. Nebr., 25 May, 1867, c. 7, s. 1, v. 15, p. 5. Nev., 27 Feb., 1865, c. 64, s. 1, v. 13, p. 440. N. C., 4 June, 1790, c. 17, s. 1, v. 1, p. 126; 29 April, 1802, c. 31, s. 7, v. 2, p. 162. Oreg., 3 March, 1859, c. 85, s. 2, v. 11, p. 437. R. I., 23 June, 1790, c. 21, s. 2, v. 1, p. 128. S. C., 21 Feb., 1823, c. 11, s. 1, v. 3, p. 726. Vt., 2 Mar., 1791, c. 12, s. 2, v. 1, p. 197. W. Va., 4 Feb., 1819, c. 12, s. 1, v. 3, p. 478; 26 May, 1824, c. 167, s. 1, v. 4, p. 48; 11 June, 1864, c. 120, s. 1, v. 13, p. 124; 10 Mar., 1866, Res. 12, v. 14, p. 350.

**SEC. 532.** The State of Alabama is divided into three districts, which shall be called the southern, middle, and northern districts of Alabama. The Southern district includes the counties of Mobile, Washington, Baldwin, Sumter, Clarke, Marengo, Greene, Pickens, Wilcox, Monroe, and Conecuh. The middle district includes the counties of Montgomery, Autauga, Coosa, Tallapoosa, Chambers, Talledega, Randolph, Macon, Russell, Barbour, Pike, Henry, Dale, Coffee, Covington, Lowndes, Dallas, Perry, Bibb, Shelby, Butler, and Tuscaloosa. The northern district includes the remaining counties of said State. Alabama.

7 Aug., 1848, c. 143, s. 1, v. 9, p. 274. 4 May, 1852, c. 25, s. 2, v. 10, p. 5.

**SEC. 533.** [*The State of Arkansas is divided into two districts, which shall be called the eastern and western districts of Arkansas. The western district includes the counties of Benton, Washington, Crawford, Scott, Polk, Franklin, Johnson, Madison, Carroll, Sevier, Sebastian, Phillips, Crittenden, Mississippi, Craighead, Greene, Randolph, Lawrence, Sharp, Poinsett, Cross, Saint Francis, Monroe, Woodruff, Jackson, Independence, Izard, Marion, Fulton, and Boone, and the country lying west of Missouri and Arkansas, known as "The Indian Territory." The eastern district includes the residue of said State.*] [That the State of Arkansas is divided into two districts, which shall be called the eastern and western districts of Arkansas. The western district includes the counties of Benton, Washington, Crawford, Sebastian, Scott, Polk, Sevier, Little River, Howard, Montgomery, Yell, Logan, Franklin, Johnson, Madison, New-  
Arkansas.

15 June, 1836, c. 100, s. 4, v. 5, p. 51. 3 Mar., 1851, c. 24, s. 1, v. 9, p. 594. 27 Mar., 1854, c. 26, s. 1, v. 10, p. 269. 3 Mar., 1871, c. 106, s. 5, v. 16, p. 472. 17 June, 1844, c. 103, s. 1, v. 5, p. 680. 30 June, 1834, c. 161, s. 24, v. 4, p. 733.

3 Mar., 1875, c. 140, s. 18, p. 476.  
 31 Jan., 1877, c. 41, v. 19, p. 230.

#### Florida.

3 Mar., 1845, c. 75, s. 3, v. 5, p. 788.  
 23 Feb., 1847, c. 20, ss. 1, 8, v. 9, pp. 131, 132.

#### Georgia.

11 Aug., 1848, c. 151, s. 1, v. 9, p. 280.

#### Illinois.

13 Feb., 1855, c. 96, s. 1, v. 10, p. 606.  
 11 July, 1862, c. 145, s. 1, v. 12, p. 536.

#### Iowa.

3 Mar., 1859, c. 85, ss. 5, 6, 7, v. 11, pp. 437, 438.  
 30 June, 1870, c. 178, s. 1, v. 16, p. 174.

#### Michigan.

24 Feb., 1863, c. 54, s. 1, v. 12, pp. 660, 661.  
 20 June, 1864, c. 143, s. 1, v. 13, p. 143.

ton, Carroll, Boone and Marion, and the country lying west of Missouri and Arkansas, known as the Indian Territory. The eastern district includes the residue of said State.] [See § 2153.]

SEC. 534. The State of Florida is divided into two districts, which shall be called the northern and southern districts of Florida. The northern district includes all that part of the State lying north of a line drawn due east and west from the northern part of Charlotte Harbor. The southern district includes the residue of said State.

SEC. 535. The State of Georgia is divided into two districts, which shall be called the northern and southern districts of Georgia. The northern district includes the counties of Troup, Meriwether, Pike, Butts, Jasper, Morgan, Green, Taliaferro, Wikee, and Lincoln, as they existed August 11, 1848, with all the counties north of them. The southern district includes the counties of Harris, Talbot, Upson, Monroe, Jones, Putnam, Hancock, Warren, and Columbia, as they existed at said date, with all the counties south of them.

SEC. 536. The State of Illinois is divided into two districts, which shall be called the northern and southern districts of Illinois. The northern district includes the counties of Henderson, Warren, Knox, Peoria, Woodford, Livingston, and Iroquois, as they existed February 13, 1855, with all the counties north of them. The southern district includes the residue of said State.

SEC. 537. The State of Iowa constitutes one district, which shall be called the district of Iowa. For the purpose of trying all issues of fact, triable by jury, in the district court, said district is divided into four divisions, which shall be called the northern, southern, western, and central divisions of the district of Iowa. The northern division includes the counties of Clinton, Jones, Linn, Benton, Tama, Marshall, Grundy, Hardin, and Webster, with all the counties north of them and east of the counties of Calhoun, Pocahontas, Palo Alto, and Emmett, as all of said counties existed March 3, 1859. The southern division includes the counties of Scott, Cedar, Johnson, Iowa, Poweshiek, Mahaska, Marion, Lucas, Clarke, and Decatur, as they existed at the same date, with all the counties south and east of them. The western division includes the counties of Lyon, Osceola, Sioux, O'Brien, Plymouth, Cherokee, Woodbury, Ida, Monona, Crawford, Harrison, Shelby, Audubon, Pottawatomie, Cass, Mills, Montgomery, Fremont, and Page. The central division includes the residue of the State.

SEC. 538. The State of Michigan is divided into two districts, which shall be called the eastern and western districts of Michigan. The western district includes the territory and waters within the following boundaries, as they existed February 24, 1863, namely: commencing at the southwest corner of Branch County, in said State, and running thence north, on the west line of Branch and Calhoun Counties, to the south line of Barry County; thence east, on the north line of Calhoun and Jackson Counties, to the southeast corner of Eaton County; thence north, on the east boundary of Eaton County, to the south line of Clinton County; thence west, on the south boundary of said county, to the southwest corner thereof; thence north, on the west boundary of Clinton and Gratiot Counties, to the south boundary of Isabella County; thence west, on its south boundary, to the southwest corner of said last-named county; thence north, on the west line of Isabella and Clare Counties, to the south boundary of Missaukee County; thence east, on its south boundary, to the southeast corner of Missaukee County; thence north, on the east line of Missaukee, Kalamazoo, and Antrim Counties, to the south boundary of Emmett County; thence east, to the southeast corner of Emmett County; thence north, on the east boundary of Emmett County, to the Straits of Mackinac; thence north, to midway across said straits; thence westerly, in a direct line, to a point on the shore of Lake Michigan where the north boundary of Delta County reaches Lake Michigan; thence west, on the north line of Delta County, to the northwest corner of said Delta County; thence south, on the west boundary of said county, to the

dividing-line between the States of Michigan and Wisconsin, in Green Bay; thence northeasterly, on said dividing-line, into Lake Michigan; and thence southerly, through Lake Michigan, to the southwest corner of the State of Michigan, on a line that will include within said boundaries the waters of Lake Michigan within the admiralty jurisdiction of the State of Michigan; thence east, on the south boundary of the State of Michigan, to the intersection of the west line of Hillsdale County. The eastern district includes all the territory and waters of said State not included within the foregoing boundaries.

SEC. 539. The State of Mississippi is divided into two districts, which shall be called the northern and southern districts of Mississippi. The northern district includes the counties of Noxubee, Winston, Attala, Carroll, Bolivar, Coahoma, Tunica, De Soto, Marshall, Tippah, Tishomingo, Itawamba, Monroe, Lowndes, Oktibbeha, Choctaw, Yalabusha, Tallahatchee, Panola, La Fayette, Pontotoc, and Chickasaw, as they existed June 18, 1838. The southern district includes the residue of said State.

Mississippi.

18 June, 1838, c. 115, s. 1, v. 5, p. 247.

SEC. 540. The State of Missouri is divided into two districts, which shall be called the eastern and western districts of Missouri. The eastern district includes the counties of Schuyler, Adair, Knox, Shelby, Monroe, Audrain, Montgomery, Gasconade, Franklin, Washington, Reynolds, Shannon, and Oregon, as they existed January 1, 1857, with all the counties east of them. The western district includes the residue of said State.

Missouri.

3 Mar., 1857, c. 100, s. 1, v. 11, p. 197.

SEC. 541. The State of New York is divided into three districts, which shall be called the northern, eastern, and southern districts of New York. The northern district includes the counties of Rensselaer, Albany, Schoharie, and Delaware, with all the counties north [and west] of them. The eastern district includes the counties of Richmond, Kings, Queens, and Suffolk, with the waters thereof. The southern district includes the residue of said State, with the waters thereof.

New York.

9 April, 1814, c. 49, s. 1, v. 3, p. 120.  
3 April, 1818, c. 32, s. 3, v. 3, p. 414.  
25 Feb., 1865, c. 54, s. 1, v. 13, p. 438.  
20 June, 1874, c. 328, v. 18, p. 109. 18 Feb., 1874, c. 80, v. 18, p. 317.

SEC. 542. The district courts of the southern and eastern districts of New York shall have concurrent jurisdiction over the waters within the counties of New York, Kings, Queens, and Suffolk, and over all seizures made and all matters done in such waters; and all processes or orders issued out of either of said courts, or by any judge thereof, shall run and be executed in any part of the said waters.

Jurisdiction over waters near city of New York.

25 Feb., 1865, c. 54, s. 2, v. 13, p. 438.

SEC. 543. The State of North Carolina is divided into two districts, which shall be called the eastern and western districts of North Carolina. The western district includes the counties of Mecklenburg, Cabarras, Stanly, Montgomery, Richmond, Davie, Davidson, Randolph, Guilford, Rockingham, Stokes, Forsyth, Union, Anson, Caswell, Person, Alamance, Orange, Chatham, Moore, Clay, Cherokee, Swain, Macon, Jackson, Graham, Haywood, Transylvania, Henderson, Buncombe, Madison, Yancey, Mitchell, Watauga, Ashe, Alleghany, Caldwell, Burke, McDowell, Rutherford, Polk, Cleveland, Gaston, Lincoln, Catawba, Alexander, Wilkes, Surry, Iredell, Yadkin, and Rowan, and all territory embraced therein which may hereafter be erected into new counties. The eastern district includes the residue of said State.

North Carolina.

4 June, 1872, c. 282, ss. 1, 3, v. 17, p. 215.

SEC. 544. The State of Ohio is divided into two districts, which shall be called the northern and southern districts of Ohio. The southern district includes the counties of Belmont, Guernsey, Muskingum, Licking, Franklin, Madison, Champaign, Shelby, and Mercer, as they existed February 10, 1855, with all the counties south of them. The northern district includes the residue of said State.

Ohio.

10 Feb., 1855, c. 73, s. 1, v. 10, p. 604.

SEC. 545. The State of Pennsylvania is divided into two districts, which shall be called the eastern and western districts of Pennsylvania. The western district includes the counties of Fayette, Greene, Washington, Allegheny, Westmoreland, Somerset, Bedford, Huntingdon, Centre, Mifflin, Clearfield, McKean, Potter, Jefferson, Cambria, Indiana, Armstrong, Butler, Beaver, Mercer, Crawford, Venango, Erie, Warren, Sus-

Pennsylvania.

20 April, 1818, c. 108, s. 1, v. 3, p. 462.  
26 May, 1824, c. 170, s. 1, v. 4, p. 50.

quehanna, Bradford, Tioga, Union, Northumberland, Columbia, Luzerne, and Lycoming, as they existed April 20, 1818. The eastern district includes the residue of said State.

#### South Carolina.

21 Feb., 1823, c.  
11, s. 1, v. 3, p. 726.

SEC. 546. The State of South Carolina is divided into two districts, which shall be called the eastern and western districts of the district of South Carolina. The western district includes the counties of Lancaster, Chester, York, Union, Spartanburgh, Greenville, Pendleton, Abbeville, Edgefield, Newberry, Laurens, and Fairfield, as they existed February 21, 1823. The eastern district includes the residue of said State.

#### Tennessee.

18 June, 1838, c.  
118, s. 1, v. 5, p. 249.  
18 Jan., 1839, c.  
3, s. 1, v. 5, p. 313.  
19 Feb., 1856, c.  
8, s. 1, v. 11, p. 1.  
3 Mar., 1875, c.  
148, v. 18, p. 480.

SEC. 547. The State of Tennessee is divided into three districts, which shall be called the eastern, western, and middle districts of Tennessee. The eastern district includes the counties of Anderson, Bledsoe, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Cumberland, Grainger, Greene, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, McMinn, Marion, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sevier, Sullivan, Union, and Washington, as they existed February 19, 1856. The western district includes the counties of Benton, Carroll, Henry, Obion, Dyer, Gibson, Lauderdale, Haywood, Tipton, Shelby, Fayette, Hardeman, McNairy, Hardin, Perry, Madison, Henderson, and Weakley, as they existed June 18, 1838. The middle district includes the residue of said State.

#### Texas.

21 Feb., 1857, c.  
57, s. 1, v. 11, p. 164.

SEC. 548. The State of Texas is divided into two districts, which shall be called the eastern and western districts of Texas. The eastern district includes the counties of Newton, Jasper, Jefferson, Orange, Tyler, Polk, Liberty, Galveston, Harris, Montgomery, Austin, Fort Bend, Brazoria, Colorado, Wharton, Matagorda, Lavaca, Jackson, Calhoun, De Witt, Victoria, Goliad, Refugio, San Patricio, Nueces, Cameron, Starr, Webb, and Hidalgo, as they existed in eighteen hundred and fifty-two. The western district includes the residue of said State.

#### Virginia.

3 Feb., 1871, c. 35,  
ss. 1, 3, v. 16, p. 403.

SEC. 549. The State of Virginia is divided into two districts, which shall be called the eastern and western districts of Virginia. The western district includes the counties of Albemarle, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Buckingham, Campbell, Carroll, Charlotte, Clarke, Craig, Cumberland, Floyd, Franklin, Frederick, Fluvanna, Giles, Grayson, Greene, Halifax, Henry, Highland, Lee, Madison, Montgomery, Nelson, Patrick, Page, Pulaski, Pittsylvania, Rappahannock, Roanoke, Rockbridge, Rockingham, Russell, Scott, Smyth, Shenandoah, Tazewell, Washington, Wise, Wythe, and Warren. The eastern district includes the residue of said State.

#### Wisconsin.

29 June, 1870, c.  
175 ss. 1, 3, v. 16, p.  
171.

SEC. 550. The State of Wisconsin is divided into two districts, which shall be called the eastern and western districts of Wisconsin. The western district includes the counties of Rock, Jefferson, Dane, Green, Grant, Columbia, Iowa, La Fayette, Sauk, Richland, Crawford, Vernon, La Crosse, Monroe, Adams, Juneau, Buffalo, Chippewa, Dunn, Clark, Jackson, Eau Claire, Pepin, Marathon, Wood, Pierce, Polk, Portage, Saint Croix, Trempealeau, Douglas, Barron, Burnett, Ashland, and Bayfield. The eastern district includes the residue of said State.

## CHAPTER TWO.

### DISTRICT COURTS—ORGANIZATION.

#### Sec.

- 551. District judges, appointment and residence.
- 552. Judges in Alabama, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee.
- 553. District judge of southern district of Florida.
- 554. Salaries of district judges.
- 555. Clerks.

#### Sec.

- 556. Arkansas, western district; clerks.
- 557. Kentucky; clerks.
- 558. Deputy clerks.
- 559. Deputy clerks of the district court in Indiana.
- 560. Iowa; deputy clerks.
- 561. Compensation of deputy clerks.
- 562. Records, where kept.



SEC. 551. A district judge shall be appointed for each district, except in the cases hereinafter provided. Every such judge shall reside in the district for which he is appointed, and for offending against this provision shall be deemed guilty of a high misdemeanor.

Conn., Del., Md., Mass., N. H., N. J., N. Y., Pa., Me., Va., Ky., 24 Sept., 1789, c. 20, s. 3, v. 1, p. 73; 18 Dec., 1812, c. 5, v. 2, p. 788. Ark., 15 June, 1836, c. 100, s. 4, v. 5, p. 51. Cal., 27 July, 1866, c. 280, s. 1, v. 14, p. 300. Fla., 3 Mar., 1845, c. 75, s. 3, v. 5, p. 788; 23 Feb., 1847, c. 20, s. 1, v. 9, p. 131. Ill., 3 Mar., 1819, c. 70, s. 2, v. 3, p. 502; 13 Feb., 1855, c. 96, s. 7, v. 10, p. 607. Ind., 3 Mar., 1817, c. 100, s. 2, v. 3, p. 390. Iowa, 3 Mar., 1845, c. 76, s. 2, v. 5, p. 789. Kans., 29 Jan., 1861, c. 20, s. 4, v. 12, p. 128. La., 27 July, 1866, c. 280, s. 1, v. 14, p. 300. Minn., 11 May, 1858, c. 31, s. 3, v. 11, p. 285. Mo., 16 Mar., 1822, c. 12, s. 2, v. 3, p. 653; 3 Mar., 1857, c. 100, s. 7, v. 11, p. 198. Mich., 1 July, 1836, c. 234, s. 2, v. 5, p. 62; 24 Feb., 1863, c. 54, s. 7, v. 12, p. 661. N. Y., 29 April, 1812, c. 71, s. 1, v. 2, p. 719; 9 April, 1814, c. 49, s. 2, v. 3, p. 120; 25 Feb., 1865, c. 54, s. 1, v. 13, p. 438. Nebr., 25 Mar., 1867, c. 7, s. 1, v. 15, p. 5. Nev., 27 Feb., 1865, c. 64, s. 1, v. 13, p. 440. N. C., 4 June, 1790, c. 17, s. 2, v. 1, p. 126; 29 April, 1802, c. 31, s. 7, v. 2, p. 162; 4 June, 1872, c. 282, s. 8, v. 17, p. 217. Ohio, 19 Feb., 1803, c. 7, s. 2, v. 2, p. 201; 10 Feb., 1855, c. 73, s. 7, v. 10, p. 605. Oreg., 3 Mar., 1857, c. 85, s. 2, v. 11, p. 437. Pa., 20 April, 1818, c. 108, ss. 2, 3, v. 3, p. 462; 26 May, 1824, c. 170, v. 4, p. 50. R. I., 23 June, 1790, c. 21, s. 2, v. 1, p. 128. Texas, 29 Dec., 1845, c. 1, s. 2, v. 9, p. 1; 21 Feb., 1857, c. 57, s. 5, v. 11, p. 165. Vt., 2 Mar., 1791, c. 12, s. 2, v. 1, p. 197. Va., 3 Feb., 1871, c. 35, s. 8, v. 16, p. 404. W. Va., 11 June, 1864, c. 120, s. 1, v. 13, p. 124. Wis., 6 Aug., 1846, c. 89, s. 4, v. 9, p. 57; 29 June, 1870, c. 175, s. 8, v. 16, p. 172.

SEC. 552. There shall be appointed in each of the States of Alabama, Georgia, Mississippi, South Carolina, and Tennessee, one district judge, who shall be district judge for each of the districts included in the State for which he is appointed, and shall reside within some one of the said districts. And for offending against this provision, such judges shall be liable as in the preceding section.

24 Sept., 1789, c. 20 s. 3, v. 1, p. 73; 18 Dec., 1812, c. 5, v. 2, p. 788. Ala., 21 April, 1820, c. 47, s. 2, v. 3, p. 564; 6 Feb., 1839, c. 20, s. 2, v. 5, p. 315; 10 Mar., 1824, c. 28, s. 2, v. 4, p. 9; 7 Aug., 1848, c. 143, s. 1, v. 9, p. 274. Ga., 11 Aug., 1848, c. 151, s. 2, v. 9, p. 280. Miss., 3 April, 1818, c. 29, s. 2, v. 3, p. 413; 18 June, 1838, c. 115, s. 2, v. 5, p. 247. S. C., 21 Feb., 1823, c. 11, v. 3, p. 726. Tenn., 31 Jan., 1797, c. 2, s. 2, v. 1, p. 496; 18 June, 1838, c. 118, s. 3, v. 5, p. 250; 18 Jan., 1839, c. 3, s. 1, v. 5, p. 313.

SEC. 553. The district judge for the southern district of Florida shall reside at Key West.

District judge of southern district of Florida.

23 Feb., 1847, c. 20, s. 1, v. 9, p. 131.

SEC. 554. District judges are entitled to receive yearly salaries at the following rates, payable quarterly from the Treasury: The judge of the district of California five thousand dollars; the judge of the district of Louisiana four thousand five hundred dollars; the judges of the district of Massachusetts; the northern, southern, and eastern districts of New York; the eastern and western districts of Pennsylvania; the district of New Jersey; the district of Maryland; the southern district of Ohio, and the northern district of Illinois, four thousand dollars. The judges of all other districts three thousand five hundred dollars. No other allowance or payment shall be made to them for travel, expenses, or otherwise. [See §§ 597, 618.]

Salaries of district judges.

2 Mar., 1867, c. 168, s. 9, v. 14, p. 470. Nebr., 25 Mar., 1867, c. 7, s. 4, v. 15, p. 5. Wis., 30 June, 1870, c. 175, s. 8, v. 16, p. 172. Va., 3 Feb., 1871, c. 35, s. 8, v. 16, p. 404. Ark., 3 Mar., 1871, c. 106, s. 5, v. 16, p. 472. N. C., 4 June, 1872, c. 282, s. 8, v. 17, p. 217. 18 Feb., 1875, c. 83, v. 18, p. 329.

SEC. 555. A clerk shall be appointed for each district court by the judge thereof, except in cases otherwise provided for by law.

Clerks.

20, s. 7, v. 1, p. 76. 10 April, 1869, c. 22, s. 2, v. 16, p. 45. 20 June, 1874, c. 328, v. 18, p. 109.

SEC. 556. [In the western district of Arkansas there shall be appointed two clerks of the district court thereof; one of whom shall reside and keep his office at Fort Smith, and the other shall reside and keep his office at Helena.] [In the eastern district of Arkansas, there shall be appointed two clerks of the district court thereof, one of whom shall reside and keep his office at Little Rock, and the other shall reside and keep his office at Helena.]

Arkansas, eastern district; clerks.

3 Mar., 1851, c. 24, s. 4, v. 9, p. 596.

3 Mar., 1871, c. 106, s. 4, v. 16, p. 472.

31 Jan., 1877, c. 41, v. 19, p. 230.

Kentucky; clerks.

15 May, 1862, c. 71, s. 7, v. 12, p. 387.

10 April, 1869, c. 22, s. 3, v. 16, p. 45.

SEC. 557. In the district of Kentucky a clerk of the district court shall be appointed at each place of holding the court, in the same manner and subject to the same duties and responsibilities which are, or may be, provided concerning clerks in independent districts.

## Deputy clerks.

8 June, 1872, c. 336 v. 17, p. 330.

SEC. 558. One or more deputies of any clerk of a district court may be appointed by the court, on the application of the clerk, and may be removed at the pleasure of judges authorized to make the appointment. In case of the death of the clerk, his deputy or deputies shall, unless removed, continue in office and perform the duties of the clerk, in his name, until a clerk is appointed and qualified; and for the default or misfeasances in office of any such deputy, whether in the life-time of the clerk or after his death, the clerk, and his estate, and the sureties in his official bond shall be liable; and his executor or administrator shall have such remedy for any such default or misfeasances committed after his death as the clerk would be entitled to if the same had occurred in his life-time.

Deputy clerks of the district court in Indiana.

3 Mar., 1871, c. 108, s. 1, v. 16, p. 473.

30 June, 1870, c. 180, ss. 1, 7, v. 16, p. 175.

8 June, 1872, c. 336, v. 17, p. 330.

Iowa; deputy clerks.

3 Mar., 1849, c. 124, s. 4, v. 9, p. 412.

3 Mar., 1859, c. 85, ss. 5, 8, v. 11, pp. 437, 438.

30 June 1870, c. 178, ss. 1, 3, v. 16, p. 174.

30 June, 1870, c. 180, s. 7, v. 16, p. 175.

8 June, 1872, c. 336, v. 17, p. 330.

Records, where kept.

24 Sept., 1789, c. 20, s. 3, v. 1, p. 73.

SEC. 559. In the district of Indiana the clerk of the district court must appoint a deputy clerk for said court held at New Albany, and a deputy clerk for said court held at Evansville; who shall reside and keep their offices at said places respectively. Each deputy shall keep in his office full records of all actions and proceedings in the district court held at the same place, and shall have the same power to issue all process from the said court that is or may be given the clerks or other district courts in like cases.

SEC. 560. In the district of Iowa a deputy clerk of the district court shall be appointed at each place, in the four divisions of said district, where said court is required to be held; each of whom, in the absence of the clerk, may exercise all the official powers of clerk, at the place and within the division for which he is appointed.

SEC. 561. The compensation of deputies of the clerks of the district courts shall be paid by the clerks, respectively, and allowed in the same manner that other expenses of the clerks' offices are paid and allowed.

SEC. 562. The records of a district court shall be kept at the place where the court is held. When it is held at more than one place in any district, and the place of keeping the records is not specially provided by law, they shall be kept at either of the places of holding the court which may be designated by the district judge.

## CHAPTER THREE.

## DISTRICT COURTS—JURISDICTION.

Sec.

563. Jurisdiction.

564. Certain seizures cognizable in any district into which the property is taken.

565. May proceed in prize causes after appeal.

566. Trial of issues of fact.

567. Transfer of records to district courts when a Territory becomes a State.

Sec.

568. District judge shall demand and compel delivery of records of territorial court.

569. Jurisdiction of district courts in cases transferred from territorial courts.

570. Commissioners to administer oaths to appraisers.

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## Jurisdiction.

Crimes and offenses.

24 Sept., 1789, c. 20, s. 9, v. 1, p. 76.

3 Mar., 1815, c. 101, s. 4, v. 3, p. 245.

3 Mar., 1875, c. 137, ss. 1, 9, v. 18, pp. 470, 473.

U. S. v. Hudson, 7 Cr., 32; U. S. v. Coolidge, 1 Wh., 415, U. S. v. Bevans, 3 Wh., 336.

SEC. 563. The district courts shall have jurisdiction as follows:

First. Of all crimes and offenses cognizable under the authority of the United States, committed within their respective districts, or upon the high seas, the punishment of which is not capital, except in the cases mentioned in section fifty-four hundred and twelve, Title "CRIMES." [See §§ 4300-4305.]

23 Aug., 1842, c. 188, s. 3, v. 5, 517. 28 Feb., 1871, c. 100, s. 57, v. 16, p. 456.

—*Ex parte Bollman*, 4 Cr., 75;

U. S. v. Hudson, 7 Cr., 32; U. S. v. Coolidge, 1 Wh., 415, U. S. v. Bevans, 3 Wh., 336.

**Second.** Of all cases arising under any act for the punishment of piracy, when no circuit court is held in the district of such court. Opiracy, when.  
3 Mar., 1823, c.

72, v. 3, p. 789. 15 May, 1820, c. 113, v. 3, p. 600. 30 Jan., 1823, c. 7, v. 3, p. 721. The Palmyra, 12 Wh., 1.

**Third.** Of all suits for penalties and forfeitures incurred under any law of the United States. Penalties and forfeitures.

24 Sept., 1789, c. 20, s. 9, v. 1, p. 76. Ketland v. The Cassius, 2 Dall., 365; Hall v. Warren, 2 McLean, 332.

**Fourth.** Of all suits at common law brought by the United States, or by any officer thereof, authorized by law to sue. Suits at common law by United States or officers.

24 Sept., 1789, c. 20, s. 9, v. 1, p. 76. 3 Mar., 1815, c. 101, s. 4, v. 3, p. 245. Parsons v. Bedford, 3 Pet., 433; Duncan v. U. S., 7 Pet., 435.

**Fifth.** Of all suits in equity to enforce the lien of the United States upon any real estate for any internal-revenue tax, or to subject to the payment of any such tax any real estate owned by the delinquent, or in which he has any right, title, or interest. Suits in equity to enforce internal-revenue taxes. [See § 3207.]

20 July, 1868, c. 186, s. 106, v. 15, p. 167.

**Sixth.** Of all suits for the recovery of any forfeiture or damages under section thirty-four hundred and ninety, Title "DEBTS DUE BY OR TO THE UNITED STATES;" and such suits may be tried and determined by any district court within whose jurisdictional limits the defendant may be found. Suits for penalties and damages for frauds against United States. [See §§ 3490-3494.]

2 Mar., 1863, c. 67, s. 4, v. 12, p. 698.

**Seventh.** Of all causes of action arising under the postal laws of the United States. Suits under postal laws.

3 Mar., 1845, c. 43, s. 20, v. 5, p. 739.

**Eighth.** Of all civil causes of admiralty and maritime jurisdiction; saving to suitors in all cases the right of a common-law remedy, where the common law is competent to give it; and of all seizures on land and on waters not within admiralty and maritime jurisdiction. And such jurisdiction shall be exclusive, except in the particular cases where jurisdiction of such causes and seizures is given to the circuit courts. [And shall have original and exclusive cognizance of all prizes brought into the United States, except as provided in paragraph six of section six hundred and twenty-nine.] Admiralty causes and seizures on land.

24 Sept., 1789, c. 20, s. 9, v. 1, p. 76.  
22 Mar., 1794, c. 11, s. 1, v. 1, p. 347.  
10 May, 1800, c. 51, ss. 1, 5, v. 2, pp. 70, 71.

2 Mar., 1807, c. 13 July, 1866, c. 184, ss. 9, 19, v. 14, pp. 111, 145, 152. 2 Mar., 1867, c. 169, ss. 10, 25, v. 14, pp. 475, 483. 20 July, 1868, c. 186, s. 106, v. 15, p. 167. 30 June, 1864, c. 173, ss. 41, 179, v. 13, pp. 239, 240, 305. 3 Mar., 1865, c. 78, s. 1, v. 13, p. 483. 18 Feb., 1875, c. 80, v. 18, p. 317.—Glass v. Sloop Betsey, 3 Dall., 6; Bingham v. Cabbo, 3 Dall., 19; U. S. v. Schooner Sallie, 2 Cr., 406; Rose v. Himely, 4 Cr., 241; U. S. v. Betsey and Charlotte, 4 Cr., 443; Keene v. U. S., 5 Cr., 304; The Samuel, 1 Wh., 9; L'Invincible, 1 Wh., 238; U. S. v. Coolidge, 1 Wh., 415; Slocum v. Mayberry, 2 Wh., 1; The Estrella, 4 Wh., 298; L'Amistad de Ruez, 5 Wh., 385; The Sarah, 8 Wh., 391; The Margaret, 9 Wh., 119; The Merino, 9 Wh., 391; Ramsay v. Allegre, 12 Wh., 611; Hobart v. Drogan, 10 Pet., 108; The Orleans v. Phœbus, 11 Pet., 175; Smith v. Condry, 1 How., 28; Waring v. Clarke, 5 How., 441; New Jersey Steam Navigation Company v. Merchants' Bank, 6 How., 344; The Genesee Chief, 12 How., 443; Fretz v. Bull, 12 How., 466; Walsh v. Rogers, 13 How., 283; Steamboat New World v. King, 16 How., 469; Bogard v. Steamboat John Jay, 17 How., 399; Ward v. Peck, 18 How., 267; Ure v. Coffman, 19 How., 56; Jackson v. Steamboat Magnolia, 20 How., 296; People's Ferry Company v. Beers, 20 How., 393; Taylor v. Carryl, 20 How., 598; Allen v. Newberry, 21 How., 244; Nelson v. Leland, 22 How., 48; Roach v. Chapman, 22 How., 129; Ward v. Thompson, 22 How., 330; Railroad v. Steam Tow-boat Company, 23 How., 209; Moorewood v. Enequist, 23 How., 491; The Steamer St. Lawrence, 1 Bl., 522; The Propeller Commerce, 1 Bl., 574; The Plymouth, 3 Wall., 20; The Moses Taylor, 4 Wall., 411; Hine v. Trevor, 4 Wall., 555; The Eddy, 5 Wall., 481; The Siren, 7 Wall., 152; The Belfast, 7 Wall., 624; The Eagle, 8 Wall., 15; The Maggie Hammond, 9 Wall., 435; Norwich Company v. Wright, 13 Wall., 104; Steamboat Company v. Chase, 16 Wall., 622; Atkins v. The Disintegrating Company, 18 Wall., 272; Corfield v. Coryell, 4 Wash. C. C., 371; Clark v. U. S., 2 Wash. C. C., 519; The Abby, 1 Mas., 360; The Washington, 4 Blatch., 101; Jennings v. Carson's exs., 1 Pet. Ad., 1; The Jerusalem, 2 Gallis., 345; De Lovio v. Boit, 2 Gallis., 398; Gastrell v. Raymond, 2 Wood, 213.

**Ninth.** Of all proceedings for the condemnation of property taken as prize, in pursuance of section fifty-three hundred and [seventy-six,] [eight,] Title "INSURRECTION." Condemnation of property taken as prize.

6 Aug., 1861, c. 60, s. 2, v. 12, p. 319. 18 Feb., 1875, c. 80, v. 18, p. 317.

Suits on debentures.

2 Mar., 1799, c. 22, s. 80, v. 1, p. 687.

Suits on account of injuries by conspirators in certain cases.

20 April, 1871, c. 22, s. 2, v. 17, p. 13.

Suits to redress deprivation of rights secured by the Constitution and laws to persons within jurisdiction of United States.

20 April, 1871, c. 22, s. 1, v. 17, p. 13.

Suits to recover offices.

31 May, 1870, c. 114, s. 23, v. 16, p. 146.

1 Mar., 1875, c. 114, s. 3, v. 18, p. 336.

Suits for removal of officers holding contrary to fourteenth amendment

31 May, 1870, c. 114, s. 14, v. 16, p. 143.

Suits against national banks.

3 June, 1864, c. 106, s. 57, v. 13, p. 116.

Suits by aliens for torts in violation of the law of nations.

24 Sept., 1789, c. 20, s. 9, v. 1, p. 76.

Suits against consuls and vice-consuls.

24 Sept., 1789, c. 20, s. 9, v. 1, p. 76.

In bankruptcy.

2 Mar., 1867, c. 176, s. 1, v. 14, p. 517.

Ray v. Norseworthy, 23 Wall., 128; Lathrop Ass. v. Drake et al., 91 U. S., 516; Sherman et al. v. Bingham et al., 1 Lowell, 575; *In re The Mutual Ins. Co.*, 2 Low., 97.

Certain seizures cognizable in any district into which the property is taken.

13 July, 1861, c. 3, ss. 4, 5, 9, v. 12, pp. 256, 257, 258.

Tenth. Of all suits by the assignee of any debenture for drawback of duties, issued under any law for the collection of duties, against the person to whom such debenture was originally granted, or against any indorser thereof, to recover the amount of such debenture. [See § 3039.]

Eleventh. Of all suits authorized by law to be brought by any person for the recovery of damages on account of any injury to his person or property, or of the deprivation of any right or privilege of a citizen of the United States by any act done in furtherance of any conspiracy mentioned in section nineteen hundred and eighty-five, Title, "CIVIL RIGHTS." [See § 1980.]

Twelfth. Of all suits at law or in equity authorized by law to be brought by any person to redress the deprivation, under color of any law, ordinance, regulation, custom, or usage of any State, of any right, privilege, or immunity secured by the Constitution of the United States, or of any right secured by any law of the United States to persons within the jurisdiction thereof. [See §§ 1977, 1979.]

20 April, 1871, c. 22, s. 1, v. 17, p. 13. 31 May, 1870, c. 114, ss. 16, 18, v. 16, p. 144. 9 April, 1866, c. 31, s. 3, v. 14, p. 27.

Thirteenth. Of all suits to recover possession of any office, except that of elector of President or Vice-President, Representative or Delegate in Congress, or member of a State legislature, authorized by law to be brought, wherein it appears that the sole question touching the title to such office arises out of the denial of the right to vote to any citizen offering to vote, on account of race, color, or previous condition of servitude: *Provided*, That such jurisdiction shall extend only so far as to determine the rights of the parties to such office by reason of the denial of the right guaranteed by the Constitution of the United States, and secured by any law, to enforce the right of citizens of the United States to vote in all the States. [See § 2010.]

Fourteenth. Of all proceeding by the writ of quo warranto, prosecuted by any district attorney, for the removal from office of any person holding office, except as a member of Congress, or of a State legislature, contrary to the provisions of the third section of the fourteenth article of amendment of the Constitution of the United States. [See § 1786.]

Fifteenth. Of all suits by or against any association established under any law providing for national banking associations within the district for which the court is held.

Kennedy v. Gibson, 8 Wall., 506; Cadle v. Tracy, 11 Blatch., 101.

Sixteenth. Of all suits brought by any alien for a tort 'only' in violation of the law of nations, or of a treaty of the United States.

22 June, 1874, c. 391, s. 17, v. 18, p. 189. 19 Feb., 1875, c. 90, s. 7, v. 18, p. 331.

Seventeenth. Of all suits against consuls or vice-consuls, except for offenses above the description aforesaid.

23 Aug., 1842, c. 188, v. 4, p. 517. Laury v. Lausada, 1 Am. L. Rev., 92.

Eighteenth. The district courts are constituted courts of bankruptcy, and shall have in their respective districts original jurisdiction in all matters and proceedings in bankruptcy.

SEC. 564. Proceedings on seizures for forfeiture of any vessel or cargo entering any port of entry which has been closed by the President in pursuance of law, or of goods and chattels coming from a State or section declared by proclamation of the President to be in insurrection into other parts of the United States, or of any vessel or vehicle conveying such property, or conveying persons to or from such State or section, or of any vessel belonging, in whole or in part, to any inhabitant of such State or section, may be prosecuted in any district court into which the property so seized may be taken, and proceedings instituted; and the district court thereof shall have as full jurisdiction over such proceedings as if the seizure was made in that district. [See §§ 5301, 5317.]

SEC. 565. Any district court may, notwithstanding an appeal to the Supreme Court, in any prize cause, make and execute all necessary orders for the custody and disposal of the prize property, and, in case of an appeal from a decree of condemnation, may proceed to make a decree of distribution, so far as to determine what share of the prize shall go to the captors, and what vessels are entitled to participate therein. [See § 4637.]

SEC. 566. The trial of issues of fact in the district courts, in all causes except cases in equity and cases of admiralty and maritime jurisdiction, and except as otherwise provided in proceeding in bankruptcy, shall be by jury. In causes of admiralty and maritime jurisdiction relating to any matter of contract or tort arising upon or concerning any vessel of twenty tons burden or upward, enrolled and licensed for the coasting trade, and at the time employed in the business of commerce and navigation between places in different States and Territories upon the lakes and navigable waters connecting the lakes, the trial of issues of fact shall be by jury when either party requires it.

SEC. 567. When any Territory is admitted as a State, and a district court is established therein, all the records of the proceedings in the several cases pending in the court of appeals of said Territory at the time of such admission, and all records of the proceedings in the several cases in which judgments or decrees had been rendered in said territorial court before that time, and from which writs of error could have been sued out or appeals could have been taken, or from which writs of error had been sued out or appeals had been taken and prosecuted to the Supreme Court, shall be transferred to and deposited in the district court for the said State. [See § 704.]

Forsyth v. U. S., 9 How., 571. McNulty v.

SEC. 568. It shall be the duty of the district judge, in the case provided in the preceding section, to demand of the clerk, or other person having possession or custody of the records therein mentioned, the delivery thereof, to be deposited in said district court; and, in case of the refusal of such clerk or person to comply with such demand, the said district judge shall compel the delivery of said records by attachment or otherwise, according to law.

SEC. 569. When any territory is admitted as a State, and a district court is established therein, the said district court shall take cognizance of all cases which were pending and undetermined in the superior court of such Territory, from the judgments or decrees to be rendered in which writs of error could have been sued out or appeals taken to the Supreme Court, and shall proceed to hear and determine the same. [See § 704.]

SEC. 570. Any district judge may appoint commissioners, before whom appraisers of vessels or goods and merchandise seized for breaches of any law of the United States may be sworn; and such oaths, so taken, shall be as effectual as if taken before the judge in open court. [See § 938.]

SEC. 571. [The district courts for the western district of Arkansas, the northern district of Mississippi, the western district of South Carolina, and the district of West Virginia, shall have, in addition to the ordinary jurisdiction of district courts, jurisdiction of all causes, except appeals and writs of error, which are cognizable in a circuit court; and shall proceed therein in the same manner as a circuit court.] [The district courts for the western district of Arkansas, the eastern district of Arkansas at Helena, the northern district of Mississippi, the western district of South Carolina, and the district of West Virginia, shall have in addition to the ordinary jurisdiction of district courts, jurisdiction of all causes, except appeals and writs of error, which are cognizable in a circuit court, and shall proceed therein in the same manner as a circuit court.]

16 Aug., 1856, c. 119, ss. 1, 3, v. 11, p. 43. W. Va., 4 Feb., 1819, c. 3 Mar., 1837, c. 34, s. 3, v. 5, p. 177; 28 Mar., 1838, c. 46, s. 1, v. 5, p. c. 120, s. 1, v. 13, p. 124; 4 June, 1872, c. 284, s. 1, v. 17, p. 218. 31 19, p. 230.

May proceed in prize causes after appeal.

30 June, 1864, c. 174, s. 13, v. 13, p. 310.

Trial of issues of fact.

21 Sept., 1789, c. 20, s. 9, v. 1, p. 76. 26 Feb., 1845, c. 20, v. 5, p. 726.

The Eagle, 8 Wall., 25. Henderson's Distilled Spirits, 14 Wall., 44.

Transfer of records to district courts when a Territory becomes a State.

22 Feb., 1847, c. 17, s. 1, v. 9, p. 128. 22 Feb., 1848, c. 12, s. 2, v. 9, p. 212.

Benner, Porter, 9 How., 235. Batty, 10 How., 72.

District judge shall demand and compel delivery of records of territorial court.

22 Feb., 1847, c. 17, s. 1, v. 9, p. 128. 22 Feb., 1848, c. 12, s. 2, v. 9, p. 212.

Jurisdiction of district courts in cases transferred from territorial courts.

22 Feb., 1847, c. 17, s. 1, v. 9, p. 128. 22 Feb., 1848, c. 12, s. 2, v. 9, p. 212.

Commissioners to administer oaths to appraisers.

9 June, 1794, c. 64, s. 1, v. 1, p. 395.

Certain district courts to have circuit-court jurisdiction.

Ark., 3 Mar., 1851, c. 24, s. 3, v. 9, p. 595. Ga., 11 Aug., 1848, c. 151, s. 8, v. 9, p. 281.

Miss., 16 Feb., 1839, c. 27, s. 1, v. 5, p. 317.

S.C., 21 Feb., 1823, c. 11, v. 3, p. 726; 12, s. 2, v. 3, p. 479; 215; 11 June, 1864, Jan., 1877, c. 41, v.

## CHAPTER FOUR.

## DISTRICT COURTS—SESSIONS.

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| Sec.  | Sec.   |
| 572. Terms of district courts.  | 589. Powers of district judge vested, during disability, in circuit judge.             |
| 573. Effect of altering terms of district courts.   | 590. Preparatory examinations and orders in admiralty cases, by district clerk.        |
| 574. Court always open as court of admiralty, for certain purposes.                           | 591. District judge designated to perform duties of disabled judge.                    |
| 575. District court in southern district of Florida.  | 592. Designation of another judge in case of accumulation of business.                 |
| 576. District courts in Wisconsin.  | 593. When designation of another judge to be by Chief Justice United States.           |
| 577. Kentucky and Indiana; how terms may be held.   | 594. Revocation and new appointment.   |
| 578. Monthly adjournments for trial of criminal causes.                                       | 595. Duty of district judge to comply with designation and appointment.                |
| 579. Adjourned terms.   | 596. Designation of district judge when public interest requires.                      |
| 580. Adjourned terms in Kentucky and Indiana.   | 597. Expenses of a district judge designated to southern district of New York.         |
| 581. Special terms.   | 598. Disability of district judges in Florida.   |
| 582. Tennessee; when circuit judges may act as district judges.                               | 599. Disability of judge of northern and southern districts of New York.               |
| 583. Adjournment in case of non-attendance of the judge.                                      | 600. When district judge of eastern district of New York may act in southern district. |
| 584. Adjournment in case of non-attendance of the judge, in certain districts.                | 601. When district judge is interested in suit pending before him.                     |
| 585. Adjournment in Kentucky and Indiana, by written order, within first three days of terms. | 602. Continuances by vacancy in office of district judge.                              |
| 586. Intermediate terms in California; Iowa, and Tennessee.                                   | 603. Vacancy in office of district judge.  |
| 587. Business certified to circuit court in case of disability of district judge.             |  |
| 588. Suits brought in district court after order to certify to circuit court.                 |  |

## Terms of district courts.

## Alabama.

- 7 Aug., 1848, c. 143,  
ss. 1, 2, v. 9, p. 274.  
4 May, 1852, c.  
25, s. 1, v. 10, p. 5.  
2 Mar., 1827, c.  
41, s. 1, v. 4, p. 226.  
9 June, 1860, c. 85,

SEC. 572. The regular terms of the district courts shall be held at the times and places following, but when any of said dates shall fall on Sunday, the term shall commence on the following day:

In the southern district of Alabama, at Mobile, on the fourth Monday in April, and the second Monday after the fourth Monday in November.

In the middle district of Alabama, at Montgomery, on the fourth Monday in May and November.

In the northern district of Alabama, at Huntsville, on the third Monday in May and November.

85, s. 1, v. 12, p. 28. 23 June, 1874, c. 463, v. 18, p. 251.

## Arkansas.

- 15 June, 1836, c.  
100, s. 4, v. 5, p. 51.  
3 Mar., 1839, c.  
81, s. 5, v. 5, p. 337.  
3 Mar., 1851, c.  
24, s. 2, v. 9, p. 594.  
3 Mar., 1871, c.  
106, ss. 1, 5, v. 16,  
pp. 471, 472.  
31 Jan., 1877, c.  
41, v. 19, p. 230.

[In the eastern district of Arkansas, at Little Rock, on the first Monday in April and October.

In the western district of Arkansas, at Fort Smith, on the second Monday in May and November, and at Helena on the second Monday in March and September.]

[In the eastern district of Arkansas, at Little Rock, on the first Monday in April and October, and at Helena on the second Monday in March and October.

In the western district of Arkansas, at Fort Smith on the first Monday in February, May, August, and November.]

## California.

- 19 Feb., 1864, c.  
11, s. 8, v. 13, p. 5.

In the district of California, at San Francisco, on the first Monday in April, on the second Monday in August, and on the first Monday in December.

## Connecticut.

- 24 Sept., 1789, c.  
20, s. 3, v. 1, p. 74.  
6 Feb., 1812, c.  
20, v. 2, p. 676.

In the district of Connecticut, at New Haven, on the fourth Tuesday in February; at Hartford, on the fourth Tuesday in May; at New Haven, on the fourth Tuesday in August, and at Hartford on the fourth Tuesday in November.

## Delaware.

- 10 May, 1852, c.  
33, s. 1, v. 10, p. 5.

In the district of Delaware, at Wilmington, on the second Tuesday in January, April, June, and September.

14 June, 1856, c. 45, s. 1, v. 11, p. 22.

In the northern district of Florida, at Tallahassee, on the first Monday in February, at Pensacola, on the first Monday in March, and at Jacksonville, on the first Monday in December.

In the southern district of Florida, at Key West, on the first Monday in May and November.

In the northern district of Georgia, at Atlanta, on the first Monday in March and September.

In the southern district of Georgia, at Savannah, on the second Tuesday in February, May, August, and November.

11 Aug., 1848, c. 151, ss. 1, 2, v. 9, p. 280. 4 June, 1872, c. 284,

In the northern district of Illinois, at Chicago, on the first Monday in July and the third Monday in December.

In the southern district of Illinois, at Springfield, on the first Monday in January and June, and at Cairo, on the first Monday in March and October.

In the district of Indiana, at Indianapolis, on the first Tuesday in May and November, and at New Albany, on the first Monday in January and July, and at Evansville, on the first Monday in February and August.

47, s. 1, v. 12, p. 657. 30 June, 1870, c. 180,

In the northern division of the district of Iowa, at Dubuque, on the third Tuesday in April and November.

In the southern division, at Keokuk, on the third Tuesday in March and September.\*

In the central division, at Des Moines, on the second Tuesday in May and the third Tuesday in October.

In the western division, at Council Bluffs, on the third Tuesday in January and July.

178, s. 2, v. 16, p. 174. 9 Feb., 1874, c. 24, v. 18, p. 15.

In the district of Kansas, at the seat of government, on the second Monday in April, and at Leavenworth, on the second Monday in October.

20, s. 5, v. 12, p. 128. 8 June, 1872

In the district of Kentucky, at Covington, on the second Monday in May and the first Monday in December; at Louisville, on the third Monday in February and the first Monday in October; at Frankfort, on the third Monday in May and the first Monday in January; and at Paducah, on the second Monday in April and the first Monday in November.

In the district of Louisiana, at New Orleans, on the third Monday in February, May, and November.

99, s. 1, v. 10, p. 307. 27 July, 1866, c. 280,

In the district of Maine, at Portland, on the first Tuesday in February; at Bangor, on the fourth Tuesday in June; at Bath, on the first Tuesday in September, and at Portland on the first Tuesday in December.

28 Nov., 1811, c. 2, s. 1, v. 2, p. 667. 27 Jan., 1831, c. 10, s. 1, v. 1843, c. 32, s. 2, v. 5, p. 600. 14 July, 1862, c. 174, s. 1, v. 12, p. 575.

In the district of Maryland, at Baltimore, on the first Tuesday in March, June, September, and December.

20, s. 3, v. 1, p. 74. 29 April, 1802, c. 31,

In the district of Massachusetts, at Boston, on the third Tuesday in March, on the fourth Tuesday in June, on the second Tuesday in September, and on the first Tuesday in December.

9 June, 1794, c. 64, s. 2, v. 1, p. 396. 3 Mar., 1813, c.

In the eastern district of Michigan, at Detroit, on the first Tuesday in March, June, and November.

In the western district of Michigan, at Grand Rapids, on the third Monday in May and October.

Florida.

27 July, 1868, c. 270, s. 1, v. 15, p. 239. 23 Feb., 1847, c. 20, s. 2, v. 9, p. 131.

Georgia.

9 July, 1794, c. 64, s. 2, v. 1, p. 396. 29 April, 1802, c. 31, s. 15, v. 2, p. 165. 3, v. 17 p. 218.

Illinois.

13 Feb., 1855, c. 96, s. 2, v. 10, p. 606. 23 April, 1856, c. 18, s. 1, v. 11, p. 4. 3 July, 1868, c. 118, s. 1, v. 15, p. 82.

Indiana.

10 Mar., 1838, c. 33, s. 1, v. 5, p. 215. 20 Feb., 1863, c. 1, v. 16, p. 175.

Iowa.

3 Mar., 1859, c. 88, ss. 5, 6, 7, v. 11, pp. 437, 438. 15 July, 1862, c. 178, s. 1, v. 12, p. 576. 3 Mar., 1863, c. 69, s. 2, v. 12, p. 699. 30 June, 1870, c. 178, s. 2, v. 16, p. 174. 9 Feb., 1874, c. 24, v. 18, p. 15.

Kansas.

29 Jan., 1861, c. 341, v. 17, p. 334.

Kentucky.

15 May, 1862, c. 71, s. 1, v. 12, p. 386. 1 Mar., 1873, c. 215, v. 17, p. 484.

Louisiana.

20 July, 1854, c. 81, v. 14, p. 300.

Maine.

24 Sept., 1789, c. 20, s. 3, v. 1, p. 74. 4, p. 434. 15 Feb.,

Maryland.

24 Sept., 1789, c. 15, v. 2, p. 165.

Massachusetts.

24 Sept., 1789, c. 20, s. 3, v. 1, p. 74. 45, s. 3, v. 2, p. 815.

Michigan.

24 Feb., 1863, c. 54, s. 2, v. 12, p. 661.

\*At Keokuk, third Tuesdays of January and June, and at Council Bluffs, fourth Mondays of March and September. Act 9 Feb., 1874.

- Minnesota.**  
3 Mar., 1859, c. 74, s. 1, v. 11, p. 402.  
**Mississippi.**  
18 June, 1838, c. 115, ss. 1, 2, v. 5, p. 247. 16 May, 1866, c. 83, s. 1, v. 14, p. 48.  
**Missouri.**  
3 Mar., 1857, c. 100, s. 2, v. 11, p. 197.  
25 Feb., 1873, c. 200, s. 5, v. 17, p. 477.  
**Nebraska.**  
25 Mar., 1867, c. 7, s. 2, v. 15, p. 5.  
**Nevada.**  
27 Feb., 1865, c. 64, s. 1, v. 13, p. 440.  
**New Hampshire.**  
24 Sept., 1789, c. 20, s. 3, v. 1, p. 74.  
**New Jersey.**  
4 June, 1844, c. 38, s. 1, v. 5, p. 660.  
**New York.**  
4 July, 1864, c. 245, s. 1, v. 13, p. 385.  
29 May, 1830, c. 213, s. 1, v. 4, p. 422.  
25 Feb., 1855, c. 54, s. 1, v. 13, p. 438.  
**North Carolina.**  
10 Mar., 1828, c. 16, s. 1, v. 4, p. 254.  
1 July, 1870, c. 188, v. 16, p. 180.  
4 June, 1872, c. 282, s. 2, v. 17, p. 215.  
**Ohio.**  
7 July, 1870, c. 214, v. 16, p. 192.  
23 May, 1872, c. 201, v. 17, p. 157.  
21 Feb., 1863, c. 49, v. 12, p. 657.  
**Oregon.**  
19 Feb., 1864, c. 11, s. 8, v. 13, p. 5.  
**Pennsylvania.**  
9 June, 1794, c. 64, s. 2, v. 1, p. 396.
- In the district of Minnesota, at Winona, on the first Monday in June, and at Saint Paul on the first Monday in October.  
5 April, 1866, c. 26, s. 1, v. 14, p. 14.  
In the northern district of Mississippi, at Oxford, on the first Monday in June and December.  
In the southern district of Mississippi, at Jackson, on the fourth Monday in January and June.  
5 May, 1830, c. 89, s. 1, v. 4, p. 399. 3 Mar., 1835, c. 34, s. 1, v. 4, p. 773.  
In the eastern district of Missouri, at Saint Louis, on the first Monday in May and November.  
In the western district of Missouri, at Jefferson, on the first Monday in March and September.  
In the district of Nebraska, at Omaha, on the first Monday in May and on the first Wednesday after the second Tuesday in October.\*  
3 Mar., 1873, c. 263, v. 17, p. 601. 17 Feb., 1877, c. 60, v. 19, p. 232.  
In the district of Nevada, at Carson City, on the first Monday in February, May, and October.  
In the district of New Hampshire, at Portsmouth, on the Third Tuesday in March and September; at Exeter, on the third Tuesday in June and December.  
In the district of New Jersey, at Trenton, on the third Tuesday in January, April, June, and September.  
12 Aug., 1848, c. 169, s. 1, v. 9, p. 303.  
In the northern district of New York, at Albany, on the third Tuesday in January; at Utica, on the third Tuesday in March; at Rochester, on the second Tuesday in May; at Buffalo, on the third Tuesday in August; at Auburn, on the third Tuesday in November; and, in the discretion of the judge of said court, one term annually at such time and place within the counties of Saint Lawrence, Clinton, Jefferson, Oswego, and Franklin as he may from time to time appoint. Such appointment shall be made by a notice of at least twenty days published in the State paper of the State of New York, and in one newspaper published at the place where said court is to be held; and said term shall be held only for the trial of issues of fact arising within said counties.  
In the southern district of New York, in the city of New York, on the first Tuesday in every month.  
In the eastern district of New York, in Brooklyn, on the first Wednesday in every month.  
In the eastern district of North Carolina, at Elizabeth City, on the third Monday in April and October; at New Berne, on the fourth Monday in April and October; and at Wilmington, on the first Monday after the fourth Monday in April and October.  
In the western district of North Carolina, at Greensborough, on the first Monday in April and October; at Statesville, on the third Monday in April and October; and at Asheville, on the first Monday in May and November.  
In the northern district of Ohio, at Cleveland, on the first Tuesday in January, April, and October; and at Toledo, two terms, to be held at such times as shall be fixed by the judge of said district.  
In the southern district of Ohio, at Cincinnati, on the first Tuesday in February, April, and October.  
In the district of Oregon, at Portland, on the first Monday in March, July, and November.  
In the eastern district of Pennsylvania, at Philadelphia, on the third Monday in February, May, August, and November.  
In the western district of Pennsylvania, at Pittsburgh, on the first Monday in May, and on the third Monday in October; at Williamsport,

\* By st. Feb. 17, 1877, c. 60, v. 19, p. 232, the fall term is held on the second Monday of November.



on the third Monday in June, and on the first Monday in October; at Erie, on the second Monday in January, and third Monday in July. 20 April, 1818, c. 108, s. 1, v. 3, p. 462. 15 May, 1820, c. 111, s. 1, v. 3, p. 598. 5 April, 1826, c. 23, s. 1, v. 4, p. 153. 8 May, 1840, c. 23, s. 1, v. 5, p. 380. 27 July, 1842, c. 68, s. 1, v. 5, p. 496. 28 July, 1866, c. 304, s. 1, v. 14, p. 342. 21 Feb., 1871, c. 63, v. 16, p. 429.

In the District of Rhode Island, at Providence, on the first Tuesday in February and August; at Newport, on the second Tuesday in May, and on the third Tuesday in October. Rhode Island. 23 Mar., 1804, c. 31, s. 4, v. 2, p. 273.

In the eastern district of South Carolina, at Charleston, on the first Monday in January, May, July, and October. In the western district, at Greenville, on the first Monday in August. South Carolina. 10 Feb., 1858, c. 5, s. 1, v. 11, p. 260. 16 Aug., 1856, c. 119, s. 1, v. 11, p. 43. 21 Feb., 1823, c. 11, v. 3, p. 726.

In the eastern district of Tennessee, at Knoxville, on the second Monday in January and July. Tennessee. 25 June, 1868, c. 79, s. 1, v. 15, p. 80.

In the middle district of Tennessee, at Nashville, on the third Monday in April and October.

In the western district of Tennessee, at Memphis, on the fourth Monday in May and November.

In the eastern district of Texas, at Brownsville, on the first Monday in March and October; at Galveston, on the first Monday in May and December. Texas. 21 Feb., 1857, c. 57, s. 2, v. 11, p. 164. 11 June, 1858, c. 147, s. 1, v. 11, p. 314.

In the western district of Texas, at Austin, on the first Monday in January and June; at Tyler, on the fourth Monday in April, and on the first Monday in November.

In the district of Vermont, at Burlington, on the fourth Tuesday in February; at Windsor, on the Monday next after the fourth Tuesday in July; at Rutland, on the sixth day of October. Vermont. 29 April, 1802, c. 31, s. 27, v. 2, p. 166. 3, p. 776. 4 May, 1858, c. 28, s. 1, v. 11, p. 272. 22 Feb., 1869, c. 43, s. 1, v. 15, p. 274. 5 June, 1874, c. 214, v. 18, p. 53.

In the eastern district of Virginia, at Richmond, on the first Monday in April and October; at Alexandria, on the first Monday in January and July; and at Norfolk on the first Monday in May and November. Virginia. 3 Feb., 1871, c. 35, ss. 2, 3, v. 16, p. 403. 1 Feb., 1872, c. 10, v. 17, p. 27. 13 April, 1872, c. 99, v. 17, p. 52.

In the western district of Virginia, at Danville, on the Tuesday after the fourth Monday in February and August; at Lynchburgh, on the Tuesday after the third Monday in March and September; at Abingdon, on the Tuesday after the fourth Monday in May and October; and at Harrisonburgh, on the Tuesday after the first Monday in May, and the Tuesday after the second Monday in October.

In the district of West Virginia, at Clarksburgh, on the twenty-fourth days of March and August; and at Wheeling, on the sixth days of April and September; and at Charleston, on the nineteenth days of April and September. West Virginia. 11 June, 1864, c. 120, s. 1, v. 13, p. 124.

In the eastern district of Wisconsin, at Oshkosh, on the first Monday in July; at Milwaukee, on the first Monday in January and October. Wisconsin. 29 June 1870, c. 175, ss. 2, 3, v. 16, p. 171.

In the western district of Wisconsin, at Madison, on the first Monday in June; and at La Crosse, on the third Tuesday in September. 9 May, 1872, c. 143, s. 1, v. 17, p. 88. 9 Feb., 1874, c. 24, v. 18, p. 286, v. 18, p. 75. 22 June, 1874, c. 401, s. 6, v. 18, p. 195.

SEC. 573. No action, suit, proceeding, or process in any district court shall abate or be rendered invalid by reason of any act changing the time of holding such court; but the same shall be deemed to be returnable to, pending, and triable in the terms established next after the return-day thereof. Effect of altering terms of district courts. See all acts altering terms.

SEC. 574. The district courts, as courts of admiralty, and as courts of equity, so far as equity jurisdiction has been conferred upon them, shall be deemed always open, for the purpose of filing and pleading, of issuing and returning mesne and final process, and of making and directing all interlocutory motions, orders, rules, and other proceedings, preparatory to the hearing, upon their merits, of all causes pending therein. And any district judge may, upon reasonable notice to the parties, make, Court always open as court of admiralty, for certain purposes. 23 Aug., 1842, c. 188, s. 5, v. 5, p. 517.

and direct and award, at chambers, or in the clerk's office, and in vacation as well as in term, all such process, commissions, orders, rules, and other proceedings, whenever the same are not grantable of course, according to the rules and practices of the court.

District court in southern district of Florida.

SEC. 575. The district court for the southern district of Florida shall at all times be open, for the purpose of hearing and deciding causes of admiralty and maritime jurisdiction.

23 Feb., 1847, c. 20, s. 2, v. 9, p. 131.

District courts in Wisconsin.

SEC. 576. The district courts of the districts of Wisconsin shall at all times be open, for the purpose of hearing and deciding causes of admiralty and maritime jurisdiction, so far as the same can be done without a jury.

29 May, 1848, c. 50, s. 4, v. 9, p. 234.

29 June, 1870, c. 175, ss. 1, 3, v. 16, p. 171.

26 Feb., 1845, c. 20, v. 5, p. 726.

Kentucky and Indiana; how terms may be held.

SEC. 577. In the districts of Kentucky and Indiana, the terms of the district courts shall not be limited to any particular number of days, nor shall it be necessary to adjourn by reason of the intervention of a term of the court elsewhere; but the court intervening may be adjourned over till the business of the court in session is concluded.

Ky., 15 May, 1862, c. 71, s. 6, v. 12, p. 386.

Ind., 30 June, 1870, c. 180, s. 6, v. 16, p. 175.

Monthly adjournments for trial for criminal causes.

SEC. 578. District courts shall hold monthly adjournments of their regular terms, for the trial of criminal causes, when their business requires it to be done, in order to prevent undue expenses and delays in such cases.

23 Aug., 1842, c. 188, s. 3, v. 5, p. 517.

Adjourned terms.

SEC. 579. The judge of any district court in Indiana, Kentucky, Louisiana, Michigan, Ohio, Pennsylvania, and Texas, may adjourn the same from time to time, to meet the necessities or convenience of the business.

Ind., 30 June, 1870, c. 180, s. 5, v. 16, p. 175.

Ky., 15 May, 1862, c. 71, s. 4, v. 12, p. 386. La., 20 July, 1854, c. 99, s. 1, v. 10, p. 307; 27 July, 1866, c. 280, s. 1, v. 14, p. 300. Mich., 24 Feb., 1863, c. 54, s. 2, v. 12, p. 661. Ohio, 10 Feb., 1855, c. 73, s. 2, v. 10, p. 605. Pa., 20 April, 1818, c. 108, s. 1, v. 3, p. 462; 26 May, 1824, c. 170, s. 1, v. 4, p. 50; 28 July, 1866, c. 304, s. 1, v. 14, p. 342. Tex., 21 Feb., 1857, c. 57, s. 2, v. 11, p. 164. Mechanics' Bank v. Withers, 6 Wh., 106.

Adjourned terms in Kentucky and Indiana.

SEC. 580. In the districts of Kentucky and Indiana the intervention of a term of the district court at another place, or of a circuit court, shall not preclude the power to adjourn over to a future day.

15 May, 1862, c. 71, s. 4, v. 12, p. 386; 30 June, 1870, c. 180, s. 5, v. 16, p. 175.

Special terms.

SEC. 581. A special term of any district court may be held at the same place where any regular term is held, or at such other place in the district as the nature of the business may require, and at such time and upon such notice as may be ordered by the district judge. And any business may be transacted at such special term which might be transacted at a regular term.

24 Sept., 1789, c. 20, s. 3, v. 1, p. 73.

Ala., 6 Feb., 1839, c. 20, s. 2, v. 5, p. 315; 9 June, 1860, c. 85, s. 3, v. 12, p. 29. Ark., 15 June, 1836, c. 100, s. 4, v. 5, p. 51; 3 Mar., 1851, c. 24, s. 2, v. 9, p. 594. Cal., 28 Sept., 1850, c. 86, s. 3, v. 9, p. 522. Fla., 3 Mar., 1845, c. 75, s. 4, v. 5, p. 788; 23 Feb., 1847, c. 20, s. 2, v. 9, p. 131. Ill., 3 Mar., 1851, c. 44, s. 1, v. 9, p. 606. Ind., 30 June, 1870, c. 180, s. 4, v. 16, p. 175. Ky., 15 May, 1862, c. 71, s. 4, v. 12, p. 386. N.C., 4 June, 1872, c. 282, s. 4, v. 17, p. 215. N.Y., 4 July, 1864, c. 245, s. 1, v. 13, p. 385. Tenn., 26 Jan., 1864, c. 5, s. 2, v. 13, p. 2. Va., 3 Feb., 1871, c. 35, s. 4, v. 16, p. 403. Wis., 29 May, 1848, c. 50, s. 4, v. 9, p. 234; 29 June, 1870, c. 175, s. 4, v. 16, p. 171.

Tennessee, when circuit judges may act as district judges.

SEC. 582. In the case of the non-attendance of the district judge of Tennessee at any term of the district court in either of the districts thereof, the circuit justice, or circuit judge of the circuit to which such district belongs, may hold such term, and shall have and exercise the jurisdiction and powers given by law to a district judge.

3 Mar., 1843, c. 74, s. 2, v. 5, p. 610.

10 April, 1869, c. 22, s. 2, v. 16, p. 44.

Adjournment in case of non-attendance of the judge.

SEC. 583. If the judge of any district court is unable to attend at the commencement of any regular, adjourned, or special term, the court may be adjourned by the marshal, by virtue of a written order directed to him by the judge, to the next regular term, or to any earlier day, as the order may direct.

24 Sept., 1789, c. 20, s. 6, v. 1, p. 76.

26 Mar., 1804, c. 44, v. 2, p. 291.

SEC. 584. If the judge of any district court in Alabama, California, Georgia, Indiana, Iowa, Kentucky, North Carolina, Tennessee, or West Virginia is not present at the time for opening the court, the clerk may open and adjourn the court from day to day for four days; and if the judge does not appear by two o'clock after noon of the fourth day, the clerk shall adjourn the court to the next regular term. But this section is subject to the provisions of the preceding and next sections.

Cal., 28 Sept., 1850, c. 86, s. 6, v. 9, p. 522. Ga., 18 Aug., 1848, c. 151, s. 10, v. 9, p. 281. Ind., 30 June, 1870, c. 180, s. 2, v. 16, p. 175. Iowa, 3 Mar., 1849, c. 124, s. 1, v. 9, p. 411. Ky., 15 May, 1862, c. 71, s. 2, v. 12, p. 386. N. C., 23 Jan., 1812, c. 17, s. 2, v. 2, p. 676. Tenn., 18 June, 1838, c. 118, s. 7, v. 5, p. 250. W. Va., 26 May, 1824, c. 167, s. 3, v. 4, p. 49.

Adjournment in case of non-attendance of the judge in certain districts.

Ala., 10 Mar., 1824, c. 28, s. 9, v. 4, p. 10; 6 Feb., 1839, c. 20, s. 10, v. 5, p. 316.

SEC. 585. In the districts of Indiana and Kentucky, the district judge, in the case provided in the preceding section, may, by a written order to the clerk within the first three days of his term, adjourn the district court to a future day within thirty days of the first day. The clerk shall give notice of such adjournment by posting a copy of said order on the front door of the court-house where the court is to be held.

Adjournment in Kentucky and Indiana, by written order, within first three days of terms.

15 May, 1862, c. 71, s. 2, v. 12, p. 386. 30 June, 1870, c. 180, s. 2, v. 16, p. 75.

SEC. 586. Whenever the judge of any district court in the districts of California, Iowa, and Tennessee fails to hold any regular term thereof, it shall be his duty, if it appears that the business of the court requires it, to hold an intermediate term. Such intermediate term shall be appointed by an order under his hand and seal, addressed to the clerk and marshal at least thirty days previous to the time fixed therein for holding it, and the order shall be published the same length of time in the several newspapers published within such districts respectively. And at such intermediate term the business of the court shall have reference to and be proceeded with in the same manner as if it were a regular term.

Intermediate terms in California, Iowa, and Tennessee.

28 Sept., 1850, c. 86, s. 6, v. 9, p. 522. 3 Mar., 1849, c. 124, s. 1, v. 9, p. 411. 18 June, 1838, c. 118, s. 8, v. 5, p. 250. 18 June, 1839, c. 3, s. 1, v. 5, p. 313.

SEC. 587. When satisfactory evidence is shown to the circuit judge of any circuit, or, in his absence, to the circuit justice allotted to the circuit, that the judge of any district therein is disabled to hold a district court, and to perform the duties of his office, and an application accordingly is made in writing to such circuit judge or justice, by the district attorney or marshal of the district, the said judge or justice, as the case may be, may issue his order in the nature of a certiorari, directed to the clerk of such district court, requiring him forthwith to certify into the next circuit court to be held in said district all suits and processes, civil and criminal, depending in said district court, and undetermined, with all the proceedings thereon, and all the files and papers relating thereto. Said order shall be immediately published in one or more newspapers printed in said district, at least thirty days before the session of such circuit court, and shall be sufficient notification to all concerned; and thereupon the circuit court shall proceed to hear and determine the suits and processes so certified. And all bonds and recognizances taken for, or returnable to, such district court, shall be held to be taken for, and returnable to, said circuit court, and shall have the same effect therein as they could have had in the district court to which they were taken. [See § 637.]

Business certified to circuit court in case of disability of district judge.

2 Mar., 1809, c. 27, s. 1, v. 2, p. 534. 29 July, 1850, c. 30, s. 1, v. 9, p. 442. 2 April, 1852, c. 20, v. 10, p. 5. 10 April, 1869, c. 22, s. 2, v. 16, p. 44.

*Ex parte* U. S., 1 Gallis., 338.

SEC. 588. When an order has been made as provided in the preceding section, the clerk of the district court shall continue, during the disability of the district judge, to certify, as aforesaid, all suits, pleas, and processes, civil and criminal, thereafter begun in said court, and to transmit them to the circuit court next to be held in that district; and the said court shall proceed to hear and determine them as provided in said section: *Provided*, That when the disability of the district judge ceases or is removed, the circuit court shall order all such suits and proceedings then pending and undetermined therein, in which the district courts have an exclusive original cognizance, to be remanded, and the clerk of such court shall transmit the same, with all matters relating thereto, to the district court next to be held in that district; and the same proceedings shall then be had in the district court as would have been had if such suits had originated or been continued therein.

Suits brought in district court after order to certify to circuit court.

2 Mar., 1809, c. 27, s. 2, v. 2, p. 535.

*Ex parte* U. S., 1 Gallis., 338.

Powers of district judge vested, during disability, in circuit judge.

2 Mar., 1809, c. 27, s. 2, v. 2, p. 534.

Preparatory examinations and orders in admiralty cases by district clerk.

2 Mar., 1809, c. 27, s. 3, v. 2, p. 535.  
10 April, 1869, c. 22, s. 2, v. 16, p. 44.

District judge designated to perform duties of disabled judge.

29 July, 1850, c. 30, s. 1, v. 9, p. 442.  
10 April, 1869, c. 22, s. 2, v. 16, p. 44.

Designation of another judge in case of accumulation of business.

2 April, 1852, c. 20, v. 10, p. 5.  
10 April, 1869, c. 22, s. 2, v. 16, p. 44.

When designation of another judge to be by Chief Justice United States.

29 July, 1850, c. 30, s. 2, v. 9, p. 443.  
2 April, 1852, c. 20, v. 10, p. 5.  
10 April, 1869, c. 22, s. 2, v. 16, p. 44.

Revocation and new appointment.

29 July, 1850, c. 30, s. 4, v. 9, p. 443.  
2 April, 1852, c. 20, v. 10, p. 5.  
10 April, 1869, c. 22, s. 2, v. 16, p. 44.

Duty of district judge to comply with designation and appointment.

29 July, 1850, c. 30, s. 3, v. 9, p. 443.

SEC. 589. In the case provided in the two preceding sections the circuit judge, and in his absence the circuit justice, shall have and exercise, during such disability, all the powers of every kind vested by law in such district judge. But this provision does not require them to hold any special court, or court of admiralty, at any other time than that fixed by law for holding the circuit court in said district.

SEC. 590. When the business of a [circuit] [district] court is certified into the circuit court on account of the disability of the district judge, the district clerk shall be authorized, by order of the circuit judge, or, in his absence, of the circuit justice within whose circuit such district is included, to take, during such disability, all examinations and depositions of witnesses, and make all necessary rules and orders, preparatory to the final hearing of all causes of admiralty and maritime jurisdiction.

SEC. 591. When any district judge is prevented, by any disability, from holding any stated or appointed term of his district court, or of the circuit court in his district in the absence of the other judges, and that fact is made to appear by the certificate of the clerk, under the seal of the court, to the circuit judge, or, in his absence, to the circuit justice of the circuit in which the district lies, such circuit judge or justice may, if in his judgment the public interests so require, designate and appoint the judge of any other district in the same circuit to hold said courts, and to discharge all the judicial duties of the judge so disabled, during such disability. Such appointment shall be filed in the clerk's office, and entered on the minutes of the said district court, and a certified copy thereof, under the seal of the court, shall be transmitted by the district clerk to the judge so designated and appointed.

SEC. 592. When, from the accumulation or urgency of business in any district court, the public interests require the designation and appointment hereinafter provided, and the fact is made to appear, by the certificate of the clerk, under the seal of the court, to the circuit judge, or, in his absence, to the circuit justice of the circuit in which the district lies, such circuit judge or justice may designate and appoint the judge of any other district in the same circuit to have and exercise within the district first named the same powers that are vested in the judge thereof; and each of the said district judges may, in case of such appointment, hold separately at the same time a district or circuit court in such district, and discharge all the judicial duties of a district judge therein; but no such judge shall hear appeals from the district court.

SEC. 593. If the circuit judge and circuit justice are absent from the circuit, or are unable to execute the provisions of either of the two preceding sections, or if the district judge so designated is disabled or neglects to hold the courts and transact the business for which he is designated, the district clerk shall certify the fact to the Chief Justice of the United States, who may thereupon designate and appoint, in the manner aforesaid, the judge of any district within such circuit or within any circuit next contiguous; and said appointment shall be transmitted to the district clerk, and be acted upon by him as directed in the preceding section.

SEC. 594. The circuit judge, or circuit justice, or the Chief Justice, as the case may be, may, from time to time, if in his judgment the public interests so require, make a new designation and appointment of any other district judge within the said circuits, for the duties, and with the powers mentioned in the three preceding sections, and to revoke any previous designation and appointment.

SEC. 595. It shall be the duty of the district judge who is designated and appointed under either of the four preceding sections, to discharge all the judicial duties for which he is so appointed, during the continuance of such disability, or, in the case of an accumulation of business, during the time for which he is so appointed; and all the acts and proceedings in the courts held by him, or by or before him, in pursuance of

said provisions, shall have the same effect and validity as if done by or before the district judge of the said district.

SEC. 596. It shall be the duty of every circuit judge, whenever in his judgment the public interest so requires, to designate and appoint, in the manner and with the powers provided in section five hundred and ninety-one, the district judge of any judicial district within his circuit to hold a district or circuit court in the place or in aid of any other district judge within the same circuit; and it shall be the duty of the district judge, so designated and appointed, to hold the district or circuit (\*) as aforesaid, without any other compensation than his regular salary as established by law, except in the case provided in the next section.

SEC. 597. Whenever a district judge from another district, holds a district or circuit court in the southern district of New York, in pursuance of the preceding section, his expenses, not exceeding ten dollars a day, certified by him, shall be paid by the marshal of said district, as a part of the expenses of the court, and shall be allowed in the marshal's account.

SEC. 598. When a certificate of the judge of either of the districts of Florida, stating that he is disabled to hold any regular, special, or adjourned term of the court of such district, and requesting the judge of the other district to hold the same, is filed in the clerk's office of the place where it is to be held, the judge of the other district is authorized to hold such courts, and to exercise all the powers of district judge, in the district of the judge so certifying.

SEC. 599. Whenever the judge of the northern district of New York is disabled to perform the duties of his office, it shall be the duty of the judge of the southern district, upon receiving from him notice thereof, to hold the district court, and to perform all the duties of district judge for such district. And whenever the judge of the southern district is so disabled, it shall be the duty of the judge of the eastern district, upon a like notice, to hold the district court, and to perform all the duties of district judge for the southern district. In such cases the said judges, respectively, shall have the same powers as are vested in the judge so disabled.

SEC. 600. Whenever the judge of the southern district of New York deems it desirable, on account of the pressure of public business or other cause, that the judge of the eastern district shall perform the duties of a district judge in the southern district, an order to that effect may be entered upon the records of the district court thereof; and thereupon the judge of the eastern district shall have power to hold the district court, and to perform all the duties of district judge for the southern district.

SEC. 601. Whenever it appears that the judge of any district court is in any way concerned in interest in any suit pending therein, or has been of counsel for either party, or is so related to or connected with either party as to render it improper, in his opinion, for him to sit on the trial, it shall be his duty, on application by either party, to cause the fact to be entered on the records of the court; and, also, an order that an authenticated copy thereof, with all the proceedings in the suit, shall be forthwith certified to the next circuit court for the district; and if there be no circuit court therein, to the next circuit court in the State; and if there be no circuit court in the State, to the next convenient circuit court in an adjoining State; and the circuit court shall, upon the filing of such record with its clerk, take cognizance of and proceed to hear the case, in like manner as if it had originally and rightfully been commenced therein. [See § 637.]

SEC. 602. When the office of judge of any district court is vacant, all process, pleadings, and proceedings pending before such court shall be continued of course until the next stated term after the appointment and qualification of his successor; except when such first-mentioned term is held as provided in the next section.

2 April, 1852, c. 20, v. 10, p. 5.

Designation of district judge when public interest requires.

3 Mar., 1871, c. 113, s. 3, v. 16, p. 494.  
29 July, 1850, c. 30, s. 1, v. 9, p. 442.

Expenses of a district judge designated to southern district of New York.

5 Mar., 1872, c. 35, v. 17, p. 36.

Disability of district judges in Florida.

24 Feb., 1855, c. 125, v. 10, p. 615.

Disability of judge of northern and southern districts of New York.

3 April, 1818, c. 32, s. 1, v. 3, p. 414.  
25 Feb., 1865, c. 54, s. 3, v. 13, p. 438.

When district judge of eastern district of New York may act in southern district.

25 Feb., 1865, c. 54, s. 3, v. 13, p. 438.

When district judge is interested in suit pending before him.

3 Mar., 1821, c. 51, v. 3, p. 643.  
8 May, 1792, c. 36, s. 11, v. 1, p. 278.

Spencer v. Lapsley, 20 How., 266.

Continuances by vacancy in office of district judge.

24 Sept., 1789, c. 20, s. 6, v. 1, p. 76.  
6 Aug., 1861, c. 59, v. 12, p. 318.

(\*) The word *court* omitted.

Vacancy in office  
of district judge.

6 Aug., 1861, c.  
59, v. 12, p. 318.

SEC 603. When the office of district judge is vacant in any district in a State containing two or more districts, the judge of the other or of either of the other districts may hold the district court, or the circuit court in case of the sickness or absence of the other judges thereof, in the district where the vacancy occurs, and discharge all the judicial duties of judge of such district, during such vacancy; and all the acts and proceedings in said courts, by or before such judge of an adjoining district, shall have the same effect and validity as if done by or before a judge appointed for such district.

## CHAPTER FIVE.

### JUDICIAL CIRCUITS.

Sec. 604. Circuits.

Circuits.

24 Sept., 1789, c.  
20, s. 4, v. 1, p. 74.  
30 Mar., 1820, c.  
27, s. 1, v. 3, p. 554.  
23 July, 1866, c.  
210, s. 2, v. 14, p.  
209.  
25 Mar., 1867, c.  
7, s. 2, v. 15, p. 5.  
26 June, 1876, c.  
147, v. 19, p. 61.

SEC. 604. The judicial districts of the United States are divided into nine circuits as follows:

First. The first circuit includes the districts of Rhode Island, Massachusetts, New Hampshire, and Maine.

Second. The second circuit includes the districts of Vermont, Connecticut, and New York.

Third. The third circuit includes the districts of Pennsylvania, New Jersey, and Delaware.

Fourth. The fourth circuit includes the districts of Maryland, Virginia, West Virginia, North Carolina, and South Carolina.

Fifth. The fifth circuit includes the districts of Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas.

Sixth. The sixth circuit includes the districts of Ohio, Michigan, Kentucky, and Tennessee.

Seventh. The seventh circuit includes the districts of Indiana, Illinois, and Wisconsin.

Eighth. The eighth circuit includes the districts of Nebraska, Minnesota, Iowa, Missouri, Kansas, and Arkansas.

Ninth. The ninth circuit includes the districts of California, Oregon, and Nevada.

## CHAPTER SIX.

### CIRCUIT COURTS—ORGANIZATION.

Sec.

605. Justices allotted to circuits, how designated.

606. Allotment of the justices to the circuits.

607. Circuit judges.

608. Circuit courts, where established.

609. Circuit courts, by whom to be held.

610. Justices of Supreme Court to attend once in every two years.

611. Judges of circuit courts may sit apart.

612. Circuit courts held at same time in different districts.

613. Criminal terms in the southern district of New York; how held.

614. When district judges may sit in cases of appeal or error to their own decisions.

615. When suits transferred from one circuit to another.

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616. Cause certified back.

617. Justices may hold courts of other circuits on request.

618. When no justice is allotted to a circuit.

619. Clerks.

620. Clerks in Kentucky.

621. Clerks in North Carolina.

622. Clerks in western district of Virginia.

623. Clerks in western district of Wisconsin.

624. Deputy clerks.

625. Deputy clerks of circuit court in Indiana.

626. Compensation of deputy clerks.

627. Commissioners.

628. Marshals not to be commissioners.

SEC. 605. The words "circuit justice" and "justice of a circuit," when used in this Title, shall be understood to designate the justice of the Supreme Court who is allotted to any circuit; but the word "judge," when applied generally to any circuit, shall be understood to include such justice. Justices allotted to circuits, how designated.

SEC. 606. The Chief Justice and associate justices of the Supreme Court shall be allotted among the circuits by an order of the court, and a new allotment shall be made whenever it becomes necessary or convenient by reason of the alteration of any circuit, or of the new appointment of a Chief Justice or associate justice, or otherwise. If a new allotment becomes necessary at any other time than during a term, it shall be made by the Chief Justice, and shall be binding until the next term and until a new allotment by the court. Allotment of the justices to the circuits.

SEC. 607. For each circuit there shall be appointed a circuit judge, who shall have the same power and jurisdiction therein as the justice of the Supreme Court, allotted to the circuit, and shall be entitled to receive a salary at the rate of six thousand dollars a year, payable quarterly on the first days of January, April, July, and October. Every circuit judge shall reside within his circuit. Circuit judges.

SEC. 608. Circuit courts are established as follows: One for the three districts of Alabama, one for the eastern district of Arkansas, one for the southern district of Mississippi, and one for each district in the States not herein named; and shall be called the circuit courts for the districts where established.

pp. 484, 485. Ark., 3 Mar., 1837, c. 34, s. 3, v. 5, p. 177; 3 Mar., 1851, c. 24, ss. 1, 3, v. 9, pp. 594, 595; 19 Feb., 1869, c. 34, v. 15, p. 271; 3 Mar., 1871, c. 106, s. 5, v. 16, p. 472. Cal., Oreg., 3 Mar., 1863, c. 100, s. 2, v. 12, p. 794. Fla., Minn., 15 July, 1862, c. 178, s. 2, v. 12, p. 576. Ga., 11 Aug., 1848, c. 151, ss. 4, 5, 8, v. 9, pp. 280, 281; 4 June, 1872, c. 284, s. 1, v. 17, p. 218. Ill., 19 Feb., 1855, c. 96, s. 2, v. 10, p. 606. Ind., Iowa, Kans., 3 Mar., 1837, c. 34, s. 3, v. 5, p. 177. Ky., 24 Feb., 1807, c. 16, s. 2, v. 2, p. 420. La., 3 Mar., 1837, c. 34, s. 3, v. 5, p. 177; 27 July, 1866, c. 280, s. 1, v. 14, p. 300. Mich., 24 Feb., 1863, c. 54, s. 2, v. 12, p. 661. Miss., so. dist., 3 Mar., 1857, c. 34, s. 2, v. 5, p. 177; 18 June, 1838, c. 115, s. 1, v. 5, p. 247; 16 Feb., 1839, c. 27, ss. 1, 2, v. 5, p. 317. Mo., 3 Mar., 1857, c. 100, s. 10, v. 11, p. 198; 8 June, 1872, c. 334, v. 17, p. 282; 25 Feb., 1873, c. 200, v. 17, p. 476. Nebr., 25 Mar., 1867, c. 7, s. 2, v. 15, p. 5. Nev., 27 Feb., 1865, c. 64, s. 2, v. 13, p. 440. N. Y., 9 Apr., 1814, c. 49, s. 3, v. 3, p. 121; 25 Feb., 1865, c. 54, s. 1, v. 13, p. 438. N. C., 4 June, 1790, c. 17, s. 1, v. 1, p. 126. Ohio, 10 Feb., 1855, c. 73, s. 2, v. 10, p. 604. Penn., 20 Apr., 1818, c. 108, s. 4, v. 3, p. 462; 3 Mar., 1837, c. 34, s. 2, v. 5, p. 177. R. I., 23 June, 1790, c. 21, s. 1, v. 1, p. 128. Tenn., 24 Feb., 1807, c. 16, s. 2, v. 2, p. 420; 18 Jan., 1839, c. 3, s. 1, v. 5, p. 313; 25 June, 1868, c. 79, s. 1, v. 15, p. 5. Tex., 15 July, 1862, c. 178, s. 2, v. 12, p. 576. Vt., 2 Mar., 1791, c. 12, s. 3, v. 1, p. 197. Va., 3 Feb., 1871, c. 35, ss. 2, 3, v. 16, p. 403. W. Va., 3 Mar., 1837, c. 34, s. 2, v. 5, p. 177; 11 June, 1864, c. 120, s. 1, v. 13, p. 124; 27 July, 1866, Res. 90, v. 14, p. 369. Wis., 29 June, 1870, c. 175, ss. 1, 2, 3, v. 16, p. 171; 22 June, 1874, c. 401, v. 18, p. 195.

SEC. 609. Circuit courts shall be held by the circuit justice, or by the circuit judge of the circuit, or by the district judge of the district sitting alone, or by any two of the said judges sitting together. Circuit courts; by whom to be held.

SEC. 610. It shall be the duty of the Chief Justice, and of each justice of the Supreme Court, to attend at least one term of the circuit court in each district of the circuit to which he is allotted during every period of two years. Justices of Supreme Court to attend once in every two years.

SEC. 611. Cases may be heard and tried by each of the judges holding a circuit court sitting apart by direction of the presiding justice or judge, who shall designate the business to be done by each. Judges of circuit courts may sit apart.

SEC. 612. Circuit courts may be held at the same time in the different districts of the same circuit. Circuit courts held at same time in different districts.

SEC. 613. The terms of the circuit court for the southern district of New York, appointed exclusively for the trial and disposal of criminal business, may be held by the circuit judge of the second judicial court and the district judges for the southern and eastern districts of New Criminal terms in the southern district of New York; how held.

7 Feb., 1873, c. 120, s. 2, v. 17, p. 422.

When district judges may sit in cases of appeal or error to their own decisions.

24 Sept., 1789, c. 20, s. 4, v. 1, p. 74.  
29 April, 1802, c. 31, s. 5, v. 2, p. 158.

When suits transferred from one circuit to another.

28 Feb., 1839, c. 36, s. 8, v. 5, p. 322.  
3 Mar., 1863, c. 93, s. 2, v. 12, p. 768.

Spencer v. Lapsley, 20 How., 264;  
Supervisors v. Rogers, 7 Wall., 175;  
Richardson v. Boston, 1 Curt. C. C., 250; Sawyer v. Oakman, 11 Blatch., 65.

Cause certified back.

3 Mar., 1863, c. 93, s. 2, v. 12, p. 768.  
28 Feb., 1839, c. 36, s. 8, v. 5, p. 322.  
10 April, 1869, c. 22, s. 2, v. 16, p. 44.

Supervisors v. Rogers, 7 Wall., 175.

Justices may hold courts of other circuits on request.

3 Mar., 1863, c. 93, s. 1, v. 12, p. 768.

Supervisors v. Rogers, 7 Wall., 175.

When no justice is allotted to a circuit.

3 Mar., 1863, c. 93, ss. 2, 3, v. 12, p. 768.

Clerks.

24 Sept., 1789, c. 20, s. 7, v. 1, p. 76.  
22 June, 1874, c. 40, s. 3, v. 18, n. 195.

Clerks in Kentucky.

15 May, 1862, c. 71, s. 7, v. 12, p. 387.  
10 April, 1869, c. 22, s. 3, v. 16, p. 45.

York, or any one of said three judges; and at every such term held by said judge of said eastern district he shall receive the sum of three hundred dollars, the same to be paid in the manner now prescribed by law for the payment of the expenses of another district judge while holding court in said district.

SEC. 614. A district judge sitting in a circuit court shall not give a vote in any case of appeal or error from his own decision, but may assign the reasons for such decision: *Provided*, That such a cause may, by consent of parties, be heard and disposed of by him when holding a circuit court sitting alone. When he holds a circuit court with either of the other judges, the judgment or decree in such cases shall be rendered in conformity with the opinion of the presiding justice or judge.

2 Mar., 1867, c. 185, s. 2, v. 14, p. 545.—Bingham v. Cabot, 3 Dall., 19.

SEC. 615. When it appears in any civil suit in any circuit court that all of the judges thereof who are competent by law to try said case are in any way interested therein, or have been of counsel for either party, or are so related or connected with either party as to render it, in the opinion of the court, improper for them to sit in such trial, it shall be the duty of the court, on the application of either party, to cause the fact to be entered on the records, and to make an order that an authenticated copy thereof, with all the proceedings in the case, shall be forthwith certified to the most convenient circuit court in the next adjoining State or in the next adjoining circuit; and said court shall, upon the filing of such record and order with its clerk, take cognizance of and proceed to hear and determine the case, in the same manner as if it had been rightfully and originally commenced therein; and the proper process for the due execution of the judgment or decree rendered in the cause shall run into and may be executed in the district where such judgment or decree was rendered, and also into the district from which the cause was removed.

SEC. 616. The circuit justice, or the circuit judge of any circuit, may order any civil cause, which is certified into any court of the circuit under the provisions of the preceding section, to be certified back to the court whence it came; and then the latter shall proceed therein as if the cause had not been certified from it: *Provided*, That if, for any reason, it shall be improper for the judges of such court to try the cause so certified back, it shall be tried by some other judge holding such court, pursuant to the provisions of the next section.

SEC. 617. Whenever a circuit justice deems it advisable, on account of his disability or absence, or of his having been of counsel, or being interested in any case pending in the circuit court for any district in his circuit, or of the accumulation of business therein, or for any other cause, that said court shall be held by the justice of any other circuit, he may, in writing, request the justice of any other circuit to hold the same, during a time to be named in the request; and such request shall be entered upon the journal of the circuit court so to be holden. Thereupon it shall be lawful for the justice so requested to hold such court, and to exercise within and for said district, during the time named in said request, all the powers of the justice of such circuit.

SEC. 618. Whenever, by reason of death or resignation, no justice is allotted to a circuit, the Chief Justice of the Supreme Court may make a request as provided in the preceding section, which shall have effect in like manner until a justice is allotted to such circuit.

SEC. 619. A clerk shall be appointed for each circuit court by the circuit judge of the circuit, except in cases otherwise provided for by law.

10 April, 1869, c. 22, s. 2, v. 16, p. 45. 20 June, 1874, c. 328, v. 18, p. 109.

SEC. 620. In the district of Kentucky, a clerk of the circuit court shall be appointed at each place of holding the court, in the same manner and subject to the same duties and responsibilities which are or may be provided for clerks in independent districts.



SEC. 621. In the western district of North Carolina the circuit and district judges shall appoint three clerks, each of whom shall be clerks both of the circuit and district courts for said western district of North Carolina. One shall reside and keep his office at Statesville, one shall reside and keep his office at Asheville, and the third shall reside and keep his office at Greensborough.

Clerks in North Carolina.

4 June, 1872, c. 282, s. 9, v. 17, p. 217.

SEC. 622. In the western district of Virginia the circuit and district judges shall appoint four clerks, each of whom shall be clerks both of the circuit and district courts for said district. One of these clerks shall reside and keep his office at Lynchburgh, another shall reside and keep his office at Abingdon, another shall reside and keep his office at Danville, and the fourth shall reside and keep his office at Harrisonburgh, in said district.

Clerks in western district of Virginia.

3 Feb., 1871, c. 35, s. 9, v. 16, p. 404.

SEC. 623. In the western district of Wisconsin the circuit and district judges shall appoint two clerks, each of whom shall be clerks both of the circuit and district courts for said district. One shall reside and keep his office at Madison, and the other shall reside and keep his office at La Crosse.

Clerks in western district of Wisconsin.

29 June, 1870, c. 175, s. 9, v. 16, p. 172.

SEC. 624. One or more deputies of any clerk of a circuit court may be appointed by such court, on the application of the clerk, and may be removed at the pleasure of judges authorized to make the appointment. In case of the death of the clerk, his deputy or deputies shall, unless removed, continue in office, and perform the duties of the clerk in his name until a clerk is appointed and qualified; and for the defaults or misfeasances in office of any such deputy, whether in the lifetime of the clerk or after his death, the clerk, and his estate, and the sureties in his official bond shall be liable; and his executor or administrator shall have such remedy for any such defaults or misfeasances committed after his death as the clerk would be entitled to if the same had occurred in his lifetime.

Deputy clerks.

8 June, 1872, c. 336, v. 17, p. 330.

SEC. 625. In the district of Indiana a deputy clerk of the circuit court must be appointed for said court held at New Albany, and a deputy clerk for said court held at Evansville, who shall reside and keep their offices at said places respectively. Each deputy shall keep in his office full records of all actions and proceedings in the circuit court held at the same place, and shall have the same power to issue all process from the said court that is or may be given to the clerks of other circuit courts in like cases.

Deputy clerks of circuit court in Indiana.

3 Mar., 1871, c. 108, s. 1, v. 16, p. 473.  
30 June, 1870, c. 180, ss. 1, 7, v. 16, p. 175.

SEC. 626. The compensations of deputies of clerks of the circuit courts shall be paid by the clerks, respectively, and allowed, in the same manner that other expenses of the clerks' offices are paid and allowed.

Compensation of deputy clerks.

8 June, 1872, c. 336, v. 17, p. 330.

SEC. 627. Each circuit court may appoint, in different parts of the district for which it is held, so many discreet persons as it may deem necessary, who shall be called "commissioners of the circuit courts," and shall exercise the powers which are or may be expressly conferred by law upon commissioners of circuit courts. [See §§ 2025, 2026.]

Commissioners.

2 Mar., 1793, c. 22, s. 4, v. 1, p. 334.  
20 Feb., 1812, c. 25, s. 2, v. 2, p. 679.  
1 Mar., 1817, c. 30, v. 3, p. 350.

SEC. 628. No marshal, or deputy marshal, of any of the courts of the United States shall hold or exercise the duties of commissioner of any of the said courts.

Marshals not to be commissioners.

16 Aug., 1856, c. 124, s. 13, v. 11, p. 50.

## CHAPTER SEVEN.

### CIRCUIT COURT—JURISDICTION.

- Sec.  
629. Jurisdiction.  
630. In bankruptcy.  
631. Appeals in admiralty causes.  
632. Copies of proofs and entries certified to appellate court.  
633. Writ of error to judgment of district courts.

- Sec.  
634. Circuit court in and for the three districts of Alabama.  
635. Writs of error and appeals within one year.  
636. Judgment or decree on review.  
637. Jurisdiction of cases transferred from district courts on account of disability, &c.

Sec.

638. Courts always open for certain purposes.
639. Removal of suits against aliens, &c., where amount of \$500 in dispute.
640. Removal of suits against corporations organized under a law of the United States.
641. Removal of causes against persons denied any civil right, &c.
642. When petitioner is in actual custody of State court.
643. Removal of suits and prosecutions against revenue officers and officers acting under registration laws.
644. Removal of suits by aliens in a particular case.
645. When copies of records are refused by clerk of State court.
646. Attachments, injunctions, and indemnity bonds to remain in force after removal.

Sec.

647. Removal of suits where parties claim land under titles from different States.
648. Issues of fact; when to be tried by jury.
649. Issues of fact tried by the court.
650. Division of opinion in civil causes; decision by presiding judge.
651. Division of opinion in criminal causes; certificate.
652. Division of opinion in civil causes; certificate.
653. Business of the circuit court for the two districts of Missouri transferred, how.
654. Process issued out of former circuit court for Missouri.
655. Transfer of cases between eastern and western districts.
656. Custody of books, papers, &c., of circuit court of Missouri.
657. Circuit court for southern district of New York, how limited.

## Jurisdiction.

Aliens, citizens  
of different States.

24 Sept., 1789, c.  
20, s. 11, v. 1, p. 78.  
3 Mar., 1875, c. 137,  
ss. 1, 2, 3, v. 18, pp.  
470-473.—Emory v.  
Greenough, 3 Dall.,  
369; Bingham v.  
Cabot, 3 Dall. 382;  
Turner v. Enrille, 4

SEC. 629. The circuit courts shall have original jurisdiction as follows:

First. Of all suits of a civil nature at common law or in equity, where the matter in dispute, exclusive of costs, exceeds the sum or value of five hundred dollars, and an alien is a party, or the suit is between a citizen of the State where it is brought and a citizen of another State: *Provided*, That no circuit court shall have cognizance of any suit to recover the contents of any promissory note or other chose in action in favor of an assignee, unless a suit might have been prosecuted in such court to recover the said contents if no assignment had been made, except in cases of foreign bills of exchange.

Dall., 7; Turner v. Bank of North America, 4 Dall., 8; Mossman v. Higginson, 4 Dall., 12; Abercrombie v. Dupuis, 1 Cr., 343; Hepburn v. Ellzey, 2 Cr., 445; Strawbridge v. Curtiss, 3 Cr., 267; Mantalet v. Murray, 4 Cr., 46; Chappel DeLaine v. Dechenaux, 4 Cr., 306; Pollard v. Dwight, 4 Cr., 421; Brown v. Strode, 5 Cr., 306; Sere v. Pitto, 6 Cr., 332; New Orleans v. Winter, 1 Wh., 91; Morgan's Heirs v. Morgan, 2 Wh., 290; Cameron v. McRoberts, 3 Wh., 593; Young v. Bryan, 6 Wh., 146; Wormley v. Wormley, 8 Wh., 422; Childress v. Emery, 8 Wh., 642; Gracie v. Palmer, 8 Wh., 699; Mollan v. Torrance, 9 Wh., 537; McDonald v. Smally, 1 Pet., 320; Jackson v. Twentymann, 2 Pet., 136; Bank of Kentucky v. Wister, 2 Pet., 318; Connolly v. Taylor, 2 Pet., 556; Buckner v. Rinley, 2 Pet., 586; Battier v. Hine, 7 Pet., 252; Breedlove v. Nicolet, 7 Pet., 413; Dunn v. Clark, 8 Pet., 1; Boyce's Executors v. Grundy, 9 Pet., 275; Livingston v. Story, 11 Pet., 351; Clarke v. Matthewson, 12 Pet., 164; Toland v. Sprague, 13 Pet., 300, 327; Bank of Augusta v. Earle, 13 Pet., 519; Bank of Vicksburgh v. Slocomb, 14 Pet., 60; Irvine v. Lowry, 14 Pet., 293; Levy v. Fitzpatrick, 15 Pet., 171; Gordon v. Longest, 16 Pet., 97; McNutt v. Bland, 2 How., 9; Gwyn v. Breedlove, 2 How., 19; Louisville Railroad Company v. Letson, 2 How., 497; Gwyn v. Barton, 6 How., 7; Bank of United States v. Moss, 6 How., 31; Shelton v. Tiffin, 6 How., 163; Smith v. Kernochen, 7 How., 198; Sheldon v. Sill, 8 How., 441; Shelby v. Bacon, 10 How., 56; Chaffee v. Hayward, 12 How., 208; Coffee v. Planter's Bank, 13 How., 183; Haff v. Hutchinson, 14 How., 586; Marshall v. Baltimore and Ohio Railroad Company, 16 How., 314; Herndon v. Ridgway, 17 How., 424; Jones v. League, 18 How., 76; Lafayette Insurance Company v. French, 18 How., 404; Union Bank v. Vaiden, 18 How., 503; Jones v. McMasters, 20 How., 8; Hyde v. Stone, 20 How., 175; Chaffee v. Haywood, 20 How., 208; Covington Drawbridge Company v. Shepherd, 20 How., 227; Whyte v. Gibbes, 20 How., 541; Irvine v. Marshall, 20 How., 566; Covington Drawbridge Company v. Shepherd, 21 How., 122; White v. Railroad, 21 How., 575; Barber v. Barber, 21 How., 582; Green's Administratrix v. Creighton, 23 How., 90; Eberly v. Moore, 24 How., 147; Fitch v. Creighton, 24 How., 159; Freeman v. Howe, 24 How., 460; Railroad v. Wheeler, 1 Bl., 286; Minnesota Company v. Saint Paul Company, 2 Wall., 609; De Sobry v. Nicholson, 3 Wall., 420; Barney v. Baltimore City, 6 Wall., 287; Cowles v. Mercer County, 7 Wall., 118; Payne v. Hook, 7 Wall., 425; Brady v. Rhine's Administrator, 8 Wall., 393; Bushnell v. Kennedy, 9 Wall., 387; Hornthall v. Collector, 9 Wall., 566; Reilly v. Golding, 10 Wall., 56; Jones v. Andrews, 10 Wall., 327; Pennsylvania v. Quicksilver Company, 10 Wall., 556; Coal Company v. Blatchford, 11 Wall., 172; Insurance Company v. Francis, 11 Wall., 210; Rice v. Houston, 13 Wall., 66; Railway Company v. Whitton, 13 Wall., 270; Christmas v. Russell, 14 Wall., 69; City of Lexington v. Butler, 14 Wall., 282; Horn v. Lockhart, 17 Wall., 570; Martin v. Taylor, 1 Wash. C. C., 1; Gale v. Babcock, 4 Wash. C. C., 199, 344; Bobyshall v. Oppenheimer, 4 Wash. C. C., 482; United States v. Ravara, 2 Dall., 297; Saint Luke's Hospital v. Barclay, 3 Blatch., 259; Graham v. Stucken, 4 Blatch., 50; Barr v. Simpson, Bald., 543; Hatch v. Dorr, 4 McLean, 112; Thaxter v. Hatch, 6 McLean, 68; Bradford v. Jenks, 2 McLean, 130;

Wilkenson v. Wilkenson, 2 Cur. C. C., 582; Dundas v. Bowler, 3 McLean, 204; United States v. Green, 4 Mas., 427; Cochran v. Deener, 94 U. S. 780; Pond v. Vermont Valley R. R. Co., 12 Blatch., 280; Wisconsin, v. Duluth, 2 Dill., 406; White v. Leary, 3 Dill., 378; Insurance Company v. The "C. D., jr.," 1 Woods, 72; Lockhart v. Horn, 1 Woods, 628; Vose v. Reed et al., 1 Woods, 647; Knott v. Life Insurance Company, 2 Woods, 479; Morgan's Executor v. Gay, 19 Wall., 81.

Second. Of all suits in equity, where the matter in dispute, exclusive of costs, exceeds the sum or value of five hundred dollars, and the United States are petitioners. Suits in equity by the United States.  
24 Sept., 1789, c. 20, s. 11, v. 1, p. 78.

Third. Of all suits at common law where the United States, or any officer thereof suing under the authority of any act of Congress, are plaintiffs. Suits at common law by United States or officers.

24 Sept., 1789, c. 20, ss. 9, 11, v. 1, pp. 76, 78. 3 Mar., 1815, c. 101, s. 4, v. 3, p. 245.—Dugan v. U. S., 3 Wh., 172; Postmaster-General v. Early, 12 Wh., 136; Parsons v. Bedford, 3 Pet., 433; U. S. v. Barker, 1 Paine, 156; Lorman v. Clarke, 2 McLean, 572.

Fourth. Of all suits at law or in equity, arising under any act providing for revenue from imports or tonnage, except civil causes of admiralty and maritime jurisdiction, and seizures on land or on waters not within admiralty and maritime jurisdiction, and except suits for penalties and forfeitures; of all causes arising under any law providing internal revenue, and of all causes arising under the postal laws. Suits under import, internal revenue, and postal laws.  
Imports, 2 Mar., 1833, c. 57, s. 2, v. 4, p. 632.

24 Sept., 1789, c. 20, s. 9, v. 1, p. 76. Internal revenue, 13 July, 1866, c. 184, ss. 9, 19, v. 14, pp. 111, 145, 152. 2 Mar., 1867, c. 169, ss. 10, 25, v. 14, pp. 475, 483. 20 July, 1868, c. 186, s. 106, v. 15, p. 167. 30 June, 1864, c. 173, ss. 41, 179, v. 13, pp. 239, 240, 305. 3 Mar., 1865, c. 78, s. 1, v. 13, p. 483. Postal laws, 3 Mar., 1845, c. 43, s. 20, v. 5, p. 739.

Fifth. Of all suits and proceedings for the enforcement of any penalties provided by laws regulating the carriage of passengers in merchant vessels. [See § 4270.] Suits for the enforcement of penalties.  
3 Mar., 1855, c. 213, s. 15, v. 10, p. 720.

Sixth. Of all proceedings for the condemnation of property taken as prize, in pursuance of section fifty-three hundred and eight, Title "INSURRECTION." [See §§ 5308, 5309.] Condemnation of property used for insurrectionary purposes.

6 Aug., 1861, c. 60, s. 2, v. 12, p. 319.—Union Insurance Company v. U. S., 6 Wall, 759.

Seventh. Of all suits arising under any law relating to the slave-trade. Suits under slave-trade laws.

22 Mar., 1794, c. 11, s. 1, v. 1, p. 347. 10 May, 1800, c. 51, ss. 1, 5, v. 2, pp. 70, 71. 2 Mar., 1807, c. 22, s. 7, v. 2, p. 28. 20 April, 1818, c. 91, ss. 1, 2, 4, 7, v. 3, pp. 450, 451, 452. 3 Mar., 1819, c. 101, s. 1, v. 3, p. 532.—U. S. v. La Vengeance, 3 Dall., 297; U. S. v. Schooner Sally, 2 Cr., 406; U. S. v. Schooner Betsey and Charlotte, 4 Cr., 443; The Sarah, 8 Wh., 391.

Eighth. Of all suits by the assignee of any debenture for drawback of duties, issued under any law for the collection of duties against the person to whom such debenture was originally granted, or against any indorser thereof, to recover the amount of such debenture. [See § 3039.] Suits on debentures.  
2 Mar., 1799, c. 22, s. 80, v. 1, p. 687, (688.)

Ninth. Of all suits at law or in equity arising under the patent or copyright laws of the United States. Patent and copyright suits.

8 July, 1870, c. 230, ss. 55, 106, v. 16, pp. 206, 215. 16 Feb. 1875, c. 77, s. 2, v. 18, p. 314.—Allen v. Blunt, 1 Blatch., 480; Goodyear v. Day, 1 Blatch., 565; Goodyear v. Union India Rubber Company, 4 Blatch., 63; Burr v. Gregory, 2 Paine, 426; Brooks v. Stolly, 3 McLean, 523; Pulte v. Derby, 5 McLean, 328.

Tenth. Of all suits by or against any banking association established in the district for which the court is held, under any law providing for national banking associations. Suits against national banks.  
3 June, 1864, c. 106, ss. 50, 57, v. 13, pp. 115, 116.

Eleventh. Of all suits brought by [or against] any banking association established in the district for which the court is held, under the provisions of Title "THE NATIONAL BANKS," to enjoin the Comptroller of the Currency, or any receiver acting under his direction, as provided by said title. [See § 5237.] Suits to enjoin the Comptroller of the Currency.  
3 June, 1864, c. 106, ss. 50, 57, v. 13, pp. 115, 116.

Twelfth. Of all suits brought by any person to recover damages for any injury to his person or property on account of any act done by him, under any law of the United States for the protection or collection of Suits for injuries on account of acts done under laws of the United States.

106, s. 57, v. 13, p. 116.—Kennedy v. Gibson, 8 Wall., 506.

18 Feb., 1875, c. 80, v. 18, p. 318.

2 Mar., 1833, c. 57, s. 2, v. 4, p. 632. any of the revenues thereof, or to enforce the right of citizens of the United States to vote in the several States.

13 July 1866, c. 184, s. 67, v. 14, p. 171. 28 Feb., 1871, c. 99, s. 15, v. 16, p. 438. 31 May, 1870, c. 114, v. 16, p. 140.

Suits to recover offices.

31 May, 1870, c. 114, s. 23, v. 16, p. 146.

Thirteenth. Of all suits to recover possession of any office, except that of elector of President or Vice-President, Representative or Delegate in Congress, or member of a State legislature, authorized by law to be brought, wherein it appears that the sole question touching the title to such office arises out of the denial of the right to vote to any citizen offering to vote, on account of race, color, or previous condition of servitude: *Provided*, That such jurisdiction shall extend only so far as to determine the rights of the parties to such office by reason of the denial of the right guaranteed by the Constitution of the United States, and secured by any law to enforce the right of citizens of the United States to vote in all the States. [See § 2010.]

Suits for removal of officers holding contrary to fourteenth amendment

31 May, 1870, c. 114, s. 14, v. 16, p. 143. 28 Feb., 1871, c. 99, s. 15, v. 16, p. 438.

Fourteenth. Of all proceedings by the writ of quo warranto, prosecuted by any district attorney, for the removal from office of any person holding office, except as a member of Congress or of a State legislature, contrary to the provisions of the third section of the fourteenth article of amendment of the Constitution of the United States. [See § 1796.]

Suits for penalties under laws to enforce elective franchise.

31 May, 1870, c. 114, ss. 2, 3, 4, 8, v. 16, pp. 140, 141, 142. 28 Feb., 1871, c. 99, s. 15, v. 16, p. 438.—U. S. v. Reese et al., 92 U. S., 214; U. S. v. Cruikshank et al., 92 U. S., 542.

Suits to redress deprivation of rights secured by the Constitution and laws to persons within jurisdiction of United States.

Fifteenth. Of all suits to recover pecuniary forfeitures under any act to enforce the right of citizens of the United States to vote in the several States.

Sixteenth. Of all suits authorized by law to be brought by any person to redress the deprivation, under color of any law, statute, ordinance, regulation, custom, or usage of any State, of any right, privilege, or immunity, secured by the Constitution of the United States, or of any right secured by any law providing for equal rights of citizens of the United States, or of all persons within the jurisdiction of the United States. [See §§ 1977, 1979.]

20 April, 1871, c. 22, s. 1, v. 17, p. 13. 3, v. 14, p. 27.—Miller v. The Mayor of City of New York, 13 Blatch., 469; Illinois v. Chicago & Alton R. R. Co., 6 Biss., 107.

31 May, 1870, c. 114, ss. 16, 18, v. 16, p. 114. 9 April, 1866, c. 31, s.

Suits on account of injuries by conspirators in certain cases.

20 April, 1871, c. 22, s. 2, v. 17, p. 13. 1 Mar., 1875, c. 114, s. 3, r. 18, p. 336.—Blyew v. U. S., 13 Wall., 581.

Seventeenth. Of all suits authorized by law to be brought by any person on account of any injury to his person or property, or of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section nineteen hundred and eighty, Title "CIVIL RIGHTS."

Suits against persons having knowledge of conspiracy, &c.

20 April, 1871, c. 22, s. 6, v. 17, p. 15. 22 Feb., 1875, c. 95, s. 4, r. 18, p. 333.

Eighteenth. Of all suits authorized by law to be brought against any person who, having knowledge that any of the wrongs mentioned in section nineteen hundred and eighty, are about to be done, and, having power to prevent or aid in preventing the same, neglects or refuses so to do, to recover damages for any such wrongful act. [See § 1981.]

Suits against officers and owners of vessels.

28 Feb., 1871, c. 100, s. 57, v. 16, p. 456.

Nineteenth. Of all suits and proceedings arising under section fifty-three hundred and forty-four, Title "CRIMES," for the punishment of officers and owners of vessels, through whose negligence or misconduct the life of any person is destroyed.

Crimes and offenses.

24 Sept., 1789, c. 20, s. 11, v. 1, p. 78. 19 Feb., 1875, c.

Twentieth. Exclusive cognizance of all crimes and offenses cognizable under the authority of the United States, except where it is or may be otherwise provided by law, and concurrent jurisdiction with the district courts of crimes and offenses cognizable therein.

90, s. 7, r. 18, p. 331.—U. S. v. Hudson and Goodwin, 7 Cr., 32; U. S. v. Coolidge, 1 Wh., 415; U. S. v. Bevans, 3 Wh., 336; U. S. v. Coombs, 12 Pet., 72; State of Pennsylvania v. Wheeling Bridge, 13 How., 563; U. S. v. Jackalow, 1 Bl., 484; U. S. v. Holliday, 3 Wall., 407; U. S. v. Wood, 2 Wh., Cr. Cas., 325; U. S. v. Ta-wan-ga-ca, Hemp., 304; U. S. v. Terrell, Hemp., 411, 422; U. S. v. Alberty, Hem., 444.

SEC. 630. The circuit courts shall have jurisdiction in matters in bankruptcy, to be exercised within the limits and in the manner provided by law.

pp. 518, 520. 22 June, 1874, c. 401, s. 2, v. 18, p. 195.—Coit v. Robinson, 19 Wall., 274; Bank v. Cooper, 20 Wall., 171; Stickney v. Wilt, 23 Wall., 150; Payson v. Dietz, 2 Dill., 504; Bachman v. Packard, 2 Saw., 264; Flanders v. Libby, 6 Biss., 16; *In re* Milton, 6 Biss., 30.

SEC. 631. From all final decrees of a district court in causes of equity or of admiralty and maritime jurisdiction, except prize causes, where the matter in dispute exceeds the sum or value of fifty dollars, exclusive of costs, an appeal shall be allowed to the circuit court next to be held in such district, and such circuit court is required to receive, hear, and determine such appeal.

170, s. 13, v. 13, p. 310. 1 June, 1872, c. 255, s. 2, v. 17, p. 196. 16 Feb., 1875, c. 77, v. 18, p. 315.—Mordecai v. Lindsay, 19 How., 199; Montgomery v. Anderson, 21 How., 386; U. S. v. Woonson, 1 Gallis., 4; McLellan v. U. S., 1 Gallis., 226; Hollen and Cargo, 1 Mas., 431. U. S. v. Thirty-seven Barrels Rum, 1 Woods, 19.

SEC. 632. In case of an appeal, as provided by the preceding section, copies of the proofs, and of such entries and papers on file as may be necessary on hearing of the appeal, may be certified up to the appellate court.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 163.

SEC. 633. Final judgments of a district court in civil actions, where the matter in dispute exceeds the sum or value of fifty dollars, exclusive of costs, may be re-examined and reversed or affirmed in a circuit court, holden in the same district, upon a writ of error.

Patterson v. U. S., 2 Wh., 221; Smith v. Allyn, 1 Paine, 453; Postmaster-General v. Cross, 4 Wash. C. C., 326.

SEC. 634. The circuit court in and for the three districts of Alabama shall exercise appellate and revisory jurisdiction of the decrees and judgments of the district courts for the said districts, under the laws conferring and regulating the jurisdiction, powers, and practice of circuit courts in cases removed into such courts by appeal or writ of error.

22 June, 1874, c. 401, s. 5, v. 18, p. 195.

SEC. 635. No judgment, decree, or order of a district court shall be reviewed by a circuit court, on writ of error or appeal, unless the writ of error is sued out, or the appeal is taken, within one year after the entry of such judgment, decree, or order: *Provided*, That where a party entitled to prosecute a writ of error or to take an appeal is an infant, or non compos mentis, or imprisoned, such writ of error may be prosecuted, or such appeal may be taken, within one year after the entry of the judgment, decree, or order, exclusive of the term of such disability. [See § 1008.]

SEC. 636. A circuit court may affirm, modify, or reverse any judgment, decree, or order of a district court brought before it for review, or may direct such judgment, decree, or order to be rendered, or such further proceedings to be had by the district court, as the justice of the case may require.

SEC. 637. When any cause, civil or criminal, of whatever nature, is removed into a circuit court, as provided by law, from a district court wherein the same is cognizable, on account of the disability of the judge of such district court, or by reason of his being concerned in interest therein, or having been of counsel for either party, or being so related to or connected with either party to such cause as to render it improper, in his opinion, for him to sit on the trial thereof, such circuit court shall have the same cognizance of such cause, and in like manner, as the said district court might have, or as said circuit [court] might have if the same had been originally and lawfully commenced therein; and shall proceed to hear and determine the same accordingly. [See §§ 587, 601.]

SEC. 638. The circuit courts, as courts of equity, shall be deemed always open for the purpose of filing any pleading, of issuing and returning mesne and final process, and of making and directing all interlocutory

In bankruptcy.

2 Mar., 1867, c. 176, ss. 2, 8, v. 14, 19 Wall., 274; 3 Mar., 1803, c. 40, s. 2, v. 2, p. 244. 30 June, 1864, c. 16 Feb., 1875, c. 77, v. 18, 3 Mar., 1803, c. 40, s. 2, v. 2, p. 244.

Appeals in admiralty causes.

24 Sept., 1789, c. 20, s. 21, v. 1, p. 83. 3 Mar., 1803, c. 40, s. 2, v. 2, p. 244.

30 June, 1864, c. 16 Feb., 1875, c. 77, v. 18, 3 Mar., 1803, c. 40, s. 2, v. 2, p. 244.

Copies of proofs and entries certified to appellate court.

80, s. 1, v. 10, p. 163.

Writ of error to judgments of district courts.

24 Sept., 1789, c. 20, s. 22, v. 1, p. 84.

Circuit court in and for the three districts of Alabama.

3 Mar., 1873, c. 223, s. 4, v. 17, p. 485. 22 June, 1874, c. 401, s. 5, v. 18, p. 195.

Writs of error and appeals within one year.

1 June, 1872, c. 255, s. 2, v. 17, p. 196.

Sedgwick v. Fridenberg, 11 Blatch., 77.

Judgment or decree on review.

1 June, 1872, c. 255, s. 2, v. 17, p. 196.

Jurisdiction of cases transferred from district courts on account of disability, &c.

2 Mar., 1809, c. 27, s. 1, v. 2, p. 534. 3 Mar., 1821, c. 51, v. 3, p. 643. 27 Feb., 1877, c. 69, v. 19, p. 241.

Courts always open for certain purposes.

23 Aug., 1842, c. 188, s. 5, v. 5, p. 517.  
 22 Feb., 1875, c. 95, s. 4, v. 18, p. 333.

Removal of suits against aliens, &c., where amount of \$500 in dispute.

24 Sept., 1789, c. 20, s. 12, v. 1, p. 79.  
 27 July, 1866, c. 288, v. 14, p. 306.  
 2 Mar., 1867, c. 196, v. 14, p. 558.  
 3 Mar., 1875, c. 137, ss. 2, 7, 9, v. 18, pp. 471, 472, 473.

*Eurtetiqui v. D'Arcy*, 9 Pet., 692; *Gordon v. Longest*, 16 Pet., 97; *Kanouse v. Martin*, 15 How., 198; *Parker v. Overman*, 18 How., 137; *Wood v. Davis*, 18 How., 467; *Green v. Cushtar*, 23 How., 484; *West v. Aurora City*, 6 Wall., 139; *Bushnell v. Kennedy*, 9 Wall., 387; *Insurance Co. v. Weide*, 9 Wall., 677; *Railway Com. v. Whiton*, 13 Wall., 270; *City of Lexington v. Butler*, 14 Wall., 282; *Case of the Sewing Machine Com's*, 18 Wall., 553; *Muns v. Dupont*, 2 Wash. C. C., 463; *Beardsley v. Torrey*, 4 Wash. C. C., 286; *Wright v. Wells*, 1 Pet. C. C., 220; *Ladd v. Tudor*, 3 Wood & M. C. C., 325; *Matthews v. Lyall*, 6 McLean, 13; *Brownell v. Gordon*, 1 McAll, C. C., 207; *Gier v. Gregg*, 4 McLean, 202; *Wilson v. Blodgett*, 4 McLean, 363; *McLeod v. Duncan*, 5 McLean, 342; *Hubbard v. Northern R. R.*, 3 Blatch., 84; *Bliven v. New England Screw Co.*, 3 Blatch., C. C., 111; *Barney v. Globe Bank*, 5 Blatch. C. C., 107; *Screw Co. v. Bliven*, 3 Blatch. C. C., 240; *Suydam v. Ewing*, 2 Blatch. C. C., 359; *Sayles v. Northwestern Ins. Co.*, 2 Curt. C. C., 212; *Bristol v. Chapman*, 34 How. Pr., 140; *Shelby v. Hoffman*, 7 Ohio St., 450; *In re Turner*, 3 Wall., Jr., 258; *In re Girard*, 3 Wall., Jr., 263; *Ward v. Arredund*, 1 Paine, 410; *McVaughter v. Cassily*, 4 McLean, 351; *Spraggins v. County Court*, Cooke, 160; *Gibson v. Johnson*, Peters C. C., 44; *Jersey v. Babcock*, 4 Wash. C. C., 344; *Charter Oak Ins. Co. v. Star Ins. Co.*, 6 Blatch. C. C., 208; *Roberts v. Nelson*, 8 Blatch. C. C., 74; *Beecher*

motions, orders, rules, and other proceedings, preparatory to the hearing, upon their merits, of all causes pending therein. And any judge of a circuit court may, upon reasonable notice to the parties, make, and direct and award, at chambers or in the clerk's office, and in vacation as well as in term, all such process, commissions, orders, rules, and other proceedings, whenever the same are not grantable, of course, according to the rules and practice of the court.

SEC. 639. Any suit commenced in any State court, wherein the amount in dispute, exclusive of costs, exceeds the sum or value of five hundred dollars, to be made to appear to the satisfaction of said court, may be removed, for trial, into the circuit court, for the district where such suit is pending, next to be held after the filing of the petition for such removal hereinafter mentioned, in the cases and in the manner stated in this section.

First. When the suit is against an alien, or is by a citizen of the State wherein it is brought, and against a citizen of another State, it may be removed on the petition of such defendant, filed in said State court at the time of entering his appearance in said State court.

Second. When the suit is against an alien and a citizen of the State wherein it is brought, or is by a citizen of such State against a citizen of the same, and a citizen of another State, it may be so removed, as against said alien or citizen of another State, upon the petition of such defendant, filed at any time before the trial or final hearing of the cause, if, so far as it relates to him, it is brought for the purpose of restraining or enjoining him, or is a suit in which there can be a final determination of the controversy, so far as concerns him, without the presence of the other defendants as parties in the cause. But such removal shall not take away or prejudice the right of the plaintiff to proceed at the same time with the suit in the State court, as against the other defendants.

Third. When a suit is between a citizen of the State in which it is brought and a citizen of another State, it may be so removed on the petition of the latter, whether he be plaintiff or defendant, filed at any time before the trial or final hearing of the suit, if, before or at the time of filing said petition, he makes and files in said State court an affidavit, stating that he has reason to believe and does believe that, from prejudice or local influence, he will not be able to obtain justice in such State court.

In order to such removal, the petitioner in the cases aforesaid must, at the time of filing his petition therefor, offer in said State court good and sufficient surety for his entering in such circuit court, on the first day of its session, copies of said process against him, and of all pleadings, depositions, testimony, and other proceedings in the cause, or, in said cases where a citizen of the State in which the suit is brought is a defendant, copies of all process, pleadings, depositions, testimony, and other proceedings in the cause concerning or affecting the petitioner, and also for his there appearing and entering special bail in the cause, if special bail was originally requisite therein. It shall thereupon be the duty of the State court to accept the surety and to proceed no further in the cause against the petitioner, and any bail that may have been originally taken shall be discharged.

When the said copies are entered as aforesaid in the circuit court, the cause shall there proceed in the same manner as if it had been brought there by original process, and the copies of pleadings shall have the same force and effect, in every respect and for every purpose, as the original pleadings would have had by the laws and practice of the courts of such State if the cause had remained in the State court.

*v. Gillett*, 1 Dill. C. C., 308; *Hatch v. Railroad*, 6 Blatch. C. C., 105; *Bixby v. Conuse*, 8 Blatch. C. C., 73; *Field v. Larmsdale*, 1 Deady, 288; *Dart v. McKinney*, 9 Blatch., 359; *Akerly v. Vilas*, 1 Abb. C. C., 284; *Fields v. Lamb*, 1 Deady, 430; *Sands v. Smith*, 1 Dillon, 290; *Johnson v. Monell*, 1 Wool. C. C., 390; *Case v. Douglass*, 1 Dillon, 299; *Boggs v. Willard*, 16 Int. Rev. Rec., 22; *Insurance Company v. Dunn*, 19 Wall., 214; *Stevenson v. Williams*, 19 Wall., 572; *Knapp v. Railroad*, 20 Wall., 117; *Gardner v. Brown*, 21 Wall., 36; *Vannevar v. Bryant*, 21 Wall., 41; *Gaines v. Fuentes et al.*, 92 U. S. 10; *Hurst v. Western and Atlantic R. R. Co.*, 93 U. S., 71; *Kimball v. Evans*, 93 U. S., 320; *Lowe v. Williams*, 94 U. S., 650; *Merchants' National Bank v. Wheeler*, 13 Blatch., 218; *Warner v. Pennsylvania R. R. Co.*, 13 Blatch., 231; *Broadway v. Eisner*, 13 Blatch., 366; *Petterson v. Chapman*, 13 Blatch., 395; *Allen v. Ryerson*, 2 Dill., 501; *Waggener v. Cheek*, 2 Dill., 560; *McGinnity v. White*, 3 Dill., 350; *Kellogg v. Hughes*, 3 Dill., 357; *Millett v. Milwaukee R. R. Co.*, 3 Dill., 461; *Wheeler v. Bates*, 6 Biss., 88; *Warren v. Wisconsin R. R. Co.*, 6 Biss., 425; *Chicago v. Gage*, 6 Biss., 467; *Scott v. C. & S. R. R. Co.*, 6 Biss., 529; *Gardner v. Brown*, 21 Wall., 36; *Vannevar v. Bryant*, 21 Wall., 41.

SEC. 640. Any suit commenced in any court other than a circuit or district court of the United States against any corporation other than a banking corporation, organized under a law of the United States, or against any member thereof as such member for any alleged liability of such corporation, or of such member as a member thereof, may be removed, for trial, in the circuit court for the district where such suit is pending, upon the petition of such defendant, verified by oath, stating that such defendant has a defense arising under or by virtue of the Constitution or of any treaty or law of the United States. Such removal, in all other respects, shall be governed by the provisions of the preceding section.

Removal of suits against corporations organized under a law of United States.

27 July, 1868, c. 255, s. 2, v. 15, p. 227.  
27 July, 1866, c. 288, s. 1, v. 14, p. 306.

*Fisk v. Union P. R.R.*, 8 Blatch., 343.

*Jones v. Oceanic Steam Navigation Company*, 11 Blatch, 406; *Turton v. Union Pacific R. R. Co.*, 3 Dill., 366; *Farmers' Loan Company v. Maquillan*, 3 Dill., 379; *Terry v. Insurance Company*, 3 Dill., 408; *Patterson v. Boom Company*, 3 Dill., 465; *Magee v. Union Pacific R. R. Co.*, 2 Saw., 447; *Bird v. Cockrem*, 2 Woods, 32; *Lewis v. Smythe*, 2 Woods, 117.

SEC. 641. When any civil suit or criminal prosecution is commenced in any State court, for any cause whatsoever, against any person who is denied or cannot enforce in the judicial tribunals of the State, or in the part of the State where such suit or prosecution is pending, any right secured to him by any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction of the United States, or against any officer, civil or military, or other person, for any arrest or imprisonment or other trespasses or wrongs, made or committed by virtue of or under color of authority derived from any law providing for equal rights as aforesaid, or for refusing to do any act on the ground that it would be inconsistent with such law, such suit or prosecution may, upon the petition of such defendant, filed in said State court at any time before the trial or final hearing of the cause, stating the facts and verified by oath, be removed, for trial, into the next circuit court to be held in the district where it is pending. Upon the filing of such petition all further proceedings in the State courts shall cease, and shall not be resumed except as hereinafter provided. But all bail and other security given in such suit or prosecution shall continue in like force and effect as if the same had proceeded to final judgment and execution in the State court. It shall be the duty of the clerk of the State court to furnish such defendant, petitioning for a removal, copies of said process against him, and of all pleading, depositions, testimony, and other proceedings in the case. If such copies are filed by said petitioner in the circuit court on the first day of its session, the cause shall proceed therein in the same manner as if it had been brought there by original process; and if the said clerk refuses or neglects to furnish such copies, the petitioner may thereupon docket the case in the circuit court, and the said court shall then have jurisdiction therein, and may, upon proof of such refusal or neglect of said clerk, and upon reasonable notice to the plaintiff, require the plaintiff to file a declaration, petition, or complaint in the cause; and, in case of his default, may order a nonsuit and dismiss the case at the costs, of the plaintiff, and such dismissal shall be a bar to any further suit touching the matter in controversy. But if, without such refusal or neglect of said clerk to furnish such copies and proof thereof, the petitioner for removal fails to file copies in the circuit court as herein provided, a certificate, under the seal

Removal of causes against persons denied any civil right, &c.

31 May, 1870, c. 114, ss. 16, 18, v. 16, p. 144.

9 April, 1866, c. 31, s. 3, v. 14, p. 27.  
3 Mar., 1863, c. 81, s. 5, v. 12, p. 756.

11 May, 1866, c. 80, ss. 3, 5, v. 14, p. 46.

*Commonwealth v. Artman*, 3 Grant, 436.

*Hodgson v. Milward*, 3 Grant, 418.

*Lamar v. Dana*, 10 Blatch., 34; *Britton v. Butler*, 11 Blatch., 350; *Walker v. Crane*, 13 Blatch., 1; *Barclay v. Levee Commissioners*, 1 Woods, 254; *Texas v. Gaines*, 2 Woods, 342.

of the circuit court, stating such failure, shall be given, and upon the production thereof in said State court, the cause shall proceed therein as if no petition for a removal had been filed. [See § 1971.]

When petitioner is in actual custody of State court.

5 Feb., 1867, c. 27, v. 14, p. 385.

3 Mar., 1863, c. 81, s. 5, v. 12, p. 756.

11 May, 1866, c. 80, ss. 3, 5, v. 14, p. 46.

9 Apr., 1866, c. 31, s. 3, v. 14, p. 27.

Removal of suits and prosecutions against revenue officers and officers acting under registration laws.

2 Mar., 1833, c. 57, s. 3, v. 4, p. 633.

13 July, 1866, c. 184, s. 67, v. 14, p. 171.

28 Feb., 1871, c. 99, s. 16, v. 16, p. 438.

3 Mar., 1875, c. 130, s. 8, v. 18, p. 401.

*Coggins v. Lawrence*, 2 Blatch. C. C., 384; *Wood v. Matthews*, 2 Blatch. C. C., 370; *Van Zandt v. Maxwell*, 2 Blatch. C. C., 421; *Abranches v. Schell*, 4 Blatch. C. C., 256; *Warner v. Fowler*, 4 Blatch. C. C., 311; *Victor v. Cisco*, 5 Blatch. C. C., 128; *Benchley v. Gilbert*, 8 Blatch. C. C., 147; *Salem and Lowell R. R. v. Boston and Lowell R. R.*, 21 Law Rep., 210; *Peyton v. Bliss*, 1 Wool. C. C., 170; *Buttner v. Miller*, 1 Woods, 620.

SEC. 642. When all the acts necessary for the removal of any suit or prosecution, as provided in the preceding section, have been performed, and the defendant petitioning for such removal is in actual custody on process issued by said State court, it shall be the duty of the clerk of said circuit court to issue a writ of habeas corpus cum causa, and of the marshal, by virtue of said writ, to take the body of the defendant into his custody, to be dealt with in said circuit court according to law and the orders of said court, or, in vacation, of any judge thereof; and the marshal shall file with or deliver to the clerk of said State court a duplicate copy of said writ.

SEC. 643. When any civil suit or criminal prosecution is commenced in any court of a State against any officer appointed under or acting by authority of any revenue law of the United States now or hereafter enacted, or against any person acting under or by authority of any such officer, on account of any act done under color of his office or of any such law, or on account of any right, title, or authority claimed by such officer or other person under any such law; or is commenced against any person holding property or estate by title derived from any such officer, and affects the validity of any such revenue law; or is commenced against any officer of the United States, or other person, on account of any act done under the provisions of Title XXVI, "THE ELECTIVE FRANCHISE," or on account of any right, title or authority claimed by such officer or other person under any of the said provisions, the said suit or prosecution may, at any time before the trial or final hearing thereof, be removed for trial into the circuit court next to be holden in the district where the same is pending, upon the petition of such defendant to said circuit court, and in the following manner: Said petition shall set forth the nature of the suit or prosecution, and be verified by affidavit; and, together with a certificate signed by an attorney or counselor at law of some court of record of the State where such suit or prosecution is commenced, or of the United States, stating that, as counsel for the petitioner, he has examined the proceedings against him, and carefully inquired into all the matters set forth in the petition, and that he believes them to be true, shall be presented to the said circuit court, if in session, or if it be not, to the clerk thereof at his office, and shall be filed in said office. The cause shall thereupon be entered on the docket of the circuit court, and shall proceed as a cause originally commenced in that court; but all bail and other security given upon such suit or prosecution shall continue in like force and effect as if the same had proceeded to final judgment and execution in the State court. When the suit is commenced in the State court by summons, subpoena, petition, or another process except capias, the clerk of the circuit court shall issue a writ of certiorari to the State court, requiring it to send to the circuit court the record and proceedings in the cause. When it is commenced by capias, or by any other similar form of proceeding by which a personal arrest is ordered, he shall issue a writ of habeas corpus cum causa, a duplicate of which shall be delivered to the clerk of the State court, or left at his office, by the marshal of the district, or his deputy, or by some person duly authorized thereto; and thereupon it shall be the duty of the State court to stay all further proceedings in the cause, and the suit or prosecution, upon delivery of such process, or leaving the same as aforesaid, shall be held to be removed to the circuit court, and any further proceedings, trial, or judgment therein in the State court shall be void. And if the defendant in the suit or prosecution be in actual custody or mesne process therein, it shall be the duty of the marshal, by virtue of the writ of habeas corpus cum causa, to take the body of the defendant into his custody, to be dealt with in the cause according to law and the order of the circuit court, or, in vacation, of any judge thereof; and if, upon the removal of such suit or prosecution, it is made to appear



to the circuit court that no copy of the record and proceedings therein in the State court can be obtained, the circuit court may allow and require the plaintiff to proceed de novo, and to file a declaration of his cause of action, and the parties may thereupon proceed as in actions originally brought in said circuit court. On failure of the plaintiff so to proceed, judgment of non prosequitur may be rendered against him, with costs for the defendant.

SEC. 644. Whenever a personal action has been or shall be brought in any State court by an alien against any citizen of a State who is, or at the time the alleged action accrued was, a civil officer of the United States, being a non-resident of that State wherein jurisdiction is obtained by the State court, by personal service of process, such action may be removed into the circuit court of the United States in and for the district in which the defendant shall have been served with the process, in the same manner as now provided for the removal of an action brought in a State court by the provisions of the preceding section.

SEC. 645. In any case where a party is entitled to copies of the record and proceedings in any suit or prosecution in a State court, to be used in any court of the United States, if the clerk of said State court, upon demand, and the payment or tender of the legal fees, refuses or neglects to deliver to him certified copies of such records and proceedings, the court of the United States in which such record and proceedings are needed may, on proof by affidavit that the clerk of said State court has refused or neglected to deliver copies thereof, on demand as aforesaid, direct such record to be supplied by affidavit, or otherwise, as the circumstances of the case may require and allow; and, thereupon, such proceeding, trial, and judgment may be had in the said court of the United States, and all such processes awarded, as if certified copies of such records and proceedings had been regularly before the said court.

SEC. 646. When a suit is removed for trial from a State court to a circuit court, as provided in the foregoing sections, any attachment of the goods or estate of the defendant by the original process shall hold the same to answer the final judgment, in the same manner as by the laws of such State they would have been held to answer final judgment had it been rendered by the court in which the suit was commenced; and any injunction granted before the removal of the cause against the defendant applying for its removal shall continue in force until modified or dissolved by the United States court into which the cause is removed; and any bond of indemnity or other obligation, given by the plaintiff upon the issuing or granting of any attachment, writ of injunction, or other restraining process, against the defendant petitioning for the removal of the cause, shall also continue in full force and may be prosecuted by the defendant and made available for his indemnity in case the attachment, injunction, or other restraining process be set aside or dissolved, or judgment be rendered in his favor, in the same manner, and with the same effect as if such attachment, injunction, or other restraining process had been granted, and such bond had been originally filed or given in such State court.

57, s. 3, v. 4, p. 633. 13 July, 1866, c. 184, s. 67, v. 14, p. 171. 28 Feb., 1871, c. 99, s. 16, v. 439. —Lamar v. Dana, 10 Blatch., 34.

SEC. 647. If, in any action commenced in a State court, where the title of land is concerned, and the parties are citizens of the same State, and the matter in dispute, exclusive of costs, exceeds the sum or value of five hundred dollars, the sum or value being made to appear to the satisfaction of the court, either party, before the trial, states to the court, and makes affidavit, if they require it, that he claims and shall rely upon a right or title to the land under a grant from a State other than that in which the suit is pending, and produces the original grant, or an exemplification of it, except where the loss of public records shall put it out of his power, and moves that the adverse party inform the court whether he claims a right or title to the land under a grant from the State in which the suit is pending, the said adverse party shall give such information,

Removal of suits by aliens in a particular case.

30 Mar., 1872, c. 72, v. 17, p. 44.  
3 Mar., 1875, c. 137, s. 2, v. 18, p. 471.

When copies of records are refused by clerk of State court.

2 Mar., 1833, c. 57, s. 4, v. 4, p. 634.  
28 Feb., 1871, c. 99, s. 17, v. 16, p. 439.

Attachments, injunctions, and indemnity bonds to remain in force after removal.

24 Sept., 1789, c. 20, s. 12, v. 1, p. 79.  
27 July, 1866, c. 288, v. 14, p. 306.  
2 Mar., 1867, c. 196, v. 14, p. 558.  
27 July, 1868, c. 255, s. 2, v. 15, p. 227.  
9 April, 1866, c. 31, s. 3, v. 14, p. 27.  
3 Mar., 1863, c. 81, s. 5, v. 12, p. 756.  
11 May, 1866, c. 80, ss. 3, 5, v. 14, p. 46.  
5 Feb., 1867, c. 27, v. 14, p. 385.  
2 Mar., 1833, c. 1871, c. 99, s. 16, v.

Removal of suits where parties claim land under titles from different States.

24 Sept., 1789, c. 20, s. 12, v. 1, p. 79.  
3 Mar., 1875, c. 137, ss. 2, 3, v. 18, p. 471.

Town of Pawlet v. Clark, 9 Cr., 292.

or otherwise not be allowed to plead such grant, or give it in evidence upon the trial; and if he gives information that he does claim under such grant, the party claiming under the grant first mentioned may, on motion, remove the cause for trial into the next circuit court to be holden in the district where such suit is pending. If the party so removing the cause is defendant, the removal shall be made under the regulations governing removals of a cause into such court by an alien; and neither party removing the cause shall be allowed to plead or give evidence of any other title than that stated by him as aforesaid as the ground of his claim.

Issues of fact, when to be tried by jury.

24 Sept., 1789, c. 20, s. 12, v. 1, p. 79.

3 Mar., 1865, c. 86, s. 4, v. 13, p. 501.—*Elmore v. Grymes*, 1 Pet., 471; *De Wolf v. Rabaud*, 1 Pet., 497; *Crane v. Morris's Lessee*, 6 Pet., 609; *Silsby v. Foote*, 14 How., 222; *Castle v. Bullard*, 23 How., 183; *Blair v. Allen*, 3 Dill., 101.

Issues of fact tried by the court.

3 Mar., 1865, c. 86, s. 4, v. 13, p. 501.

*Grayham v.*

*Bayne*, 18 How., 60; *Guild v. Frontin*, 18 How., 135; *McGavock v. Woodlief*, 20 How., 225; *Suydam v. Williamson*, 20 How., 432; *Kelsey v. Forsyth*, 21 How., 85; *Campbell v. Boyreau*, 21 How., 223; *Burr v. Des Moines Company*, 1 Wall., 99; *Sanlet v. Shepherd*, 4 Wall., 502; *Insurance Company v. Tweed*, 7 Wall., 44; *Generes v. Bonnemer*, 7 Wall., 564; *Basset v. U. S.*, 9 Wall., 38; *Norris v. Jackson*, 9 Wall., 125; *Flanders v. Tweed*, 9 Wall., 425; *Copeland v. Insurance Company*, 9 Wall., 467; *Coddington v. Richardson*, 10 Wall., 516; *Bethel v. Mathews*, 13 Wall., 1; *Dirst v. Morris*, 14 Wall., 484; *Insurance Company v. Folsum*, 18 Wall., 237; *French v. Edwards*, 21 Wall., 147; *Insurance Company v. Sea*, 21 Wall., 158; *Jennisons v. Leonard*, 21 Wall., 302; *Gilman et al. v. Illinois and Mississippi Telegraph Company*, 91 U. S., 603.

Division of opinion in civil causes; decision by presiding judge.

1 June, 1872, c. 255, s. 1, v. 17, p. 196.

Division of opinion in criminal causes; certificate.

29 April, 1802, c. 31, s. 6, v. 2, p. 159.

1 June, 1872, c. 25, s. 1, v. 17, p. 196.

*Ogle v. Lee*, 2 Cr., 33.

*Hepburn v. Ellzey*, 2 Cr., 445;

*U. S. v. Tyler*, 7 Cr., 285; *Ross v. Triplett*, 3 Wh., 600; *U. S. v. Lancaster*, 5 Wh., 434; *U. S. v. Daniel*, 6 Wh., 542; *Wayman v. Southard*, 10 Wh., 1; *Devereaux v. Marr*, 12 Wh., 212; *De Wolf v. Usher*, 3 Pet., 269; *Saunders v. Gould*, 4 Pet., 392; *Grant v. Raymond*, 6 Pet., 218; *U. S. v. Bailey*, 9 Pet., 267; *Davis v. Braden*, 10 Pet., 286; *Smith v. Vaughan*, 10 Pet., 366; *Packer v. Nixon*, 10 Pet., 408; *Adams v. Jones*, 12 Pet., 213; *White v. Turk*, 12 Pet., 238; *U. S. v. Briggs*, 5 How., 208; *Nesmith v. Sheldon*, 6 How., 41; *Luther v. Borden*, 7 How., 1; *U. S. v. Chicago*, 7 How., 185; *Sadler v. Hoover*, 7 How., 646; *Wilson v. Barnum*, 8 How., 258; *Webster v. Cooper*, 10 How., 54; *Dennistoun v. Stewart*, 18 How., 565; *U. S. v. City Bank of Columbus*, 19 How., 385; *Silliman v. Hudson River Bridge*, 1 Bl., 582; *Daniels v. Railroad Company*, 3 Wall., 250; *Havemeyer v. Iowa County*, 3 Wall., 294; *Brobst v. Brobst*, 4 Wall., 2; *U. S. v. Rosenburgh*, 7 Wall., 580.

Division of opinion in civil causes, certificate.

1 June, 1872, c. 255, s. 1, v. 17, p. 196.

SEC. 648. The trial of issues of fact in the circuit courts shall be by jury, except in cases of equity and of admiralty and maritime jurisdiction, and except as otherwise provided in proceedings in bankruptcy, and by the next section.

SEC. 649. Issues of fact in civil cases in any circuit court may be tried and determined by the court, without the intervention of a jury, whenever the parties, or their attorneys of record, file with the clerk a stipulation in writing waiving a jury. The finding of the court upon the facts, which may be either general or special, shall have the same effect as the verdict of a jury. (See § 700.)

SEC. 650. Whenever, in any civil suit or proceeding in a circuit court held by a circuit justice and a circuit judge or a district judge, or by a circuit judge and a district judge, there occurs any difference of opinion between the judges as to any matter or thing to be decided, ruled, or ordered by the court, the opinion of the presiding justice or judge shall prevail, and be considered the opinion of the court for the time being.

SEC. 651. Whenever any question occurs on the trial or hearing of any criminal proceeding before a circuit court upon which the judges are divided in opinion, the point upon which they disagree shall, during the same term, upon the request of either party, or of their counsel, be stated under the direction of the judges, and certified, under the seal of the court, to the Supreme Court at their next session; but nothing herein contained shall prevent the cause from proceeding if, in the opinion of the court, further proceedings can be had without prejudice to the merits. Imprisonment shall not be allowed nor punishment inflicted in any case where the judges of such court are divided in opinion upon the question touching the said imprisonment or punishment. (See § 697.)

SEC. 652. When a final judgment or decree is entered in any civil suit or proceeding before any circuit court held by a circuit justice and a circuit judge or a district judge, or by a circuit judge and a district judge, in the trial or hearing whereof any question has occurred upon which the opinions of the judges were opposed, the point upon which

they so disagreed shall, during the same term, be stated under the direction of the judges, and certified, and such certificate shall be entered of record. [See § 698.]

29 Apr., 1802, c. 31, s. 6, v. 2, p. 159.

*Ogle v. Lee*, 2 Cr., 33; *Hepburn v. Ellzey*, 2 Cr., 445; *U. S. v. Tyler*, 7 Cr., 285; *Ross v. Triplett*, 3 Wh., 600; *U. S. v. Lancaster*, 5 Wh., 434; *U. S. v. Daniel*, 6 Wh., 542; *Wayman v. Southard*, 10 Wh., 1; *Devereaux v. Marr*, 12 Wh., 212; *De Wolf v. Usher*, 3 Pet., 269; *Saunders v. Gould*, 4 Pet., 392; *Bank United States v. Green*, 6 Pet., 26; *Grant v. Raymond*, 6 Pet., 218; *U. S. v. Bailey*, 9 Pet., 267; *Davis v. Braden*, 10 Pet., 286; *Smith v. Vaughan*, 10 Pet., 366; *Packer v. Nixon*, 10 Pet., 408; *Adams v. Jones*, 12 Pet., 207; *White v. Turk*, 12 Pet., 238; *U. S. v. Briggs*, 5 How., 208; *Nesmith v. Sheldon*, 6 How., 41; *Luther v. Borden*, 7 How., 1; *U. S. v. Chicago*, 7 How., 185; *Sadler v. Hoover*, 7 How., 646; *Wilson v. Barnum*, 8 How., 258; *Dennistoun v. Stewart*, 18 How., 565; *U. S. v. City Bank of Columbus*, 19 How., 385; *Silliman v. Hudson River Bridge*, 1 Bl., 582; *Ex parte Gordon*, 1 Bl., 503; *Ward v. Chamberlain*, 2 Bl., 430; *Daniels v. Railroad Company*, 3 Wall., 250; *Havemeyer v. Iowa County*, 3 Wall., 294; *Brobst v. Brobst*, 4 Wall., 2; *U. S. v. Rosenburgh*, 7 Wall., 580; *Hannauer v. Woodruff*, 10 Wall., 482.

SEC. 653. The circuit court for the eastern district of Missouri, is vested with full and complete jurisdiction to hear, determine, and dispose of, according to the usual course of judicial proceedings, all suits, causes, motions, and other matters which were pending in the circuit court of the United States in and for the districts of Missouri at the time the said circuit court for the eastern district of Missouri was created, on the eighth day of June, eighteen hundred and seventy-two, and also all other matters which have since arisen that pertain to said suits or causes, and also to make all orders and issue of (\*) all processes which said circuit court of the United States in and for the districts of Missouri might have done if it had not ceased to exist; and said circuit court for said eastern district of Missouri is vested with jurisdiction and authority to do all and singular that may in the due course of judicial proceedings pertain to any of said suits, causes, or unfinished business as fully as the said circuit court in and for the districts of Missouri might have done if said circuit court had not ceased to exist.

Business of the circuit court for the two districts of Missouri transferred, how.

25 Feb., 1873, c. 200, s. 1, v. 17, p. 476.

SEC. 654. The service of process, mesne or final, issued out of said circuit court of the United States in and for the districts of Missouri, which service was had after the eighth day of June, eighteen hundred and seventy-two, and all levies, seizures, and sales made thereunder, also all service, seizures, levies, and sales made under any process which issued as out of said court after the said eighth day of June, eighteen hundred and seventy-two, are made valid, and all said processes are to be deemed returnable to said circuit court of the United States in and for the eastern district of Missouri as of the return day thereof.

Process issued out of former circuit court for Missouri.

25 Feb., 1873, c. 200, s. 2, v. 17, p. 476.

SEC. 655. Either of the circuit courts for the eastern and for the western district of Missouri may order any suit, cause, or other matter pending therein, and commenced prior to the creation of said new court, to be transferred for trial or determination to the other of said circuit courts when, in the opinion of the court, said transfer ought to be made; and the court to which said transfer is made shall have as full authority and jurisdiction over the same from the date the certified transcript of the record thereof is filed as if the same had been originally pending therein.

Transfer of cases between eastern and western districts.

25 Feb., 1873, c. 200, s. 3, v. 17, p. 476.

SEC. 656. That the clerk of the circuit court for the eastern district of Missouri, and his successors in office, shall have the custody of all records, books, papers, and property belonging or in any wise appertaining to said circuit court of the United States in and for the districts of Missouri, and, as such custodians and the successors of the clerk of said last-named court, they are hereby invested with the same powers and authority with respect thereto as the clerk thereof had during the existence of said last-named circuit court. Said circuit court for the eastern district of Missouri is hereby made the successor of said circuit court of the United States in and for the districts of Missouri as to all suits, causes, and unfinished business therein or in any wise pertaining thereto, except as hereinbefore provided.

Custody of books, papers, &c., of circuit court of Missouri.

25 Feb., 1873, c. 200, s. 4, v. 17, p. 476.

SEC. 657. The original jurisdiction of the circuit court for the southern district of New York shall not be construed to extend to causes of action arising within the northern district of said State.

Circuit court for southern district of New York, how limited.

3 April, 1818, c. 32, s. 6, v. 3, p. 415.—*Wheeler v. McCormick*, 8 Blatch. C. C., 267.

(\*) The word of in the Roll redundant.

## CHAPTER EIGHT.

## CIRCUIT COURTS—SESSIONS.

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| Sec.   | Sec.   |
| 658. Terms.  | 664. California, Oregon, and Nevada, special sessions.       |
| 659. Recognizances to a certain term in southern district of New York.   | 665. Kentucky and Indiana, special terms.                    |
| 660. Effect of altering terms of circuit courts.                         | 666. Tennessee, special terms.                               |
| 661. Special sessions for trial of criminal cases.                       | 667. North Carolina, special terms.                          |
| 662. Special sessions for criminal trials near the place of the offense. | 668. Virginia, Wisconsin, special terms.                     |
| 663. Adjourned terms, Missouri.  | 669. Special terms, general rule.                            |
|  | 670. Special terms, business transacted at.                  |
|  | 671. Adjournment in absence of the judges.                   |
|  | 672. Adjournment in absence of the judges, by written order. |

**Terms.**

SEC. 658. The regular terms of the circuit courts shall be held in each year, at the times and places following; but when any of said dates shall fall on Sunday, the term shall commence on the following day:

**Alabama, S. D.**

In and for the southern district of Alabama, at Mobile, on the second Monday in April and the fourth Monday in December.  
 3 Mar., 1837, c. 34, s. 2, v. 5, p. 177. 22 Feb., 1838, c. 12, s. 1, v. 5, p. 210. 6 Aug., 1842, c. 180, s. 1, v. 5, p. 507. 12 April, 1844, c. 12, s. 3, v. 5, p. 655. 1 Mar., 1845, c. 39, s. 1, v. 5, p. 731. 15 July, 1862, c. 178, s. 1, v. 12, p. 576. 18 Feb., 1876, c. 11, v. 19, p. 4.—*Jones v. Oceanic Steam Navigation Co.*, 11 Blatch., 406.

**Arkansas.**

In and for the eastern district of Arkansas, at Little Rock, on the second Monday in April and the fourth Monday in October.

3 Mar., 1837, c. 34, s. 2, v. 5, p. 177. 21 May, 1872, c. 176, s. 1, v. 17, p. 135.

**California.**

In the district of California, at San Francisco, on the first Monday in February, the second Monday in June, and the first Monday in October.

19 Feb., 1864, c. 11, s. 1, v. 13, p. 4. 27 July, 1866, c. 280, s. 1, v. 14, p. 300.

**Connecticut.**

In the district of Connecticut, at New Haven, on the fourth Tuesday in April; and at Hartford, on the third Tuesday in September.

13 April, 1792, c. 21, s. 2, v. 1, p. 253. 24 Feb., 1843, c. 44, s. 1, v. 5, p. 601.

**Delaware.**

In the district of Delaware, at Wilmington, on the third Tuesdays in June and October.

10 May, 1852, c. 33, s. 1, v. 10, p. 5. 14 June, 1856, c. 45, s. 1, v. 11, p. 22.

**Florida.**

In the southern district of Florida, at Key West, on the first Mondays in May and November.

23 Feb., 1847, c. 20, s. 2, v. 9, p. 131. In the northern district of Florida, at Tallahassee, on the first Monday in February; at Pensacola, on the first Monday in March; and at Jacksonville, on the first Monday in December.  
 15 July, 1862, c. 178, s. 1, v. 12, p. 576.

27 July, 1868, c. 270, s. 1, v. 15, p. 239.

**Georgia.**

In the southern district of Georgia, at Savannah, on the second Monday in April; and on the Thursday after the first Monday in November.

21 Jan., 1829, c. 8, s. 1, v. 4, p. 331. In the northern district of Georgia, at Atlanta, on the second Mondays in March and September.  
 1 Mar., 1845, c. 39, s. 1, v. 5, p. 731.

11 Aug., 1848, c. 151, ss. 4, 5, 8, v. 9, pp. 280, 281. 4 June, 1872, c. 284, s. 3, v. 17, p. 218.

**Illinois.**

In the northern district of Illinois, at Chicago, on the first Monday in July and the third Monday in December.

19 Feb., 1855, c. 96, s. 2, v. 10, p. 606. In the southern district of Illinois, at Springfield, on the first Mondays in January and June.  
 23 April, 1856, c. 18, s. 1, v. 11, p. 4.

**Indiana.**

In the district of Indiana, at Indianapolis, on the first Tuesday in May and November; and at New Albany, on the first Monday in January and July; and at Evansville, on the first Monday in February and August.

10 Mar., 1838, c. 33, s. 1, v. 5, p. 215. 20 Feb., 1863, c. 47, s. 1, v. 12, p. 657. 30 June, 1870, c. 180, s. 1, v. 16, p. 175.

**Iowa.**

In the district of Iowa, at Des Moines, on the second Mondays in May and October.

13 June, 1863, c. 9, s. 1, v. 12, p. 634. 2 Mar., 1863, c. 65, s. 2, v. 12, p. 699. 21 May, 1872, c. 176, s. 1, v. 17, p. 135.

In the district of Kansas, at Leavenworth, on the first Monday in June; and at the seat of government of the State, on the fourth Monday in November.

Kansas.  
21 Jan., 1861, c. 20, s. 5, v. 12, p. 128.  
13 Jan., 1863, c. 9, s. 1, v. 12, p. 634. 21 May, 1872, c. 176, s. 1, v. 17, p. 135. 8 June, 1872, c. 341, v. 17, p. 334.

In the district of Kentucky, at Covington, on the third Monday in April and the first Monday in December; at Louisville, on the third Monday in February and the first Monday in October; at Frankfort, on the third Monday in May and the first Monday in January; and at Paducah, on the third Monday in March and the first Monday in November.

Kentucky.  
15 May, 1862, c. 71, s. 1, v. 12, p. 386.

In the district of Louisiana, at New Orleans, on the fourth Monday in April and the first Monday in November.

Louisiana.  
1 Mar., 1845, c. 39, s. 1, v. 5, p. 731. 20 July, 1854, c. 99, s. 2, v. 10, p. 307. 23 July, 1866, c. 210, s. 2, v. 14, p. 209. 27 July, 1866, c. 280, s. 1, v. 14, p. 300.

In the district of Maine, at Portland, on the twenty-third days of April and September.

Maine.  
3 Mar., 1823, c. 41, s. 1, v. 3, p. 774. 13 Feb., 1843, c. 32, s. 1, v. 5, p. 600. 11 Aug., 1848, c. 154, s. 1, v. 9, p. 282.

In the district of Maryland, at Baltimore, on the first Mondays in April and November.

Maryland.  
3 Mar., 1837, c. 34, s. 2, v. 5, p. 177. 7 July, 1838, c. 193, s. 1, v. 5, p. 308.

In the district of Massachusetts, at Boston, on the fifteenth days of May and October.

Massachusetts.  
26 Mar., 1812, c. 45, s. 1, v. 2, p. 696.

In the eastern district of Michigan, at Detroit, on the first Tuesdays in March, June, and November.

Michigan.  
24 Feb., 1863, c. 54, s. 2, v. 12, p. 661.

In the western district of Michigan, at Grand Rapids, on the third Mondays in May and October.

In the district of Minnesota, at Saint Paul, on the third Monday in June and the second Monday in December.

Minnesota.  
13 Jan., 1863, c. 9, s. 1, v. 12, p. 635. 21 May, 1872, c. 176, s. 1, v. 17, p. 135.

In the southern district of Mississippi, at Jackson, on the first Mondays in May and November.

Mississippi, S. D.  
3 Mar., 1837, c. 34, s. 2, v. 5, p. 177. 18 June, 1838, c. 115, s. 1, v. 5, p. 247. 16 Feb., 1839, c. 27, ss. 1, 2, v. 5, p. 317.

In the eastern district of Missouri, at Saint Louis, on the third Mondays in March and September.

Missouri.  
21 May, 1872, c. 176, s. 1, v. 17, p. 135.

In the western district of Missouri, at Jefferson, on the third Mondays in April and November.

s. June, 1872, c. 334, ss. 1, 2, v. 17, pp. 282, 283.

In the district of Nebraska, at Omaha, on the first Monday in May and the second Monday in November.

Nebraska.  
18 May, 1872, c. 176, s. 1, v. 17, p. 135.

In the district of Nevada, at Carson City, on the first Mondays in March, August, and December.

Nevada.  
27 Feb., 1865, c. 64, s. 2, v. 13, p. 440.

In the district of New Hampshire, at Portsmouth, on the eighth day of May; and at Exeter on the eighth day of October.

New Hampshire.  
3 Mar., 1823, c. 41, s. 1, v. 3, p. 773.

In the district of New Jersey, at Trenton, on the fourth Tuesdays in March and September.

New Jersey.  
24 Sept., 1789, c. 20, s. 5, v. 1, p. 75. 3 Mar., 1797, c. 27, s. 1, v. 1, p. 517. 12 Aug., 1848, c. 169, s. 1, v. 9, p. 303.

In the northern district of New York, at Canandaigua, on the third Tuesday in June; at Albany on the second Tuesday in October; and when the term appointed to be held at Albany is adjourned, it shall be adjourned to meet at the same place on the third Tuesday in January; and when said adjourned term is adjourned it shall be adjourned to meet in Utica on the third Tuesday in March. The said adjourned terms shall be held for the transaction of civil business only.

New York.  
20 May, 1830, c. 213, s. 2, v. 4, p. 422.  
10 April, 1832, c. 15, s. 1, v. 4, p. 497.  
8 Aug., 1846, c. 98, s. 1, v. 9, p. 72.

4 July, 1864, c. 245, s. 2, v. 13, p. 385. In the southern district of New York, at the city of New York, on the first Monday in April and the third Monday in October; and for the trial of criminal causes and suits in equity, on the last Monday in February; and exclusively for the trial and disposal of criminal cases, and matters arising and pending in said court, on the second Wednesday in January, March, and May, on the third Wednesday in June, and on the second Wednesday in October and December: *Provided*, That the holding of any of the last-mentioned terms for criminal business shall not dispense with nor affect the holding of any other term of the court at the same time, and that the pending of any other term of the court shall not prevent the holding of any of the said terms for criminal business.

In the eastern district of New York, at Brooklyn, on the first Wednesday in every month.

**North Carolina.** In the eastern district of North Carolina, at Raleigh, on the first Monday in June and the last Monday in November.

38, v. 9, p. 38. In the western district of North Carolina, at Greensborough, on the first Mondays in April and October; at Statesville, on the third Mondays in April and October; and at Asheville, on the first Mondays in May and November.

**Ohio.** In the northern district of Ohio, at Cleveland, on the first Tuesdays in January, April, and October.

49, v. 12, p. 657. In the southern district of Ohio, at Cincinnati, on the first Tuesdays in February, April, and October.

**Oregon.** In the district of Oregon, at Portland, on the first Mondays in January, May, and September.

19 Feb., 1864, c. 11, s. 1, v. 13, p. 4. **Pennsylvania.** In the eastern district of Pennsylvania, at Philadelphia, on the first Mondays in April and October.

3 Mar., 1797, c. 27, s. 1, v. 1, p. 517. In the western district of Pennsylvania, at Erie, on the second Monday in January and third Monday in July; at Pittsburgh, on the second Mondays in May and November; and at Williamsport, on the third Mondays in June and September.

3 Mar., 1837, c. 34, s. 2, v. 5, p. 177. 3 Mar., 1843, c. 97, s. 1, v. 5, p. 628. 3 Mar., 1851, c. 40, s. 1, v. 9, p. 631. 21 Feb., 1871, c. 63, v. 16, p. 429. **Rhode Island.** In the district of Rhode Island, at Providence, on the fifteenth days of June and November.

22 Feb., 1867, c. 60, s. 1, v. 14, p. 399. **South Carolina.** In the district of South Carolina, at Charleston, on the first Monday in April; and at Columbia, on the fourth Monday in November.

10 Feb., 1858, c. 5, s. 2, v. 11, p. 260. 24 Feb., 1829, c. 19, v. 4, p. 335. 4 May, 1826, c. 37, s. 2, v. 4, p. 160. 3 Mar., 1825, c. 78, s. 1, v. 4, p. 124. 25 May, 1824, c. 145, s. 1, v. 4, p. 34.

**Tennessee.** In the eastern district of Tennessee, at Knoxville, on the second Mondays in January and July.

25 June, 1868, c. 79, s. 1, v. 15, p. 80. In the middle district of Tennessee, at Nashville, on the third Mondays in April and October.

In the western district of Tennessee, at Memphis, on the fourth Mondays in May and November.

**Texas.** In the eastern district of Texas, at Brownsville, on the first Mondays in March and October; and at Galveston, on the first Mondays in May and December.

21 Feb., 1857, c. 58, s. 2, v. 11, p. 164. In the western district of Texas, at Austin, on the first Mondays in January and June; and at Tyler on the fourth Monday in April and the first Monday in November.

11 June, 1858, c. 147, s. 1, v. 11, p. 314. 15 July, 1862, c. 178, s. 1, v. 12, p. 576. **Vermont.** In the district of Vermont, at Burlington, on the fourth Tuesday in February; at Windsor, on the fourth Tuesday in July; and at Rutland.

3 Mar., 1797, c. 27, s. 1, v. 1, p. 517. In the middle district of Vermont, on the fourth day of October.

22 Mar., 1816, c. 31, ss. 1, 4, v. 3, p. 258. 4 May, 1858, c. 28, s. 1, v. 11, p. 272. 22 Feb., 1869, c. 43, s. 1, v. 15, p. 274. 5 June, 1874, c. 214, v. 18, p. 53.

**Virginia.** In the eastern district of Virginia, at Richmond, on the first Monday in April and October; at Alexandria, on the first Monday in January and July; and at Norfolk, on the first Monday in May and November.

3 Feb., 1871, c. 35, s. 3, v. 16, p. 403.

In the western district of Virginia, at Danville, on Tuesday after the fourth Monday in February and August; at Lynchburgh, on the Tuesday after the third Monday in March and September; at Harrisonburgh, on the Tuesday after the first Monday in May and the Tuesday after the second Monday in October; and at Abingdon, on the Tuesday after the fourth Monday in May and October.

In the district of West Virginia, at Parkersburgh, on the first Monday in August.

34, s. 2, v. 5, p. 177. 26 June, 1856, c. 48, s. 2, v. 11, p. 23. 11 June, 1864, c. 120, s. 1, v. 13, p. 124. 27 July, 1866, Res. No. 90, v. 14, p. 369.

In the eastern district of Wisconsin, at Oshkosh, on the first Monday in July; and at Milwaukee, on the first Monday in January and October.

In the western district of Wisconsin, at Madison, on the first Monday in June; and at La Crosse, on the third Tuesday in September.

143, s. 1, v. 17, p. 88. 16 June, 1874, c. 286, r. 18, p. 75. 16 June, 1874, c. 287, r. 18, p. 76. 22 June, 1874, c. 401, ss. 6, 7, r. 18, p. 195.

SEC. 659. All recognizances and bail-bonds taken in criminal cases for an appearance at a circuit court in the southern district of New York, conditioned upon an appearance at the next one of the terms appointed by the act of February seven, eighteen hundred and seventy-three, shall be valid.

1 Feb., 1872, c. 10, v. 17, p. 27.  
13 April, 1872, c. 99, v. 17, p. 52.

#### West Virginia.

3 Mar., 1837, c. 1864, c. 120, s. 1, v.

#### Wisconsin.

29 June, 1870, c. 175, ss. 2, 3, v. 16, p. 171.

9 May, 1872, c. 287, r. 18, p. 76.

Recognizances to a certain term in southern district of New York.

7 Feb., 1873; c. 120, s. 2, v. 27, p. 423.

Effect of altering terms of circuit courts.

See all acts altering terms.

Special sessions for trial of criminal causes.

24 Sept., 1789, c. 20, s. 5, v. 1, p. 75.

SEC. 662. The Supreme Court, or, when that court is not sitting, any circuit justice or circuit judge, together with the judge of the proper district, may direct special sessions of a circuit court to be held, for the trial of criminal causes, at any convenient place within the district nearer to the place where the offenses are said to be committed than the place appointed by law for the stated sessions. The clerk of such court shall, at least thirty days before the commencement of such special session, cause the time and place for holding it to be notified, for at least three weeks, consecutively, in one or more of the newspapers published nearest to the place where it is to be held. All process, writs, and recognizances respecting juries, witnesses, bail, or otherwise, which relate to the cases to be tried at such special sessions, shall be considered as belonging to such sessions, in the same manner as if they had been issued or taken in reference thereto. Any such session may be adjourned from time to time to any time previous to the next stated term of the court; and all business depending for trial at any special session shall, at the close thereof, be considered as removed to the next stated term.

Special sessions for criminal trials near the place of the offense.

2 Mar., 1793, c. 22, s. 3, v. 1, p. 334.  
10 April, 1869, c. 22, s. 2, v. 16, p. 44.

U. S. v. The Insurgents, 2 Dall., 513.

U. S. v. Cornell, 2 Mas., 98.

SEC. 663. The circuit courts for the several districts of Missouri may at any time order adjourned terms thereof. In the eastern district a copy of the order shall be posted on the door of the court-room, and shall be advertised in some newspaper printed in Saint Louis, and in the western district a copy of the order shall be posted on the door of the court-room, and advertised in some newspaper printed in the city of Jefferson, at least twenty days before the adjourned term is held. At such adjourned term any business may be transacted which might be transacted at a regular term.

Adjourned terms, Missouri.

8 June, 1872, c. 334, s. 3, v. 17, p. 283.

Mechanics' Bank v. Withers, 3 Dall., 19.

Anon., Cr. C. C., 159.

California, Oregon, and Nevada, special sessions.

19 Feb., 1864, c. 11, s. 3, v. 13, p. 4.

3 Mar., 1863, c. 100, s. 1, v. 12, p. 794.

27 Feb., 1865, c.

SEC. 664. In the districts of California, Oregon, and Nevada the circuit justice or circuit judge may appoint special sessions of the circuit courts, to be held at the places where the regular sessions are held, by an order under his hand and seal, directed to the marshal and clerk of such court at least fifteen days before the time fixed for the commencement of such special sessions. Said order shall be published by the marshal in one or more of the newspapers within the district where such sessions are to be held.

64, s. 2, v. 13, p. 440. 10 April, 1869, c. 22, s. 2, v. 16, p. 44. 16 June, 1874, c. 287, v. 18, p. 76.

Kentucky and Indiana, special terms.

15 May, 1862, c. 71, s. 2, v. 12, p. 386.  
30 June, 1870, c. 180, s. 2, v. 16, p. 175.

Tennessee, special terms.

26 Jan., 1864, c. 5, s. 2, v. 13, p. 2.

North Carolina, special terms.

4 June, 1872, c. 282, s. 4, v. 17, p. 215.

Virginia, Wisconsin, special terms.

29 June, 1870, c. 175, s. 4, v. 16, p. 171.  
3 Feb., 1871, c. 35, s. 4, v. 16, p. 403.

Special terms, general rule.

4 July, 1840, c. 43, s. 2, v. 5, p. 393.

Special terms, business transacted at.

15 May, 1862, c. 71, s. 2, v. 12, p. 386.  
30 June, 1870, c. 180, s. 2, v. 16, p. 175.

21 Feb., 1855, c. 118, s. 3, v. 10, p. 612.

29 June, 1870, c. 175, s. 4, v. 16, p. 171.

3 Feb., 1871, c. 35, s. 4, v. 16, p. 403.  
5, s. 2, v. 13, p. 2.

Adjourning in absence of the judges.

24 Sept., 1789, c. 20, s. 6, v. 1, p. 76.  
19 May, 1794, c. 32, v. 1, p. 369.

10 April, 1869, c. 22, s. 2, v. 16, p. 44.

Adjourning in absence of the judges, by written order.

4 July, 1840, c. 43, s. 1, v. 5, p. 392.  
18 Jan., 1839, c. 3, s. 9, v. 5, p. 314.

SEC. 665. In the districts of Kentucky and Indiana the district judge, and, in his absence, the circuit justice or circuit judge, may, by a written order to the clerk of the circuit court, appoint a special term of such court; and by said order the judge may prescribe the duties of the officers of the court in summoning juries, and in the performance of other acts necessary for the holding of such special term, or the court may, by its order, after it is opened, prescribe the duties of its officers, and the mode of proceeding, and any of the details thereof. Notice of such special term shall be given by the clerk, by posting a copy of said order on the front door of the court-house where the court is to be held, and by publishing the same in one or more newspapers in the same place.

SEC. 666. In each of the districts of Tennessee the judges of the circuit court may appoint special terms thereof, to be held at the place where the regular terms are held; and notice of such special terms shall be published, for four consecutive weeks, in at least one newspaper printed at the place where the court is to be held.

SEC. 667. In each of the districts of North Carolina the circuit court may order special terms thereof to be held at such times and places in said district as the court may designate: *Provided*, That no special term of the circuit court for either district shall be appointed, except by and with the concurrence and consent of the circuit judge.

SEC. 668. In each of the districts of Virginia and of Wisconsin the circuit court may order special terms, and direct a grand or petit jury, or both, to attend the same, by an order, to be entered of record twenty days before the day on which such special term is to convene: *Provided*, That no special term of such circuit courts shall be appointed in any of the said districts, except by and with the concurrence and consent of the circuit judge.

SEC. 669. In the districts not mentioned in the five preceding sections, the presiding judge of any circuit court may appoint special sessions thereof, to be held at the places where the regular sessions are held.

SEC. 670. At any special term of a circuit court in any district in Indiana, Kentucky, Missouri, North Carolina, Virginia, and Wisconsin, any business may be transacted which might be transacted at any regular term of such court. At any special term of a circuit court in any other district, it shall be competent for the court to entertain jurisdiction of and to hear and decide all cases in equity, cases in error or on appeal, issues of law, motions in arrest of judgment, motion for a new trial, and all other motions, and to award executions and other final process, and to do and transact all other business, and direct all other proceedings, in all causes pending in the circuit court, except trying any cause by a jury, in the same way and with the same effect as the same might be done at any regular session of said court.

4 July, 1840, c. 43, s. 2, v. 5, p. 393. 26 Jan., 1864, c. 27 Feb., 1864, c. 11, s. 3, v. 13, p. 4. 27 Feb., 1865, c. 64, s. 7, v. 13, p. 440.  
4 June, 1872, c. 282, s. 4, v. 17, p. 215.

SEC. 671. If neither of the judges of a circuit court is present to open any session, the marshal may adjourn the court from day to day until a judge is present: *Provided*, That if neither of them attends before the close of the fourth day after the time appointed for the commencement of the session, the marshal may adjourn the court to the next regular term.

SEC. 672. If neither of the judges of a circuit court be present to open and adjourn any regular or adjourned or special session, either of them may, by a written order, directed alternatively to the marshal, and, in his absence, to the clerk, adjourn the court from time to time, as the case may require, to any time before the next regular term.



## CHAPTER NINE.

## SUPREME COURT—ORGANIZATION.

Sec.	Sec.
673. Number of justices.	679. Records of the old court of appeals.
674. Precedence of the associate justices.	680. Marshal of the Supreme Court.
675. Vacancy in the office of Chief Justice.	681. Duties of the reporter.
676. Salaries of judges.	682. Reporter's salary and price of reports.
677. Clerk, marshal, and reporter.	683. Distribution of the Supreme Court reports.
678. Deputies of the clerk.	

SEC. 673. The Supreme Court of the United States shall consist of a Chief Justice of the United States and eight associate justices, any six of whom shall constitute a quorum.

SEC. 674. The associate justices shall have precedence according to the dates of their commissions, or, when the commissions of two or more of them bear the same date, according to their ages.

SEC. 675. In case of a vacancy in the office of Chief Justice, or of his inability to perform the duties and powers of his office, they shall devolve upon the associate justice who is first in precedence, until such disability is removed, or another Chief Justice is appointed and duly qualified. This provision shall apply to every associate justice who succeeds to the office of Chief Justice.

SEC. 676. The Chief Justice of the Supreme Court of the United States shall receive the sum of ten thousand five hundred dollars a year, and the justices thereof shall receive the sum of ten thousand dollars a year each, to be paid monthly.

SEC. 677. The Supreme Court shall have power to appoint a clerk and a marshal for said court, and a reporter of its decisions.

24 Sept., 1789, c. 20, s. 7, v. 1, p. 76. 26 Aug., 1842, c. 202, s. 2, v. 5, p. 524. 29 Aug., 1842, c. 264, s. 1, v. 5, p. 545. 2 Mar., 1867, c. 156, s. 2, v. 14, p. 433.

SEC. 678. One or more deputies of the clerk of the Supreme Court may be appointed by the court on the application of the clerk, and may be removed at the pleasure of the court. In case of the death of the clerk, his deputy or deputies shall, unless removed, continue in office and perform the duties of the clerk in his name until a clerk is appointed and qualified; and for the defaults or misfeances in office of any such deputy, whether in the lifetime of the clerk or after his death, the clerk, and his estate, and the sureties in his official bond shall be liable; and his executor or administrator shall have such remedy for any such defaults or misfeances committed after his death as the clerk would be entitled to if the same had occurred in his lifetime.

SEC. 679. The records and proceedings of the court of appeals, appointed previous to the adoption of the present Constitution, shall be kept in the office of the clerk of the Supreme Court, who shall give copies thereof to any person requiring and paying for them in the manner provided by law for giving copies of the records and proceedings of the Supreme Court; and such copies shall have like faith and credit with all other proceedings of said court.

SEC. 680. The marshal is entitled to receive a salary at the rate of three thousand five hundred dollars a year. He shall attend the court at its sessions; shall serve and execute all process and orders issuing from it, or made by the Chief Justice or an associate justice in pursuance of law; and shall take charge of all property of the United States used by the court or its members. With the approval of the Chief Justice he may appoint assistants and messengers to attend the court, with the compensation allowed to officers of the House of Representatives of similar grade.

SEC. 681. The reporter shall cause the decisions of the Supreme Court made during his office to be printed and published within eight months

Number of justices.

10 April, 1869, c. 22, s. 1, v. 16, p. 44.

Precedence of the associate justices.

24 Sept., 1789, c. 20, s. 1, v. 1, p. 73.

Vacancy in the office of Chief Justice.

24 Sept., 1789, c. 20, s. 1, v. 1, p. 73.

25 June, 1868, c. 81, s. 1, v. 15, p. 80.

Salaries of judges.

3 Mar., 1843, c. 226, s. 1, v. 17, p. 486.

Clerk, marshal, and reporter.

Deputies of the clerk.

8 June, 1872, c. 336, v. 17, p. 330.

Records of the old court of appeals.

8 May, 1792, c. 36, s. 12, v. 1, p. 279.

Marshal of the Supreme Court.

2 Mar., 1867, c. 156, s. 2, v. 14, p. 443.

27 Feb., 1801, c. 15, s. 7, v. 2, p. 106.

24 Sept., 1789, c. 20, s. 27, v. 1, p. 87.

Duties of the reporter.

29 Aug., 1842, c. 264, s. 1, v. 5, p. 545.  
 21 May, 1866, c. 88, s. 1, v. 14, p. 51.  
 23 July, 1866, c. 208, s. 1, v. 14, p. 191, (205.)  
 2 Mar., 1867, c. 168, s. 10, v. 14, p. 471.

after they are made; and, within the same time, shall deliver three hundred copies of the volumes of said reports to the Secretary of the Interior. And he shall, in any year when he is so directed by the court, cause to be printed and published a second volume of said decisions, of which he shall deliver, in like manner and time, three hundred copies.

Reporter's salary and price of reports.

29 Aug., 1842, c. 264, s. 1, v. 5, p. 545.  
 21 May, 1866, c. 88, s. 1, v. 14, p. 51.  
 23 July, 1866, c. 208, s. 1, v. 14, p. 191, (205.)  
 2 Mar., 1867, c. 168, s. 10, v. 14, p. 471.

Distribution of the Supreme Court reports.

29 Aug., 1842, c. 264, s. 1, v. 5, p. 545.  
 2 Mar., 1861, c. 87, s. 6, v. 12, p. 245.  
 15 July, 1870, c. 292, s. 1, v. 16, p. 291, (307.)  
 23 July, 1866, c. 208, s. 1, v. 15, p. 191, (205.)

SEC. 682. The reporter shall be entitled to receive from the Treasury an annual salary of twenty-five hundred dollars, when his report of said decisions constitutes one volume, and an additional sum of fifteen hundred dollars when, by direction of the court, he causes to be printed and published, in any year, a second volume. But said salary and compensation, respectively, shall be paid only when he causes such decisions to be printed, published, and delivered within the time and in the manner prescribed by law, and upon the condition that the volumes of said reports shall be sold by him to the public for a price not exceeding five dollars a volume.

SEC. 683. The three hundred copies of said reports delivered to the Secretary of the Interior shall be distributed as follows: To the President, the justices of the Supreme Court, the circuit judges, the judges of the district courts, the judges of the Court of Claims, the judges of the supreme court of the District of Columbia, the judges of the several territorial courts, the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, the Postmaster-General, the Attorney-General, the Solicitor-General, the Secretary of the Senate, for the use of the Senate, the Clerk of the House of Representatives, for the use of the House of Representatives, the governors of the Territories, the Commissioner of Agriculture, the Commissioner of Internal Revenue, the Commissioner of Indian Affairs, the Commissioner of Pensions, the Commissioner of the General Land-Office, the Commissioner of Patents, the Commissioner of Customs, the Commissioner of Education, the Paymaster-General, the First and Second Comptrollers of the Treasury, the First, Second, Third, Fourth, Fifth, and Sixth Auditors of the Treasury, the Solicitor of the Treasury, the Register of the Treasury, the Treasurer of the United States, and the heads of such other executive offices as may hereafter be provided by law, of equal grade with any of the said officers, each one copy; to the Secretary of the Senate, for the use of the standing committees of the Senate, ten copies; and to the Clerk of the House of Representatives, for the use of the standing committees of the House, twelve copies; and the residue of said copies shall be deposited in the Library of Congress, to become a part of said Library. The copies received by any officer under this section shall, in case of his death, resignation, or dismissal from office, be delivered up to his successor in office.

## CHAPTER TEN.

### SUPREME COURT—SESSIONS.

Sec.

684. Terms.

685. Adjournments for want of a quorum.

Sec.

686. Preparatory orders made by less than a quorum.

#### Terms.

23 July, 1866, c. 210, s. 1, v. 14, p. 209.

24 Jan., 1873, c. 64, v. 17, p. 419.

Adjournments for want of a quorum.

SEC. 684. The Supreme Court shall hold, at the seat of Government, one term annually, commencing on the second Monday in October, and such adjourned or special terms as it may find necessary for the dispatch of business; and suits, proceedings, recognizances, and processes pending in or returnable to said court shall be tried, heard, and proceeded with as if the time of holding said sessions had not been hereby altered.

SEC. 685. If, at any session of the Supreme Court, a quorum does not attend on the day appointed for holding it, the justices who do attend may adjourn the court from day to day for twenty days after said appointed

time, unless there be sooner a quorum. If a quorum does not attend within said twenty days, the business of the court shall be continued over till the next appointed session; and if, during a term, after a quorum has assembled, less than that number attend on any day, the justices attending may adjourn the court from day to day until there is a quorum, or may adjourn without day.

SEC. 686. The justices attending at any term when less than a quorum is present, may within the twenty days mentioned in the preceding section, make all necessary orders touching any suit, proceeding, or process, depending in or returned to the court, preparatory to the hearing, trial, or decision thereof.

21 Jan., 1829, c. 12, s. 1, v. 4, p. 323. 23 July, 1866, c. 210, s. 1, v. 14, p. 209.

23 April, 1802, c. 31, s. 1, v. 2, p. 156.  
21 Jan., 1829, c. 12, ss. 1, 2, v. 4, p. 332.

Preparatory orders made by less than a quorum.  
29 April, 1802, c. 31, s. 1, v. 2, p. 156.

## CHAPTER ELEVEN.

### SUPREME COURT—JURISDICTION.

Sec.	Sec.
687. Original jurisdiction.	700. Cases tried by the circuit court, without the intervention of a jury.
688. Writs of prohibition and mandamus.	701. Judgment or decree on review.
689. Issues of fact.	702. Writs of error and appeals from territorial courts.
690. Appellate jurisdiction.	703. When a Territory becomes a State after judgment or decree in territorial court.
691. Judgments in circuit court on writ of error.	704. Judgments and decrees of district courts in cases transferred from territorial courts.
692. Appeals in equity and admiralty cases.	705. Judgments and decrees of supreme court of District of Columbia.
693. Review of decisions of circuit court on certificate of division of opinion.	706. Cases where matter in dispute exceeds \$100.
694. Cases pending in Supreme Court from middle and northern districts of Alabama.	707. Appeals from the Court of Claims.
695. Appeals in prize causes.	708. Time and manner of appeals from the Court of Claims.
696. Appeals in prize causes remaining in circuit courts.	709. Judgments and decrees of State courts on writ of error.
697. Points certified on division of opinion in a circuit court.	710. Precedence of writs of error to State courts in criminal cases.
698. Transcripts on appeals.	
699. Writs of error and appeals, without reference to amount.	

SEC. 687. The Supreme Court shall have exclusive jurisdiction of all controversies of a civil nature where a State is a party, except between a State and its citizens, or between a State and citizens of other States, or aliens, in which latter cases it shall have original, but not exclusive, jurisdiction. And it shall have exclusively all such jurisdiction of suits or proceedings against ambassadors, or other public ministers, or their domestics, or domestic servants, as a court of law can have consistently with the law of nations; and original, but not exclusive, jurisdiction of all suits brought by ambassadors, or other public ministers, or in which a consul or vice-consul is a party. [See §§ 4063-4066.]

Original jurisdiction.

24 Sept., 1789, c. 20, s. 1, v. 1, p. 80.

States:

Fowler v. Lindsey, 3 Dal., 411; New York v. Connecticut, 4 Dall., 1; U. S. v. Peters, 5 Cr., 115; Cohens v. Virginia, 6 Wh.,

264; Osborn v. United States Bank, 9 Wh., 738; Governor of Georgia v. Madrazo, 1 Pet., 110; Cherokee Nation v. Georgia, 5 Pet., 1; New Jersey v. New York, 5 Pet., 284; *Ex parte* Madrazo, 7 Pet., 627; Rhode Island v. Massachusetts, 12 Pet., 657; Rhode Island v. Massachusetts, 13 Pet., 23; Rhode Island v. Massachusetts, 14 Pet., 210; Rhode Island v. Massachusetts, 15 Pet., 233; Rhode Island v. Massachusetts, 4 How., 591; Missouri v. Iowa, 7 How., 660; Florida v. Georgia, 17 How., 478; Pennsylvania v. Wheeling Bridge, 18 How., 460; Kentucky v. Dennison, governor, 24 How., 66; Georgia v. Stanton, 6 Wall., 50; Texas v. White, 7 Wall., 700; Pennsylvania v. Quicksilver Company, 10 Wall., 553; Virginia v. West Virginia, 11 Wall., 39; Commonwealth v. Boutwell, 13 Wall., 526; Railway Company v. Ramsey, 22 Wall., 322; Hoadley v. San Francisco, 94, U. S., 4; *Ex parte* Smith, 94 U. S., 455.

Embassadors:

U. S. v. Ravara, 2 Dall., 297; U. S. v. Ortega, 11 Wh., 467.

SEC. 688. The Supreme Court shall have power to issue writs of prohibition in the district courts, when proceeding as courts of admiralty and maritime jurisdiction; and writs of mandamus, in cases warranted

Writs of prohibition and mandamus.

24 Sept., 1789, c. 20, s. 13, v. 1, p. 80. by the principles and usages of law, to any courts appointed under the authority of the United States, or to persons holding office under the authority of the United States, where a State, or an ambassador, or other

Prohibition:  
U. S. v. Peters, 3 public minister, or a consul or vice-consul is a party.  
Dall., 121; *Ex parte* Christy, 3 How., 292; *Ex parte* Gordon, 1 Bl., 503; U. S. v. Hoffman, 4 Wall., 158; *Ex parte* Warmouth, 17 Wall., 67.

Mandamus:  
Hayburn's Case, 2 Dall., 409; U. S. v. Lawrence, 3 Dall., 42; Livingston v. Dorgenois, 7 Cr., 577; *Ex parte* Burr, 9 Wh., 529; Bank of Columbia v. Sweeney, 1 Pet., 567; *Ex parte* Bradstreet, 4 Pet., 102; *Ex parte* Crane, 5 Pet., 190; *Ex parte* Roberts, 6 Pet., 218; *Ex parte* Davenport, 6 Pet., 661; *Ex parte* Bradstreet, 6 Pet., 774; *Ex parte* Bradstreet, 7 Pet., 634; *Ex parte* Bradstreet, 8 Pet., 588; Life and Fire Ins. Co. v. Adams, 9 Pet., 571, 573; *Ex parte* Hoyt, 13 Pet., 279; *Ex parte* Whitney, 13 Pet., 404; *Ex parte* Taylor, 14 How., 3; *Ex parte* William Many, 14 How., 24; Stafford v. Union Bank of Louisiana, 17 How., 275; *Ex parte* Secombe, 19 How., 9; Mussina v. Cavazos, 20 How., 280; *Ex parte* Ransom v. City of New York, 20 How., 581; U. S., *ex rel.*, v. Addison, 22 How., 174; *Ex parte* Kentucky v. Dennison, 24 How., 66; White's Administrator v. U. S., 1 Bl., 501; *Ex parte* Fleming, 2 Wall., 759; Commissioner of Patents v. Whitely, 4 Wall., 533-4; Riggs v. Johnson County, 6 Wall., 188; *Ex parte* De Groot, 6 Wall., 497; *Ex parte* Bradley, 7 Wall., 364; *Ex parte* Graham, 10 Wall., 541; Commonwealth v. Boutwell, 13 Wall., 526; *Ex parte* Russell, 13 Wall., 664; *Ex parte* Newman, 14 Wall., 152; *Ex parte* Cutting, 94 U. S., 14; *Ex parte* Jordan, 94 U. S., 248; *Ex parte* Flippin, 94 U. S., 348; *Ex parte* Loring, 94 U. S., 418.

Issues of fact. SEC. 689. The trial of issues of fact in the Supreme Court, in all actions at law against citizens of the United States, shall be by jury.

24 Sept., 1789, c. 20, s. 13, v. 1, p. 80. SEC. 690. The Supreme Court shall have appellate jurisdiction in the cases hereinafter specially provided for.

24 Sept., 1789, c. 20, s. 13, v. 1, p. 80. 3 Mar., 1875, c. 137, s. 5, v. 18, p. 472.—Sample v. Hagar, 4 Wall., 431.

Judgments in SEC. 691. All final judgments of any circuit court, or of any district court acting as a circuit court, in civil actions brought there by original process, or removed there from courts of the several States, and all final judgments of any circuit court in civil actions removed there from any district court by appeal or writ of error, where the matter in dispute, exclusive of costs, exceeds the sum or value of two thousand dollars, may be re-examined and reversed or affirmed in the Supreme Court upon a writ of error.

24 Sept., 1789, c. 20, s. 22, v. 1, p. 84. 3 Mar., 1803, c. 40, s. 2, v. 2, p. 244. 4 July, 1840, c. 43, s. 3, v. 5, p. 393. 16 Feb., 1875, c. 77, s. 3, v. 18, p. 316. 26 June, 1876, c. 147, v. 19, p. 62.—Wilson v. Daniel, 3 Dall., 401; Williamson v. Kincaid, 4 Dall., 20; Course v. Stead, 4 Dall., 22; U. S. v. McDowell, 4 Cr., 316; Durosseau v. U. S., 6 Cr., 307; Wise v. Turnpike Company, 7 Cr., 276; Peyton v. Roberden, 9 Wh., 527; Gordon v. Ogden, 3 Pet., 33; Smith T. H. Honey, 3 Pet., 469; U. S. v. Eighty-four Boxes Sugar, 7 Pet., 453; Lee v. Lee, 8 Pet., 44; Hagan v. Foisson, 10 Pet., 160; Minor v. Tillotson, 1 How., 287; Knapp v. Bank, 2 How., 73; Matheson's Administrator v. Grant's Administrator, 2 How., 263; Barry v. Merceni, 5 How., 103; Mayberry v. Thompson, 5 How., 121; Bayard v. Lombard, 9 How., 530; Brooks v. Norris, 11 How., 204; Connor v. Peugh's Lessee, 18 How., 394; Stevens v. Gladding, 19 How., 64; Dred Scott v. Sanford, 19 How., 393; Doswell v. De La Lanza, 20 How., 29; Payne v. Niles, 20 How., 219; Suydam v. Williamson, 20 How., 427; Warner v. Norton, 20 How., 461; Roberts v. Cooper, 20 How., 467; McFaul v. Ramsay, 20 How., 527; Barton v. Forsyth, 20 How., 533; Holcomb v. McKusick, 20 How., 552; McCargo v. Chapman, 20 How., 555; Rice v. Minnesota, &c., Railroad, 21 How., 82; Richmond v. Milwaukee, 21 How., 391; U. S. *ex rel.*, v. Addison, 22 How., 174; Kellogg v. Forsyth, 24 How., 186; Hecker v. Fowler, 1 Bl., 95; Pratt v. Fitzhugh, 1 Bl., 271; *Ex parte* Gordon, 1 Bl., 503; Taylor v. Morton, 2 Bl., 481; De Krafft v. Burney, 2 Bl., 704; Pomroy's Lessee v. Bank of Indiana, 1 Wall., 592; Ryan v. Bindley, 1 Wall., 66; Burr v. Des Moines Railroad, &c., 1 Wall., 99; Lee v. Watson, 1 Wall., 337; Gregg v. Forsyth, 2 Wall., 56; Heckers v. Fowler, 2 Wall., 123; Cooke v. U. S., 2 Wall., 218; Marine Bank v. Fulton Bank, 2 Wall., 252; Harvey v. Tyler, 2 Wall., 328; Sparrow v. Strong, 3 Wall., 103; Simpson v. Dall, 3 Wall., 460, (473;) Rogers v. Burlington, 3 Wall., 654; U. S. v. Dashiell, 3 Wall., 688; Walker v. U. S., 4 Wall., 163; Davidson v. Lanier, 4 Wall., 453; Sparrow v. Strong, 4 Wall., 584; U. S. v. McMasters, 4 Wall., 682; Barton v. Forsyth, 5 Wall., 190; Thompson v. Riggs, 5 Wall., 663; McClane v. Boon, 6 Wall., 244; City of Washington v. Dennison, 6 Wall., 495; *Ex parte* McArdle, 7 Wall., 506; Washington County v. Durant, 7 Wall., 694; Avendano v. Gay, 8 Wall., 376; Morris's Cotton, 8 Wall., 507; Steamboat Burns, 9 Wall., 237; New Orleans Railroad v. Morgan, 10 Wall., 256; Masterson v. Herndon, 10 Wall., 416; Miller v. U. S., 11 Wall., 268; Cook v. Burnley, 11 Wall., 672; German v. Mason, 12 Wall., 259; Knox v. Exchange Bank, 12 Wall., 379; Hampton v. Rouse, 13 Wall., 187; Insurance Company v. Barton, 13 Wall., 603; O'Dowd v. Russell, 14 Wall., 402; Merrill v. Petty, 16 Wall., 344; Moore v. Robbins, 18 Wall., 588; St. Clair County v. Lovingsdon, 18 Wall., 628; Kitchen v. Randolph, 93 U. S., 86; Yznaga Del Valle v. Harrison et al., 93 U. S., 233; Wiswall et al. v. Campbell et al., 93 U. S., 347; U. S. v. Young, 94 U. S., 258.

SEC. 692. An appeal shall be allowed to the Supreme Court from all final decrees of any circuit court, or of any district court acting as a circuit court, in cases of equity, and of admiralty and maritime jurisdiction, where the matter in dispute, exclusive of costs, exceeds the sum or value of two thousand dollars, and the Supreme Court is required to receive, hear, and determine such appeals.

Appeals in equity and admiralty cases.

3 Mar., 1803, c. 40 s. 2, v. 2, p. 244.  
30 June, 1864, c. 174, s. 13, v. 13, p. 174, s. 13, v. 13, p.

310. 16 Feb., 1875, c. 77, s. 3, v. 18, p. 316. 1 Mar., 1875, c. 114, s. 5, v. 18, p. 337.—U. S. v. Brig Union, 4 Cr., 216; The San Pedro, 2 Wh., 132; Conn v. Penn., 5 Wh., 424; Gordon v. Ogden, 3 Pet., 33; Oliver v. Alexander, 6 Pet., 143; U. S. v. Nourse, 6 Pet., 470; Bank of Alexandria v. Hooff, 7 Pet., 168; Owings v. Kinkannon, 7 Pet., 399; U. S. v. Eighty-four Boxes of Sugar, 7 Pet., 453; Stratton v. Jarvis, 8 Pet., 4; Lee v. Lee, 8 Pet., 44; Jackson v. Ashton, 8 Pet., 148; Bank of United States v. Daniel, 12 Pet., 32; Lea v. Kelly, 15 Pet., 213; Young v. Smith, 15 Pet., 287; Parish v. Ellis, 16 Pet., 451; Forgay v. Conrad, 6 How., 201; Perkins v. Fourniquet, 6 How., 206; Bayard v. Lombard, 9 How., 530; Gruner v. U. S., 11 How., 163; Spear v. Place, 11 How., 522; Southard v. Russel, 12 How., 139; Rich v. Lambert, 12 How., 347; Perkins v. Fourniquet, 14 How., 328; Stafford v. Union Bank Louisiana, 16 How., 135; Adams v. Law, 16 How., 144; Shields v. Thomas, 17 How., 3; Udall v. Steamship Ohio, 17 How., 17; Verden v. Coleman 18 How., 86; Craighead v. Wilson, 18 How., 199; Hudgins v. Kemp, 18 How., 530; Beebe v. Russel, 19 How., 283; Farrelly v. Woodfolk, 19 How., 288; Brown v. Shannon, 20 How., 58; McMickin v. Perin, 20 How., 133; Richmond v. Milwaukee, 21 How., 80; Vallance v. Forsyth, 21 How., 389; Richmond v. Milwaukee, 21 How., 391; U. S. v. Fossatt, 21 How., 450; Rogers v. Law., 21 How., 526; Nelson v. Leland, 22 How., 46; Day v. Washburn, 23 How., 309; Clifton v. Sheldon, 23 How., 481; Gridley v. Westbrook, 23 How., 503; Sampson v. Welsh, 24 How., 207; Wabash and Erie Canal v. Beers, 1 Bl., 54; Pratt v. Fitzhugh, 1 Bl., 271; Ship Marcellus, 1 Bl., 414; Cleveland v. Chamberlain, 1 Bl., 419; U. S. v. Knight's Administrator, 1 Bl., 488; Mississippi and Missouri R. R. v. Ward, 2 Bl., 485; Callan v. May, 2 Bl., 541; Sturgis v. Clough, 1 Wall., 269; Malarin v. U. S., 1 Wall., 282; Blossom v. Railroad Company, 1 Wall., 655; U. S. v. Gomez, 1 Wall., 690; Humiston v. Stainthorp, 2 Wall., 106; Railroad Company v. Soutter, 2 Wall., 440, 510; Newell v. Norton and Ship, 3 Wall., 267; Barrel v. Transportation Company, 3 Wall., 424; The Douro, 3 Wall., 564; Merryam v. Haas, 3 Wall., 687; U. S. v. Gomez, 3 Wall., 752; Seaver v. Bigelows, 5 Wall., 208; Rubber Company v. Goodyear, 6 Wall., 153; The Grace Girdler, 6 Wall., 441; Edmonson v. Bloomshire, 7 Wall., 306; Thompson v. Dean, 7 Wall., 342; The Baltimore, 7 Wall., 382; Sheets v. Selden, 7 Wall., 416; *Ex parte* McCordle, 7 Wall., 506; Railroad Company v. Bradleys, Wall., 575; Washington County v. Durant, 7 Wall., 694; The Lucy, 8 Wall., 307; Morris's Cotton, 8 Wall., 507; Latham's Appeal, 9 Wall., 145; Steamboat Burns, 9 Wall., 237; Hoe v. Wilson, 9 Wall., 501; The Nonesuch, 9 Wall., 504; Herndon v. Howard, 9 Wall., 664; Masterson v. Herndon, 10 Wall., 416; Morgan v. Thornhill, 11 Wall., 65; The Protector, 11 Wall., 82; French v. Shoemaker, 12 Wall., 86; Bigler v. Waller, 12 Wall., 142; Germain v. Mason, 2 Wall., 259; Knox v. Exchange Bank, 12 Wall., 379; Hall v. Allen, 12 Wall., 352; Mead v. Thompson, 15 Wall., 635; Merrill v. Petit, 16 Wall., 344; Marin v. Lalley, 17 Wall., 14; *Ex parte* Warmouth, 17 Wall., 64; Rodd v. Heartt, 17 Wall., 354; Moore v. Robbins, 18 Wall., 589; Saint Clair County v. Lovington, 18 Wall., 628; Terry v. Hatch, 93 U. S., 44; Hinckley v. Gillman et al., 94 U. S., 467; Supervisors v. Kennicott, 94 U. S., 498; Butcher Association v. Slaughter-house Company, 1 Woods., 50.

SEC. 693. Any final judgment or decree, in any civil suit or proceeding before a circuit court which was held, at the time, by a circuit justice and a circuit judge or a district judge, or by the circuit judge and a district judge, wherein the said judges certify as provided by law, that their opinions were opposed upon any question which occurred on the trial or hearing of the said suit or proceeding, may be reviewed and affirmed or reversed or modified by the Supreme Court, on writ of error or appeal, according to the nature of the case, and subject to the provisions of law applicable to other writs of error or appeals in regard to bail and super-sedeas. [See § 652.]

Review of decisions of circuit court on certificate of division of opinion.

1 June, 1872, c. 255, s. 1, v. 17, p. 196.  
16 Feb., 1875, c. 77, v. 18, p. 315.

SEC. 694. Nothing in the act of March three, eighteen hundred and seventy-three, relating to the circuit and district courts for the middle and northern districts of Alabama, shall affect the jurisdiction of the Supreme Court to hear and determine any cause or proceeding pending in said court at the date of said act on writ of error or appeal from the district courts of either of said districts.

Cases pending in Supreme Court from middle and northern districts of Alabama.

3 Mar., 1873, c. 223, s. 3, v. 17, p. 485.

SEC. 695. An appeal shall be allowed to the Supreme Court from all final decrees of any district court in prize causes, where the matter in dispute, exclusive of costs, exceeds the sum or value of two thousand dollars; and shall be allowed, without reference to the value of the matter in dispute, on the certificate of the district judge that the adjudication involves a question of general importance. And the Supreme Court

Appeals in prize causes.

30 June, 1864, c. 174, s. 13, v. 13, p. 310.

3 Mar., 1803, c. 40, s. 2, v. 2, p. 244.

The Admiral, 3 Wall., 603; *Withenbury v. U. S.*, 5 Wall., 819; *The Alicia*, 7 Wall., 571.

Appeals in prize causes remaining in circuit courts.

30 June, 1864, c. 174, s. 13, v. 13, p. 310.

Points certified on division of opinion in a circuit court.

29 April, 1802, c. 31, s. 6, v. 2, p. 159.

*Ogler v. Lee*, 2 Cr., 33; *Hepburn v. Ellzey*, 2 Cr., 445; *U. S. v. Tyler*, 7 Cr., 285; *Ross v. Triplett*, 3 Wh., 600; *U. S. v. Lancaster*, 5 Wh., 434; *U. S. v. Daniel*, 6 Wh., 542; *Wayman v. Southard*, 10 Wh., 1; *Devereaux v. Marr*, 12 Wh., 212; *Wolf v. Usher*, 3 Pet., 269; *Saunders v. Gould*, 4 Pet., 392; *Grant v. Raymond*, 6 Pet., 218; *U. S. v. Bailey*, 9 Pet., 267; *Davis v. Braden*, 10 Pet., 286; *Smith v. Vaughan*, 10 Pet., 336; *Packer v. Nixon*, 10 Pet., 408; *Adams v. Jones*, 12 Pet., 207; *White v. Turk*, 12 Pet., 238; *U. S. v. Stone*, 14 Pet., 524; *U. S. v. Briggs*, 5 How., 208; *Nesmith v. Sheldon*, 6 How., 41; *Luther v. Borden*, 7 How., 1; *U. S. v. Chicago*, 7 How., 185; *Sadler v. Hoover*, 7 How., 646; *Wilson v. Barnum*, 8 How., 258; *Webster v. Cooper*, 10 How., 54; *Dennistoun v. Stewart*, 18 How., 565; *U. S. v. City Bank Columbus*, 19 How., 385; *Ex parte Gordon*, 1 Bl., 503; *Silliman v. Hudson River Bridge Company*, 1 Bl., 582; *Ward v. Chamberlain*, 2 Bl., 430; *Daniels v. Railroad*, 3 Wall., 250; *Havemeyer v. Iowa County*, 3 Wall., 294; *Brobst v. Brobst*, 4 Wall., 2; *U. S. v. Rosenburgh*, 7 Wall., 580; *Hannauer v. Woodruff*, 10 Wall., 482; *U. S. v. Avery*, 13 Wall., 251; *Insurance Company v. Comstock*, 16 Wall., 258.

Transcripts on appeals.

3 Mar., 1803, c. 40, s. 2, v. 2, p. 244.  
26 Feb., 1853, c. 80, s. 1, v. 10, p. 163.  
30 June, 1864, c. 174, s. 13, v. 13, p. 310.

*Conn. v. Pennsylvania*, 5 Wh., 424; *Villabolas v. U. S.*, 6 How., 81; *U. S. v. Curry*, 6 How., 106; *Steamer Virginia v. West*, 19 How., 182; *Mesa v. U. S.*, 2 Bl., 721; *U. S. v. Gomez*, 3 Wall., 763, 766; *The Mabey*, 10 Wall., 419.

Writs of error and appeals, without reference to amount.

Patent and copyright cases.

8 July, 1870, c. 230, ss. 56, 107, v. 16, pp. 207, 215.—*Hogg v. Emerson*, 6 How., 477; *Stimpson v. Railroad*, 10 How., 346; *Sizer v. Maney*, 16 How., 98; *Brown v. Shannon*, 20 How., 55.

Actions for enforcement of any revenue law.

31 May, 1844, c. 31, v. 5, p. 658.—*Curry v. Curtis*, 3 How., 244; *U. S. v. Carr*, 8 How., 9; *U. S. v. Bromley*, 12 How., 88; *Mason v. Gamble*, 21 How., 390.

Actions against revenue officers.

27 Mar., 1868, c. 34, s. 1, v. 15, p. 44.

SEC. 696. An appeal shall be allowed to the Supreme Court from all final decrees of any circuit court in prize causes depending therein on the thirtieth day of June, eighteen hundred and sixty-four, in the same manner, and subject to the same conditions as appeals in prize causes from the district courts.

SEC. 697. When any question occurs on the hearing or trial of any criminal proceeding before a circuit court, upon which the judges are divided in opinion, and the point upon which they disagree is certified to the Supreme Court according to law, such point shall be finally decided by the Supreme Court; and its decision and order in the premises shall be remitted to such circuit court, and be there entered of record, and shall have effect according to the nature of the said judgment and order. [See § 651.]

SEC. 698. Upon the appeal of any cause in equity, or of admiralty and maritime jurisdiction, or of prize or no prize, a transcript of the record, as directed by law to be made, and copies of the proofs, and of such entries and papers on file as may be necessary on the hearing of the appeal, shall be transmitted to the Supreme Court: *Provided*, That either the court below or the Supreme Court may order any original document or other evidence to be sent up, in addition to the copy of the record, or in lieu of a copy of a part thereof. And on such appeals no new evidence shall be received in the Supreme Court, except in admiralty and prize causes. [See § 750.]

SEC. 699. A writ of error may be allowed to review any final judgment at law, and an appeal shall be allowed from any final decree in equity hereinafter mentioned, without regard to the sum or value in dispute:

First. Any final judgment at law or final decree in equity of any circuit court, or of any district court acting as a circuit court, or of the supreme court of the District of Columbia, or of any Territory, in any case touching patents-rights or copyrights.

Second. Any final judgment of a circuit court, or of any district court acting as a circuit court, in any civil action brought by the United States for the enforcement of any revenue law thereof.

Third. Any final judgment of a circuit court, or of any district court acting as a circuit court, in any civil action against any officer of the revenue for any act done by him in the performance of his official duty, or for the recovery of any money exacted by or paid to him which shall have been paid into the Treasury.

Fourth. Any final judgment at law or final decree in equity of any circuit court, or of any district court acting as a circuit court, in any case brought on account of the deprivation of any right, privilege, or immunity secured by the Constitution of the United States, or of any right or privilege of a citizen of the United States.

22, ss. 1, 2, v. 17, p. 13. 31 May, 1870, c. 114, ss. 16, 18, v. 16, p. 144.  
ss. 1, 3, v. 14, p. 27.

Cases on account of deprivation of rights of citizens or under the Constitution.

20 April, 1871, c.  
9 April, 1866, c. 31,

Fifth. Any final judgment of a circuit court, or of any district court acting as a circuit court, in any civil action brought by any person on account of injury to his person or property by any act done in furtherance of any conspiracy mentioned in section nineteen hundred and eighty, Title "CIVIL RIGHTS."

Suits for injuries by conspirators against civil rights.

20 April, 1871, c.  
22, s. 2, v. 17, p. 13.  
9 April, 1866, c.

31, s. 10, v. 14, p. 29.—Cooper, ex., v. Omohundro, 19 Wall., 65.

SEC. 700. When an issue of fact in any civil cause in a circuit court is tried and determined by the court without the intervention of a jury, according to section six hundred and forty-nine, the rulings of the court in the progress of the trial of the cause, if excepted to at the time, and duly presented by a bill of exceptions, may be reviewed by the Supreme Court upon a writ of error or upon appeal; and when the finding is special the review may extend to the determination of the sufficiency of the facts found to support the judgment. [See § 649.]

Cases tried by the circuit court without the intervention of a jury.

3 Mar., 1865, c.  
86, s. 4, v. 13, p. 501.  
See acts.

24 Sept., 1789, c.  
20, s. 22, v. 1, p. 84.

3 Mar., 1803, c. 40, s. 2, v. 2, p. 244.—Barnes v. Williams, 11 Wh., 415; Prentice v. Zane's Administrator, 8 How., 470; Stimpson v. Railroad, 10 How., 329; Graham v. Bayne, 18 How., 62; Suydam v. Williamson, 20 How., 432; Kelsey v. Forsyth, 21 How., 85; Campbell v. Boyreau, 21 How., 223; Cucullu v. Emmerling, 22 How., 83; Burr v. Des Moines Company, 1 Wall., 99; Insurance Company v. Tweed, 7 Wall., 44; Basset v. U. S., 9 Wall., 38; Norris v. Jackson, 9 Wall., 125; Flanders v. Tweed, 9 Wall., 425; Copelin v. Insurance Company, 9 Wall., 467; Coddington v. Richards, 10 Wall., 516; Smith v. Sac County, 11 Wall., 139; Bethel v. Mathews, 13 Wall., 1; Dirst v. Morris, 14 Wall., 484; Dickinson v. Planters' Bank, 16 Wall., 250; Insurance Company v. Folsom, 18 Wall., 237; Town of Ohio v. Marcy, 18 Wall., 552.

SEC. 701. The Supreme Court may affirm, modify, or reverse any judgment, decree, or order of a circuit court, or district court acting as a circuit court, or of a district court in prize causes, lawfully brought before it for review, or may direct such judgment, decree, or order to be rendered, or such further proceedings to be had by the inferior court, as the justice of the case may require. The Supreme Court shall not issue execution in a cause removed before it from such courts, but shall send a special mandate to the inferior court to award execution thereupon.

Judgment or decree on review.

1 June, 1872, c.  
255, s. 2, v. 17, p. 196.

24 Sept., 1789, c.  
20, s. 24, v. 1, p. 85.

3 Mar., 1803, c.  
40, s. 2, v. 2, p. 244.

30 June, 1864, c.  
174, s. 13, v. 13, p.

310.—Sheehy v. Mandeville, 6 Cr., 266; Martin v. Hunter's Lessee, 1 Wh., 304; Lanusse v. Barker, 3 Wh., 147; United States Bank v. Smith, 11 Wh., 182; Fowle v. Common Council of Alexandria, 11 Wh., 324; Barnes v. Williams, 11 Wh., 415; McArthur v. Porter's Lessee, 1 Pet., 626; Farrar v. U. S., 5 Pet., 389; U. S. v. Hawkins, 10 Pet., 125; Mackey v. U. S., 10 Pet., 342; *Ex parte* Sibbold, 12 Pet., 492; West v. Bradshaw, 14 Pet., 51; U. S. v. Boyd, 15 Pet., 209; Garland v. Davis, 4 How., 131; Cutler v. Rae, 7 How., 732; Humphreys v. Leggett, 9 How., 297; McNulty v. Batty, 10 How., 72; Graham v. Bayne, 18 How., 63; Suydam v. Williamson, 20 How., 440; Taylor v. Morton, 2 Bl., 481; *Ex parte* Dubuque and Pacific Railroad, 1 Wall., 69; Railroad v. Souther, 2 Wall., 510; *Ex parte* McCordle, 7 Wall., 506; *Ex parte* Morris & Johnson, 9 Wall., 607; Insurance Company v. Boykin, 12 Wall., 433; Insurance Company v. Piaggio, 16 Wall., 378; U. S. v. Huckabee, 16 Wall., 435; Walbrun v. Balbit, 16 Wall., 577.

SEC. 702. The final judgments and decrees of the supreme court of any Territory, except the Territory of Washington, in cases where the value of the matter in dispute, exclusive of costs, to be ascertained by the oath of either party, or of other competent witnesses, exceeds one thousand dollars, may be reviewed and reversed or affirmed in the Supreme Court, upon writ of error or appeal, in the same manner and under the same regulations as the final judgments and decrees of a circuit court. In the Territory of Washington the value of the matter in dispute must exceed two thousand dollars, exclusive of costs. And any final judgment or decree of the supreme court of said Territory in any

Writs of error and appeals from territorial courts.

7 April, 1874, c.  
80, r. 18, p. 27.

26 June, 1876, c.  
147, v. 19, p. 62.

27 Feb., 1877, c.  
169, r. 19, p. 241.

Utah, 9 Sept., 1850,  
c. 51, s. 9, v. 9, p.

455; *New Mexico*, 9 Sept., 1850, c. 49, s. 10, v. 9, p. 449; *Washington*, 2 Mar., 1853, c. 90, s. 9, v. 10, p. 175; *Dakota*, 2 Mar., 1861, c. 86, s. 9, v. 12, p. 241; *Arizona*, 24 Feb., 1863, c. 56, s. 2, v. 12, p. 665; *Idaho*, 3 Mar., 1863, c. 117, s. 9, v. 12, p. 811; *Montana*, 26 May, 1864, c. 95, s. 9, v. 13, p. 88; *Wyoming*, 25 July, 1868, c. 235, s. 9, v. 15, p. 180.—*Sheppard v. Wilson*, 210; *U. S. v. Vigil*, 10 Wall., 423; *Wells v. McGregor*, 13 Wall., 188; *Bartemeyer v. Iowa*, 14 Wall., 26.

When a Territory becomes a State after judgment or decree in territorial court.

12 June, 1858, c. 154, s. 18, v. 11, p. 328.

*Hunt v. Palas*, 4

Judgments and decrees of district courts in cases transferred from territorial courts.

22 Feb., 1847, c. 17, s. 1, v. 9, p. 128.

22 Feb., 1848, c. 12, s. 2, v. 9, p. 212.

*Express Company v. Kountze Bros.*, 8 Wall., 342.

Judgments and decrees of supreme court of District of Columbia.

3 Mar., 1863, c. 91, s. 11, v. 12, p. 764.

27 Feb., 1801, c. 15, s. 8, v. 2, p. 106. *Young v. Bank of Alexandria*, 4 Cr., 384; *Carter's Heirs v. Cutting*, 8 Cr., 251; *Peyton v. Robertson*, 9 Wh., 527; *Crown v. Wiley*, 4 Wall., 165; *Garnett v. U. S.*, 11 Wall., 256; *Smith v. Mason*, 14 Wall., 419.—*Railroad Company v. Church*, 19 Wall., 62; *Stanton et al. v. Embrey*, adm., 93 U. S., 548.

Case where matter in dispute exceeds \$100.

2 April, 1816, c. 39, s. 2, v. 3, p. 261.

3 Mar., 1863, c. 91, ss. 2, 11, v. 12, pp. 763, 764.

*Lee v. Lee*, 8 Pet., 44; *Campbell v. Reed*, 2 Wall., 198.

Appeals from the Court of Claims.

25 June, 1868, c. 71, s. 1, v. 15, p. 75.

3 Mar., 1863, c. 92, ss. 5, 11, v. 12, pp. 766, 767.

*De Groot v. U. S.*, 5 Wall., 419; *U. S. v. Adams*, 6 Wall., 101; *Ex parte Zellner*, 9 Wall., 245; *U. S. v. Ayres*, 9 Wall., 608; *U. S. v. Adams*, 9 Wall., 661; *Ex parte Roberts*, 15 Wall., 384; *Vigo's Case*, 21 Wall., 648; *Diehelman's Case*, 9 C. Cls., 320.

Time and manner of appeals from the Court of Claims.

3 Mar., 1863, c. 92, ss. 5, 11, v. 12, pp. 766, 737. 25 June, 1868, c. 71, s. 1, v. 15, p. 75.—*United States v. Young*, 94 U. S., 258.

cause [when] the Constitution or a statute or treaty of the United States is brought in question may be reviewed in like manner. [See §§ 1909, 1911.]

SEC. 703. In all cases where the judgment or decree of any court of a Territory might be reviewed by the Supreme Court on writ of error or appeal, such writ of error or appeal may be taken, within the time and in the manner provided by law, notwithstanding such Territory has, after such judgment or decree, been admitted as a State; and the Supreme Court shall direct the mandate to such court as the nature of the writ of error or appeal requires.

How., 589; *Freeborn v. Smith*, 2 Wall., 160.

SEC. 704. The judgments or decrees of any district court, in cases transferred to it from the superior court of any Territory, upon the admission of such Territory as a State, under sections five hundred and sixty-seven and five hundred and sixty-eight, may be reviewed and reversed or affirmed upon writs of error sued out of, or appeals taken to, the Supreme Court, in the same manner as if such judgments or decrees had been rendered in said superior court of such Territory. And the mandates and all writs necessary to the exercise of the appellate jurisdiction of the Supreme Court in such cases shall be directed to such district court, which shall cause the same to be duly executed and obeyed. [See §§ 567, 568.]

SEC. 705. The final judgment or decree of the supreme court of the District of Columbia, in any case where the matter in dispute, exclusive of costs, exceeds the value of one thousand dollars, may be re-examined and reversed or affirmed in the Supreme Court of the United States, upon writ of error or appeal, in the same manner and under the same regulations as are provided in cases of writs of error on judgments, or appeals from decrees rendered in a circuit court.

2 April, 1816, c. 39, s. 1, v. 3, p. 261.—*U. S. v. Moore*, 3 Cr., 159; *Young v. Bank of Alexandria*, 4 Cr., 384; *Carter's Heirs v. Cutting*, 8 Cr., 251; *Peyton v. Robertson*, 9 Wh., 527; *Crown v. Wiley*, 4 Wall., 165; *Garnett v. U. S.*, 11 Wall., 256; *Smith v. Mason*, 14 Wall., 419.—*Railroad Company v. Church*, 19 Wall., 62; *Stanton et al. v. Embrey*, adm., 93 U. S., 548.

SEC. 706. The writ of error or appeal provided by the preceding section may be allowed in any case where the value of the matter in dispute, exclusive of costs, is less than one thousand dollars, but more than one hundred dollars, upon the petition in writing of either party, accompanied by a copy of the proceedings complained of, and an assignment of errors, exhibited to any justice of the Supreme Court, if said justice is of opinion that such errors involve questions of law of such extensive operation as to render a decision of them by the Supreme Court desirable. The allowance in such case shall be by the written order of said justice, directed to the clerk of the supreme court of said District, to allow the appeal or issue the writ of error.

SEC. 707. An appeal to the Supreme Court shall be allowed, on behalf of the United States, from all judgments of the Court of Claims adverse to the United States, and on behalf of the plaintiff in any case where the amount in controversy exceeds three thousand dollars, or where his claim is forfeited to the United States by the judgment of said court, as provided in section one thousand and eighty-nine.

SEC. 708. All appeals from the Court of Claims shall be taken within ninety days after the judgment is rendered, and shall be allowed under such regulations as the Supreme Court may direct.



SEC. 709. A final judgment or decree in any suit in the highest court of a State, in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of their validity; or where any title, right, privilege, or immunity is claimed under the Constitution, or any treaty or statute of, or commission held or authority exercised under, the United States, and the decision is against the title, right, privilege, or immunity specially set up or claimed, by either party, under such Constitution, treaty, statute, commission, or authority, may be re-examined and reversed or affirmed in the Supreme Court upon a writ of error. The writ shall have the same effect as if the judgment or decree complained of had been rendered or passed in a court of the United States; *[and the proceeding upon the reversal shall be the same, except that the Supreme Court may, at their discretion, proceed to a final decision of the case, and award execution, or remand the same to the court from which it was so removed.]* [See § 1017.]

The Supreme Court may [*re-affirm,*] reverse, modify, or affirm the judgment or decree of such State court, and may, at their discretion, award execution, or remand the same to the court from which it was removed by the writ.

Judgments and decrees of State courts on writ of error.

5 Feb., 1867, c. 28, s. 2, v. 14, p. 386.  
24 Sept., 1789, c. 20, s. 25, v. 1, p. 85.  
18 Feb., 1875, c. 80, v. 18, p. 318.

Olney v. Arnold, 3 Dall., 308; Hepburn v. Elzey, 2 Cr., 445; Gordon v. Caldwell, 3 Cr., 268; Matthews v. Zane, 4 Cr., 382; Owings v. Norwood's Lessee, 5 Cr., 344; Martin v. Hunter's Lessee, 1 Wh., 304; Ingles v. Coolidge, 2 Wh., 363; Miller v. Nichols, 4 Wh., 311; Gibbons v. Ogden, 6 Wh., 448; Well v. Van Ness, 8 Wh., 312; Williams v.

Norris, 12 Wh., 117; Montgomery v. Hernandez, 12 Wh., 129; Gwynn's Heirs v. Jackson, 12 Wh., 135; Hickie v. Starke, 1 Pet., 94; Ross v. Barland, 1 Pet., 655; Wilson v. Blackbird Creek Marsh Company, 2 Pet., 245; Satterlee v. Matthewson, 2 Pet., 380; Weston v. City Council Charleston, 2 Pet., 449; Harris v. Dennie, 3 Pet., 292; Craig v. Missouri, 4 Pet., 410; Fisher's Lessee v. Cockerell, 5 Pet., 248; Maynard v. Aspasia, 5 Pet., 505; Davis v. Packard, 6 Pet., 41; City of New Orleans v. Armas, 9 Pet., 223; Crowell v. Randell, 10 Pet., 368; McBride v. Hoey, 11 Pet., 167; Reed's Lessee v. Marsh, 13 Pet., 153; Ocean Ins. Co. v. Polleys, 13 Pet., 157; Mitchell v. Lennox, 14 Pet., 45; Kentucky v. Griffith, 14 Pet., 56; Holmes v. Jennison, 14 Pet., 540; Fulton v. McAfee, 16 Pet., 149; City of Mobile v. Eslava, 16 Pet., 234; Armstrong v. Treasurer of Athens Company, 16 Pet., 281; Mills v. Brown, 16 Pet., 525; Chouteau v. Eckhart, 2 How., 344; Mackay v. Dillon, 4 How., 421; Pepper v. Dunlap, 5 How., 51; Walker v. Taylor, 5 How., 64; Commercial Bank of Cincinnati v. Buckingham's Executors, 5 How., 317; Scott v. Jones, 5 How., 343; Erwin v. Lowry, 7 How., 172; Smith v. Hunter, 7 How., 738; Almonester v. Kenton, 9 How., 1; Strader v. Baldwin, 9 How., 261; Doe v. Eslava, 9 How., 421; Doe v. Mobile, 9 How., 451; Henderson v. Tennessee, 10 How., 311; Clements v. Berry, 11 How., 398; Webster v. Reid, 11 How., 437; Gill v. Oliver's Executors, 11 How., 529; Miners' Bank v. Iowa, 12 How., 1; Williams v. Oliver, 12 How., 111; Kanouse v. Martin, 14 How., 23; Lawler v. Walker, 14 How., 149; State Bank of Ohio v. Knoop, 16 How., 369; Poydras de la Land v. Treasurer of Louisiana, 17 How., 1; Heirs of Poydras de la Land v. Treasurer of Louisiana, 18 How., 192; Calcate v. Stanton, 18 How., 243; U. S. v. Booth, 18 How., 476; Maxwell v. Newbold, 18 How., 511; Cousin v. Blanc's Executor, 19 How., 202; Bell v. Hearne, 19 How., 252; Michigan Central Railroad v. Michigan Southern Railroad, 19 How., 379; Burke v. Gaines, 19 How., 388; Wynn v. Morris, 20 How., 3; Christ Church v. County Philadelphia, 20 How., 26; Withers v. Buckley, 20 How., 84; Moreland v. Paige, 20 How., 522; Beers v. Arkansas, 20 How., 527; Abelman v. Booth, 21 How., 507; White v. Wright, 22 How., 19; Verden v. Coleman, 22 How., 192; Lytle v. Arkansas, 22 How., 193; Berthold v. McDonald, 22 How., 334; Medberry v. State of Ohio, 24 How., 413; Porter v. Foley, 24 How., 415; Reddall v. Bryan, 24 How., 420; Maguire v. Tyler, 1 Bl., 195; Attorney-General v. Federal-street Meeting-House, 1 Bl., 262; Farney v. Towle, 1 Bl., 350; Hoyt v. Sheldon, 1 Bl., 518; Taylor v. Morton, 2 Bl., 481; Congdon v. Goodman, 2 Bl., 574; Randall v. Howard, 2 Bl., 585; Minnesota v. Batchelder, 1 Wall., 116; Bridge Proprietors v. Hoboken Company, 1 Wall., 142; Day v. Gallup, 2 Wall., 97; The Binghamton Bridge, 3 Wall., 1; Lewis v. Campeau, 3 Wall., 106; Mining Company v. Baggs, 3 Wall., 304; Buck v. Colbath, 3 Wall., 334; McGuire v. The Commonwealth, 3 Wall., 382; *Ex parte* Milligan, 4 Wall., 113; Railroad Company v. Rock, 4 Wall., 177; Lanier v. Hunley, 4 Wall., 209; Ryan v. Thomas, 4 Wall., 603; Green v. Van Buskirk, 5 Wall., 307; Townsend v. Greeley, 5 Wall., 326; Walker v. Villavaso, 6 Wall., 124; Rector v. Ashley, 6 Wall., 142; Reichart v. Felps, 6 Wall., 160; Millengar v. Hartuppee, 6 Wall., 258; The Victory, 6 Wall., 382; Hamilton Company v. Massachusetts, 6 Wall., 632; The Banks v. The Mayor, 7 Wall., 16; Twitchell v. The Commonwealth, 7 Wall., 321; Austin v. The Aldermen, 7 Wall., 694; Furman v. Nicholl, 8 Wall., 44; Gibson v. Chauteau, 8 Wall., 314; Aldrich v. Ætna Company, 8 Wall., 491; Maguire v. Tyler, 8 Wall., 651; Worthy v. The Commissioners, 9 Wall., 611; Downham v. Alexandria, 9 Wall., 661; Gleason v. Florida, 9 Wall., 779; Carpenter v. Williams, 9 Wall., 785; Messenger v. Mason, 10 Wall., 507; Railroad Company v. McClure, 10 Wall., 511; Bethel v. Demorest, 10 Wall., 537; Parmelee v. Lawrence, 11 Wall., 36; Insurance Company v. The Treasurer, 11 Wall., 204; Runkin v. The State, 11 Wall., 380; Knox v. Exchange Bank,

12 Wall., 379; *People v. Central Railroad*, 12 Wall., 455; *Trebilcock v. Wilson*, 12 Wall., 687; *West Tennessee Bank v. Citizens' Bank*, 13 Wall., 432; *Dooley v. Smith*, 13 Wall., 604; *Cockroft v. Vose*, 14 Wall., 5; *Tennessee Bank v. Bank of Louisiana*, 14 Wall., 9; *Palmer v. Marston*, 14 Wall., 10; *Sevier v. Haskell*, 14 Wall., 13; *Steines v. Franklin*, 14 Wall., 15; *Kennebec Railroad v. Portland Railroad*, 14 Wall., 23; *Bartemeyer v. Iowa*, 14 Wall., 26; *Hurley v. Street*, 14 Wall., 85; *Caperton v. Bowyer*, 14 Wall., 216; *Caperton v. Ballard*, 14 Wall., 238; *O'Dowd v. Russell*, 14 Wall., 402; *Delmas v. Insurance Company*, 14 Wall., 661; *Railroads v. Richmond*, 15 Wall., 3; *Railroad v. Johnson*, 15 Wall., 8; *Tarver v. Keach*, 15 Wall., 67; *Salomons v. Graham*, 15 Wall., 208; *Pennywit v. Eaton*, 15 Wall., 380; *Moses v. The Mayor*, 15 Wall., 387; *Hall v. Jordan*, 15 Wall., 393; *Commercial Bank v. Rochester*, 15 Wall., 639; *Smith v. Adsit*, 16 Wall., 185; *Bank v. Turnbull*, 16 Wall., 190; *Marqueeze v. Bloom*, 16 Wall., 351; *Taylor v. Taintor*, 16 Wall., 366; *Steamboat Company v. Chase*, 16 Wall., 522; *Crapo v. Kelly*, 16 Wall., 610; *Tyler v. Magwire*, 17 Wall., 253; *Miller v. Joseph*, 17 Wall., 655; *Murdock v. The City of Memphis*, 20 Wall., 590; *Matthews v. McStea*, 20 Wall., 646; *Dupasseur v. Rochersau*, 21 Wall., 130; *Edwards v. Elliott et al.*, 21 Wall., 532; *Moore v. Mississippi*, 21 Wall., 636; *Scott, assignee, v. Kelly*, 22 Wall., 57; *Gregory v. McVeigh*, 23 Wall., 294; *Smith v. Adsit*, 23 Wall., 368; *Fashnacht v. Frank*, 23 Wall., 416; *Long et al. v. Converse et al.*, 91 U. S., 105; *U. S. v. Thompson et al.*, 93 U. S., 586; *Davis v. Crouch*, 94 U. S., 514.

Precedence of writs of error to State courts in criminal cause. SEC. 710. Cases on writ of error, to revise the judgment of a State court in any criminal case, shall have precedence, on the docket of the Supreme Court, of all cases to which the Government of the United States is not a party, excepting only such cases as the court, in its discretion, may decide to be of public importance.

13 July, 1866, c. 184, s. 69, v. 14, p. 172. 24 Sept., 1789, c. 20, s. 25, v. 1, p. 85. 5 Feb., 1867, c. 28, s. 2, v. 14, p. 386.

## CHAPTER TWELVE.

### PROVISIONS COMMON TO MORE THAN ONE COURT OR JUDGE.

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| Sec.   | Sec.  |
| 711. Exclusive jurisdiction of courts of United States.                  | 733. Suits for internal-revenue taxes, where to be brought.                                   |
| 712. Oath of United States judges.                                       | 734. Seizures, where cognizable.  |
| 713. Judges prohibited from practicing law.                              | 735. Captures of insurrectionary property, where cognizable.                                  |
| 714. Judges resigning entitled, in certain cases, to salary for life.    | 736. Proceedings to enjoin Comptroller of the Currency.                                       |
| 715. Criers of the courts. Attendants on juries.                         | 737. When a part of several defendants cannot be served.                                      |
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| 717. Writs of <i>ne exeat</i> .  | 739. Suits against inhabitants of United States to be brought where they reside or are found. |
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| 728. Power to enforce awards of foreign consuls, &c., in certain cases.  | 750. Final record, how made in equity and admiralty causes.                                   |
| 729. Offenses punishable with death, where tried.                        |   |
| 730. Offenses on the high seas, &c., where triable.                      |   |
| 731. Offenses begun in one district and completed in another.            |   |
| 732. Suits for pecuniary penalties and forfeitures, where to be brought. |   |

Exclusive jurisdiction of courts of the United States. SEC. 711. The jurisdiction vested in the courts of the United States in the cases and proceedings hereinafter mentioned, shall be exclusive of the courts of the several States:

First. Of all crimes and offenses cognizable under the authority of the United States. 24 Sept., 1789, c. 20, ss. 9, 11, v. 1, pp. 76, 78.

*Martin v. Hunter's Lessee*, 1 Wh., 329; *Houston v. Moore*, 5 Wh., 24, 29; *Prigg v. Pennsylvania*, 16 Pet., 658; *Ely v. Peck*, 7 Conn., 239; *The State v. Adams*, 4 Blackf., 146; *Haney v. Sharp*, 1 Dana, 442; *U. S. v. Lathrop*, 17 Johns., 4; *U. S. v. Campbell*, *Tappan's R.*, 29; *State v. McBride*, 1 Rice, (So. C.), 400; *Commonwealth v. Feely*, 1 Va. Cases, 321; *Jackson v. Rose*, 2 Va. Cases, 34; *Pond v. Vermont Valley R. R. Co.*, 12 Blatch., 280.

Second. Of all suits for penalties and forfeitures incurred under the laws of the United States. 24 Sept., 1789, c. 20, s. 9, v. 1, p. 76.

*Ketland v. The Cassius*, 2 Dall., 365; *Martin v. Hunter's Lessee*, 1 Wh., 329; *Houston v. Moore*, 5 Wh., 24, 29; *Prigg v. Pennsylvania*, 16 Pet., 658; *Hall v. Warren*, 2 McLean, 332; *Ely v. Peck*, 7 Conn., 239; *The State v. Adams*, 4 Blackf., 146; *Haney v. Sharp*, 1 Dana, 442; *U. S. v. Lathrop*, 17 Johns., 4; *U. S. v. Campbell*, *Tappan's R.*, 276; *State v. McBride*, 1 Rice, (So. C.), 400; *Commonwealth v. Feely*, 1 Va. Cases, 321; *Jackson v. Rose*, 2 Va. Cases, 34.

Third. Of all civil causes of admiralty and maritime jurisdiction; saving to suitors, in all cases, the right of a common-law remedy, where the common law is competent to give it. 24 Sept., 1789, c. 20, s. 9, v. 1, p. 76.

*The Hine v. Trevor*, 4 Wall., 555, (569); *The Belfast*, 7 Wall., 625.

Fourth. Of all seizures under the laws of the United States, on land or on waters not within admiralty and maritime jurisdiction. 24 Sept., 1789, c. 20, s. 9, v. 1, p. 76.

184, s. 9, v. 14, p. 111. 3 Mar., 1867, s. 25, v. 14, p. 483. 6 Aug., 1861, c. 60, s. 2, v. 12, p. 319.—*Slocum v. Mayberry*, 2 Wh., 1; *Gelston v. Hoyt*, 3 Wh., 246, (312.) 13 July, 1866, c.

Fifth. Of all cases arising under the patent-right or copyright laws of the United States. Patent and copy-right cases.

8 July, 1870, c. 230, ss. 55, 56, 58, 106, v. 16, pp. 206, 207, 215.

Sixth. Of all matters and proceedings in bankruptcy.

2 Mar., 1867, c. 176, s. 1, v. 14, p. 517.—*Lathrop's Assignee v. Drake et al.*, 91 U. S., 516; *Claffin v. Houseman*, assignee, 93 U. S., 130; *Shearman et al. v. Bingham et al.*, 1 Low., 575; *In re The International Ins. Co.*, 2 Low., 97.

Seventh. Of all controversies of a civil nature, where a State is a party, except between a State and its citizens, or between a State and citizens of other States, or aliens. States. 24 Sept., 1789, c. 20, s. 13, v. 1, p. 80.

*Georgia v. Brailsford*, 2 Dall., 402; *Chisholm v. Georgia*, 2 Dall., 419; *Hollingsworth v. Virginia*, 3 Dall., 378; *New York v. Connecticut*, 4 Dall., 1; *Governor of Georgia v. Madrazo*, 1 Pet., 110; *New Jersey v. New York*, 5 Pet., 284; *Rhode Island v. Massachusetts*, 12 Pet., 657; *Florida v. Georgia*, 11 How., 293.

[Eighth. Of all suits or proceedings against ambassadors, or other public ministers, or their domestics, or domestic servants, or against consuls or vice consuls.] Foreign ministers and their servants, and consuls.

24 Sept., 1789, c. 20, ss. 9, 11, 13, v. 1, pp. 76, 78, 80. 18 June, 1874, c. 301, v. 18, p. 78. 18 Feb., 1875, c. 80, v. 18, p. 318. *U. S. v. Ravara*, 2 Dall., 297; *Cohens v. Virginia*, 6 Wh., 407; *Davis v. Packard*, 7 Pet., 276; *St. Luke's Hospital v. Barkley et al.*, 3 Blachf., 259.

SEC. 712. The justices of the Supreme Court, the circuit judges, and the district judges, hereafter appointed, shall take the following oath before they proceed to perform the duties of their respective offices: "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 on me as ———, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States: So help me God." Oath of United States judges. 24 Sept., 1789, c. 20, s. 8, v. 1, p. 76.

SEC. 713. It shall not be lawful for any judge appointed under the authority of the United States to exercise the profession or employment of counsel or attorney, or to be engaged in the practice of the law. And any person offending against the prohibition of this section shall be deemed guilty of a high misdemeanor. Judges prohibited from practicing law. 18 Dec., 1812, c. 5, v. 2, p. 788.

SEC. 714. When any judge of any court of the United States resigns his office, after having held his commission as such at least ten years, and having attained the age of seventy years, he shall, during the residue of his natural life, receive the same salary which was by law payable to him at the time of his resignation. Judges resigning entitled, in certain cases, to salary for life. 10 April, 1869, c. 22, s. 5, v. 16, p. 45. 2 June, 1876, c. 119, v. 19, p. 57.

Criers of the courts, attendants on juries.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 165.  
2 Mar., 1867, c. 156, s. 2, v. 14, p. 433.

Power to issue writs.

24 Sept., 1789, c. 20, s. 14, v. 1, p. 81.  
2 Mar., 1793, c. 22, s. 5, v. 1, p. 334.

Mandamus: *McIntire v. Wood*, 7 Cr., 504; *Kendall v. U. S.*, 12 Pet., 524; *Decatur v. Paulding*, 14 Pet., 497; *Brashear v. Mason*, 6 How., 92; *Commissioners of Knox County v. Aspinwall*, 24 How., 376; *Supervisors v. U. S.*, 4 Wall., 435; *Commissioner of Patents v. Whitley*, 4 Wall., 522; *Van Hoffman v. City of Quincy*, 4 Wall., 535; *U. S. v. The Commissioner*, 5 Wall., 563; *Riggs v. Johnson County*, 6 Wall., 166; *Walkley v. Muscatine*, 6 Wall., 481; *Ex parte De Groot*, 6 Wall., 497; *Benbow v. Iowa City*, 7 Wall., 313; *Ex parte Bradley*, 7 Wall., 364; *Butz v. City of Muscatine*, 8 Wall., 575; *The Mayor v. Lord*, 9 Wall., 409; *Litchfield v. The Register and Receiver*, 9 Wall., 575; *Bath County v. Amy*, 13 Wall., 244; *Graham v. Norton*, 15 Wall., 427; *Insurance Company v. Comstock*, 16 Wall., 258; *In re Turner*, 3 Wall., jr., C. C., 258; *Spraggins v. County Court*, *Cooke*, 160; *Fisk v. Union Pacific Railway*, 10 Blatch., 518.

Injunctions: *Georgia v. Brailsford*, 2 Dall., 402; *New York v. Connecticut*, 4 Dall., 1; *Diggs v. Wolcott*, 4 Cr., 179; *Marine Ins. Co. v. Hodgson*, 7 Cr., 332; *Osborne v. Bank of United States*, 9 Wh., 738; *Parker v. Judges of Circuit Court of Maryland*, 12 Wh., 561; *Boyle v. Zacharie & Turner*, 6 Pet., 658; *Mississippi v. Johnson*, 4 Wall., 475; *Gaines v. Thompson*, 7 Wall., 347; *Litchfield v. The Register and Receiver*, 9 Wall., 575; *Perry v. Parker*, 1 Wood. & M., 280; *Bonaparte v. Railroad*, 1 Baldw., 205, (218.)

Certiorari: *Fenimore v. U. S.*, 3 Dall., 362; *Stewart v. Ingle*, 9 Wh., 526; *Clark v. Hackett*, 1 Bl., 77; *Ex parte Vallandigham*, 1 Wall., 243; *Ex parte Dougan*, 2 Wall., 134; *Stearns v. U. S.*, 4 Wall., 1; *U. S. v. Adams*, 9 Wall., 661.

Supersedeas: *Hogan v. Ross*, 11 How., 294; *Ex parte The Milwaukee R. R. Co.*, 5 Wall., 188.

Executions: *Bank of United States v. Halstead*, 10 Wh., 56.

Writs of ne exeat.

2 Mar., 1793, c. 22, s. 5, v. 1, p. 334.  
10 April, 1869, c. 22, s. 2, v. 16, p. 44.  
*Gurnon v. Boccaline*, 2 Wash. C. C., 130.

Temporary restraining orders.

1 June, 1872, c. 255, s. 7, v. 17, p. 197.

Injunctions.

2 Mar., 1793, c. 22, s. 5, v. 1, p. 334.  
13 Feb., 1807, c. 13, v. 2, p. 418.  
10 April, 1869, c. 22, s. 1, v. 16, p. 44.  
1 June, 1872, c. 255, s. 7, v. 17, p. 197.

*Searles v. Railroad*, 2 Wood., 621.

SEC. 715. The circuit and district courts may appoint criers for their courts, to be allowed the sum of two dollars per day; and the marshals may appoint such a number of persons, not exceeding five, as the judges of their respective courts may determine, to attend upon the grand and other juries, and for other necessary purposes, who shall be allowed for their services the sum of two dollars per day, to be paid by and included in the accounts of the marshal, out of any money of the United States in his hands. Such compensation shall be paid only for actual attendance, and, when both courts are in session at the same time, only for attendance on one court.

SEC. 716. The Supreme Court and the circuit and district courts shall have power to issue writs of scire facias. They shall also have power to issue all writs not specifically provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the usages and principles of law.

SEC. 717. Writs of ne exeat may be granted by any justice of the Supreme Court, in cases where they might be granted by the Supreme Court; and by any circuit justice or circuit judge, in cases where they might be granted by the circuit court of which he is a judge. But no writ of ne exeat shall be granted unless a suit in equity is commenced, and satisfactory proof is made to the court or judge granting the same that the defendant designs quickly to depart from the United States.

SEC. 718. Whenever notice is given of a motion for an injunction out of a circuit or district court, the court or judge thereof may, if there appears to be danger of irreparable injury from delay, grant an order restraining the act sought to be enjoined until the decision upon the motion; and such order may be granted with or without security, in the discretion of the court or judge.

SEC. 719. Writs of injunction may be granted by any justice of the Supreme Court in cases where they might be granted by the Supreme Court; and by any judge of a circuit court in cases where they might be granted by such court. But no justice of the Supreme Court shall hear or allow any application for an injunction or restraining order in any cause pending in the circuit to which he is allotted, elsewhere than within such circuit, or at such place outside of the same as the parties may stipulate in writing, except when it cannot be heard by the circuit judge of the circuit or the district judge of the district. And an injunction shall not be issued by a district judge, as one of the judges of a circuit court, in any case where a party has had a reasonable time to apply to the circuit court for the writ; nor shall any injunction so issued by a district judge continue longer than to the circuit court next ensuing, unless so ordered by the circuit court.

SEC. 720. The writ of injunction shall not be granted by any court of the United States to stay proceedings in any court of a State, except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy. [See § 5106.]

Injunction to stay proceedings in State courts.

2 Mar., 1793, c. 22, s. 5, v. 1, p. 334.

Diggs v. Wolcott, 4 Cr., 179; Peck v. Jenness, 7 How., 625; Watson v. Jones, 13 Wall., 719; Haines et al. v. Carpenter et al., 91 U. S., 254; Watson v. Bondurant, 2 Woods, 166.

SEC. 721. The laws of the several States, except where the Constitution, treaties, or statutes of the United States otherwise require or provide, shall be regarded as rules of decision in trials at common law, in the courts of the United States, in cases where they apply.

Laws of the States, rules of decision.

24 Sept., 1789, c. 20, s. 34, v. 1, p. 92.

Brown v. Van Braam, 3 Dall., 344; Robinson v. Campbell, 3 Wh., 212; Cohens v. Virginia, 6 Wh., 264; Wayman v. Southard, 10 Wh., 1; Green v. Neal's Lessee, 6 Pet., 291; Ross v. Duvall, 13 Pet., 45; Swift v. Tyson, 16 Pet., 1; Lane v. Vick, 3 How., 464; Luther v. Borden, 7 How., 1; Williamson v. Berry, 8 How., 495; Van Rensselaer v. Kearney, 11 How., 297; U. S. v. Reid, 12 How., 361; Neves v. Scott, 13 How., 268; Carroll v. Carroll's Lessee, 16 How., 275; Morgan v. Curtaneous, 20 How., 1; Fenn v. Holme, 21 How., 481; Jeter v. Hewitt, 22 How., 352; Suydam v. Williamson, 24 How., 327; Sheirburn v. Cordova, 24 How., 423; Haussnecht v. Claypool, 1 Bl., 431; Jefferson Branch Bank v. Skelly, 1 Bl., 436; Conway v. Taylor's Executor, 1 Bl., 603; Chicago v. Robbins, 2 Bl., 418; Leffingwell v. Warren, 2 Bl., 599; Bridge Proprietors v. Hoboken Company, 1 Wall., 145; Gelpcke v. Dubuque, 1 Wall., 175; Christie v. Pridgeon, 4 Wall., 203; Mitchell v. Burlington, 4 Wall., 274; Ewing v. City of Saint Louis, 5 Wall., 419; Nichols v. Levi, 5 Wall., 433; Delmas v. Insurance Company, 14 Wall., 667, 8; Boyce v. Tabb, 18 Wall., 546, 1 June, 1874, c. 200, v. 18, p. 50.

SEC. 722. The jurisdiction in civil and criminal matters conferred on the district and circuit courts by the provisions of this Title, and of Title "CIVIL RIGHTS," and of Title "CRIMES," for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty.

Proceedings, civil and criminal, in vindication of civil rights.

9 April, 1866, c. 31, s. 3, v. 14, p. 27.

31 May, 1870, c. 114, s. 18, v. 16, p. 144.

SEC. 723. Suits in equity shall not be sustained in either of the courts of the United States in any case where a plain, adequate, and complete remedy may be had at law.

When suits of equity may be maintained.

24 Sept., 1789, c. 20, s. 16, v. 1, p. 82.—Robinson v. Campbell, 3 Wh., 212; Boyce's Executors v. Grundy, 3 Pet., 210; *Ex parte* Tillinghast, 4 Pet., 108; Clark v. Smith, 13 Pet., 195; U. S. v. Price, 9 How., 83; Bennett v. Butterworth, 11 How., 669; *Ex parte* Seacombe, 19 How., 9; Hipp v. Babin, 19 How., 271; Hungerford v. Sigerson, 20 How., 156; Parker v. Winnepiseogee Company, 2 Bl., 545; Watts v. Sutherland, 5 Wall., 74; Thompson v. Railroad Companies, 6 Wall., 134.

SEC. 724. In the trial of actions at law, the courts of the United States may, on motion and due notice thereof, require the parties to produce books or writings in their possession or power, which contain evidence pertinent to the issue, in cases and under circumstances where they might be compelled to produce the same by the ordinary rules of proceeding in chancery. If a plaintiff fails to comply with such order, the court may, on motion, give the like judgment for the defendant as in cases of nonsuit; and if a defendant fails to comply with such order, the court may, on motion, give judgment against him by default.

Power to order production of books and writings in actions at law.

24 Sept., 1789, c. 20, s. 15, v. 1, p. 82.

Thompson v. Selden, 20 How., 194; Geyger's Lessee v. Geyger, 2 Dall. C. C., 332; Maye v.

Carberry, 2 Cr. C. C., 336; Bank U. S. v. Kurtz, 2 Cr. C. C., 342; Hilton's Lessee v. Brown, 1 Wash. C. C., 298; Bas v. Steele, 3 Wash. C. C., 381; Durham v. Riley, 4 Wash. C. C., 126; Vasse v. Mifflin, 4 Wash. C. C., 519; Jacques v. Collins, 2 Blatch., 23; Isagiri v. Crown, 1 Cur. C. C., 301.

SEC. 725. The said courts shall have power to impose and administer all necessary oaths, and to punish, by fine or imprisonment, at the discretion of the court, contempts of their authority: *Provided*, That such

Power to impose oaths and punish contempts.

24 Sept., 1789, c. 20, s. 17, v. 1, p. 83.  
2 Mar., 1831, c. 99, s. 1, v. 4, p. 487.

*Ex parte Garland*, 4 Wall., 378.

*Ex parte Robinson*, 19 Wall., 505;

*Allen's Case*, 13 Blatch., 271.

#### New trials.

24 Sept., 1789, c. 20, s. 17, v. 1, p. 83.

power to punish contempts shall not be construed to extend to any cases except the misbehavior of any person in their presence, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of said courts in their official transactions, and the disobedience or resistance by any such officer, or by any party, juror, witness, or other person, to any lawful writ, process, order, rule, decree, or command of the said courts.

SEC. 726. All of the said courts shall have power to grant new trials, in cases where there has been a trial by jury, for reasons for which new trials have usually been granted in the courts of law.

*Warner v. Norton*, 20 How., 448; *Zantzinger v. Waitman*, 2 Cr. C. C., 478; *Lloyd v. Scott*, 4 Cr. C. C., 206; *U. S. v. White*, 5 Cr. C. C., 38; *U. S. v. Keene*, 1 McLean, 429; *U. S. v. Connor*, 3 McLean, 573; *U. S. v. Macomb*, 5 McLean, 286; *U. S. v. Wanson*, 1 Gallis., 5; *U. S. v. Gilbert*, 2 Sumn., 19; *Cunningham v. Bell*, 5 Mas., 161; *U. S. v. Halberstadt*, Gilp., 262; *Rochelle v. Phillips*, Hemp., 22; *Parker v. Lewis*, Hemp., 72; *U. S. v. Beaty*, Hemp., 487; *U. S. v. Harding*, 1 Wall., jr., 127; *Clark v. Manufacturers' Ins. Co.*, 2 Wood. & M., 472.

Power to hold to security for the peace and good behavior.

24 Sept., 1789, c. 20, s. 33, v. 1, p. 91.

2 Mar., 1793, c. 22, s. 4, v. 1, p. 334.

16 July, 1798, c. 83, v. 1, p. 609.

23 Aug., 1842, c. 188, s. 1, v. 5, p. 516.

15 May, 1862, c. 71, s. 8, v. 12, p. 387.

10 April, 1869, c. 22, s. 2, v. 16, p. 44.—*U. S. v. Hortin's Sureties*, 2 Dillon, 94.

Power to enforce awards of foreign consuls, &c., in certain cases.

8 Aug., 1846, c. 105, v. 9, p. 78.

23 June, 1874, c. 469, v. 18, p. 253.

SEC. 727. The judges of the Supreme Court and of the circuit and district courts, the commissioners of the circuit courts, and the judges and other magistrates of the several States who are or may be authorized by law to make arrests for offenses against the United States, shall have the like authority to hold to security of the peace, and for good behavior, in cases arising under the Constitution and laws of the United States, as may be lawfully exercised by any judge or justice of the peace of the respective States, in cases cognizable before them.

SEC. 728. The district and circuit courts, and the commissioners of the circuit courts, shall have power to carry into effect, according to the true intent and meaning thereof, the award, or arbitration, or decree of any consul, vice-consul, or commercial agent of any foreign nation, made or rendered by virtue of authority conferred on him as such consul, vice-consul, or commercial agent, to sit as judge or arbitrator in such differences as may arise between the captains and crews of the vessels belonging to the nation whose interests are committed to his charge; application for the exercise of such power being first made to such court or commissioner by petition of such consul, vice-consul, or commercial agent. And said courts and commissioners may issue all proper remedial process, mesne and final, to carry into full effect such award, arbitration, or decree, and to enforce obedience thereto, by imprisonment in the jail or other place of confinement in the district in which the United States may lawfully imprison any person arrested under the authority of the United States, until such award, arbitration, or decree is complied with, or the parties are otherwise discharged therefrom, by the consent in writing of such consul, vice-consul, or commercial agent, or his successor in office, or by the authority of the foreign government appointing such consul, vice-consul, or commercial agent: *Provided, however*, That the expenses of the said imprisonment, and maintenance of the prisoners, and the cost of the proceedings, shall be borne by such foreign government, or by its consul, vice-consul, or commercial agent requiring such imprisonment. The marshals of the United States shall serve all such process, and do all other acts necessary and proper to carry into effect the premises, under the authority of the said courts and commissioners.

Offenses punishable with death, where tried.

SEC. 729. The trial of offenses punishable with death shall be had in the county where the offense was committed, where that can be done without great inconvenience.

24 Sept., 1789, c. 20, s. 29, v. 1, p. 88. 16 July, 1862, c. 189, s. 2, v. 12, p. 589.

Offenses on the high seas, &c., where triable.

SEC. 730. The trial of all offenses committed upon the high seas or elsewhere, out of the jurisdiction of any particular State or district, shall

be in the district where the offender is found, or into which he is first brought. 30 April, 1790, c. 9, s. 8, v. 1, p. 113.

20 April, 1818, c. 88, s. 4, v. 3, p. 448. 15 May, 1820, c. 113, ss. 3, 4, 5, v. 3, p. 600. 3 Mar., 1825, c. 65, ss. 5, 14, v. 4, pp. 115, 118. 3 Mar., 1847, c. 51, v. 9, p. 175.—U. S. v. Jackalow, 1 Bl., 484; U. S. v. Baker, 5 Blatch. C. C., 6. U. S. v. Arno, 19 Wall., 486.

SEC. 731. When any offense against the United States is begun in one judicial circuit and completed in another, it shall be deemed to have been committed in either, and may be dealt with, inquired of, tried, determined, and punished in either district, in the same manner as if it had been actually and wholly committed therein. Offenses begun in one district and completed in another.

2 Mar., 1867, c. 169, s. 30, v. 14, p. 484.

SEC. 732. All pecuniary penalties and forfeitures may be sued for and recovered either in the district where they accrue or in the district where the offender is found. Suits for pecuniary penalties and forfeitures, where to be brought.

28 Feb., 1839, c. 36, s. 3, v. 5, p. 322. 13 July, 1866, c. 184, s. 9, v. 14, pp. 111, 145. 30 June, 1864, c. 173, ss. 41, 179, v. 13, pp. 239, 305.

SEC. 733. Taxes accruing under any law providing internal revenue may be sued for and recovered either in the district where the liability for such tax occurs or in the district where the delinquent resides. Suits for internal-revenue taxes, where to be brought.

13 July, 1866, c. 184, s. 9, v. 14, p. 111.

SEC. 734. Proceedings on seizures, for forfeiture under any law of the United States, made on the high seas may be prosecuted in any district into which the property so seized is brought and proceedings instituted. Proceedings on such seizures made within any district shall be prosecuted in the district where the seizure is made, except in cases where it is otherwise provided. Seizures, where cognizable.

24 Sept., 1789 c. 20, s. 9, v. 1, p. 76. 13 July, 1861, c. 3, ss. 4, 5, 9, v. 12, pp. 256, 257, 258. 6 Aug., 1861, c. 60, s. 2, v. 12, p. 319. 30 June, 1864, c. 173, s. 48, v. 13, p. 240. 13 July, 1866, c. 184, s. 9, v. 14, p. 111. 2 Mar., 1867, c. 169, s. 25, v. 14, p. 483.—Jennings v. Carson, 4 Cr., 2; Ship Richmond v. U. S., 9 Cr., 102; Sloop Abby, 1 Mas., 360; Schooner Bolena and Cargo, 1 Gallis., 75; The Washington, 4 Blatch., 101; Brig Little Ann, 1 Paine, 40.

SEC. 735. Proceedings for the condemnation of any property captured [*as prize*,] whether on the high seas or elsewhere out of the limits of any judicial district, or within any district, on account of its being purchased or acquired, sold or given, with intent to use or employ the same, or to suffer it to be used or employed, in aiding, abetting, or promoting any insurrection against the Government of the United States, or knowingly so used or employed by the owner thereof, or with his consent, may be prosecuted in any district where the same may be seized, or into which it may be taken and proceedings first instituted. Captures of insurrectionary property, where cognizable.

6 Aug., 1861, c. 60, s. 2, v. 12, p. 319. 18 Feb., 1875, c. 80, v. 18, p. 318.

Insurance Company v. U. S., 6 Wall., 759.

SEC. 736. All proceedings by any national banking association to enjoin the Comptroller of the Currency, under the provisions of any law relating to national banking associations, shall be had in the district where such association is located. Proceedings to enjoin Comptroller of the Currency.

3 June, 1864, c. 106, ss. 50, 57, v. 13, pp. 115, 116.

SEC. 737. When there are several defendants in any suit at law or in equity, and one or more of them are neither inhabitants of nor found within the district in which the suit is brought, and do not voluntarily appear, the court may entertain jurisdiction, and proceed to the trial and adjudication of the suit between the parties who are properly before it; but the judgment or decree rendered therein shall not conclude or prejudice other parties not regularly served with process nor voluntarily appearing to answer; and non-joinder of parties who are not inhabitants of nor found within the district, as aforesaid, shall not constitute matter of abatement or objection to the suit. When a part of several defendants cannot be served.

28 Feb., 1839, c. 36, s. 1, v. 5, p. 321. 3 Mar., 1875, c. 137, ss. 1, 7, 8, 10, v. 18, pp. 470, 472, 473.

Bank of Vicksburg v. Slocumb, 14 Pet., 60; Louisville R. R. Co. v.

Letson, 2 How., 556; Union Bank v. Stafford, 12 How., 327; Hagan v. Walker, 14 How., 36; Rundel v. Delaware and Raritan Canal Co., 14 How., 95; Nor. Indiana R. R. v. Michigan Central R. R., 15 How., 233; Shields v. Barrow, 17 How., 130; Colron et al. v. Millandon et al., 19 How., 115; Clearwater v. Meredith, 21 How., 489; Barney v. Baltimore City, 6 Wall., 285; Taylor v. Cook, 2 McLean, 516; Cooper v. Gordon, 4 McLean, 6; Ober v. Gallagher, 93 U. S., 199; Pond v. Vermont Valley R. R. Co., 12 Blatch., 280.

Suits in equity against absent defendants, to subject property in the district.

1 June, 1872, c. 255, s. 13, v. 17, p. 198.

3 Mar., 1875, c. 137, ss. 1, 7, 8, 10, v. 18, pp. 470, 472, 473.

Bingham v. Ludington, 12 Blatch., 237; Bronson v. Keokuk, 2 Dill., 499; Parsons v. Howard, 2 Woods, 1; Kilgore's Case, 2, Woods, 144.

Suits against inhabitants of United States to be brought where they reside or are found.

24 Sept., 1789, c. 20, s. 11, v. 1, p. 79.

4 May, 1858, c. 27, ss. 1, 2, v. 11, p. 272. 1 June, 1872, c. 255, s. 13, v. 17, p. 198; 3 Mar., 1875, c. 137, ss. 1, 7, 8, 10, v. 18, pp. 470, 472, 473.—Pollard v. Pickett, 4 Cr., 421; Logan v. Patrick, 5 Cr., 288; Gracie v. Palmer, 8 Wh., 699; Toland v. Sprague, 12 Pet., 300; Levy v. Fitzpatrick, 15 Pet., 167; Herndon v. Ridgway, 17 How., 424; Harrison v. Rowan, 1 Pet. C. C., 489; Segee v. Thomas, 3 Blatch., 11; Moffat v. Soley, 2 Paine, 103; Flanders v. Insurance Company, 3 Mas., 158; Picquet v. Swan, 5 Mas., 35; Myers v. Dorr, 13 Blatch., 22.

Suits not of a local nature in States containing several districts.

4 May, 1858, c. 27, s. 1, v. 11, p. 272.

24 Feb., 1863, c. 54, s. 9, v. 12, p. 662.

3 Mar., 1875, c. 137, ss. 1, 7, 8, 9, 10, v. 18, pp. 470, 472, 473.

Loc. Truck Co. v. Erie R. R. Co., 10 Blatch., 292.

Suits of a local nature in States containing several districts.

4 May, 1858, c. 27, s. 1, v. 11, p. 272. 3 Mar., 1875, c. 137, ss. 1, 7, 8, 9, 10, v. 18, pp. 470; 472, 473.

When land lies in different districts of same State.

4 May, 1858, c. 27, s. 2, v. 11, p. 272.

In Indiana, where actions may be commenced.

SEC. 738. When any defendant in a suit in equity to enforce any legal or equitable lien or claim against real or personal property within the district where the suit is brought is not an inhabitant of nor found within the said district, and does not voluntarily appear thereto, it shall be lawful for the court to make an order directing such absent defendant to appear, plead, answer, or demur to the complainant's bill at a certain day, therein to be designated; and the said order shall be served on such absent defendant, if practicable, wherever found, or, where such personal service is not practicable, shall be published in such manner as the court shall direct. If such absent defendant does not appear, plead, answer, or demur within the time so limited, or within some further time to be allowed by the court in its discretion, it shall be lawful for the court, upon proof of the service or publication of the said order, and of the performance of the directions contained therein, to entertain jurisdiction, and proceed to the hearing and adjudication of such suit, in the same manner as if such absent defendant had been served with process within the said district. But the said adjudication shall, as regards such absent defendant without appearance, affect his property within such district only.

SEC. 739. Except in the cases provided in the next three sections, no person shall be arrested in one district for trial in another, in any civil action before a circuit or district court; and except in the said cases and the cases provided by the preceding section, no civil suit shall be brought before either of said courts against an inhabitant of the United States, by any original process, in any other district than that of which he is an inhabitant or in which he is found at the time of serving the writ.

SEC. 740. When a State contains more than one district, every suit not of a local nature, in the circuit or district courts thereof, against a single defendant, inhabitant of such State, must be brought in the district where he resides; but if there are two or more defendants, residing in different districts of the State, it may be brought in either district, and a duplicate writ may be issued against the defendants, directed to the marshal of any other district in which any defendant resides. The clerk issuing the duplicate writ shall indorse thereon that it is a true copy of a writ sued out of the court of the proper district; and such original and duplicate writs, when executed and returned into the office from which they issue, shall constitute and be proceeded on as one suit; and upon any judgment or decree rendered therein, execution may be issued, directed to the marshal of any district in the same State.

SEC. 741. In suits of a local nature, where the defendant resides in a different district, in the same State, from that in which the suit is brought, the plaintiff may have original and final process against him, directed to the marshal of the district in which he resides.

SEC. 742. Any suit of a local nature, at law or in equity, where the land or other subject-matter of a fixed character lies partly in one district and partly in another, within the same State, may be brought in the circuit or district court of either district; and the court in which it is brought shall have jurisdiction to hear and decide it, and to cause mesne or final process to be issued and executed, as fully as if the said subject-matter were wholly within the district for which such court is constituted.

SEC. 743. In the district of Indiana all actions of which the circuit and district courts have jurisdiction may be instituted in said courts, respectively, held at New Albany and Evansville, in the first instance, by



filing the proper pleadings or other papers in the offices of the deputy clerks performing the duties of clerks of said courts respectively; and all proper and lawful process shall issue therefrom in the same manner as from other circuit and district courts in like cases.

SEC. 744. In the district of Iowa all suits not of a local nature in the district court against a single defendant, inhabitant of such State, must be brought in the division of the district where he resides; but if there are two or more defendants, residing in different divisions of the district, such suits may be brought in either division, and duplicate writs may be sent to the other defendants. The clerk issuing the duplicate writ shall indorse thereon that it is a true copy of a writ sued out of the court in the proper division of the district; and the original and duplicate writs, when executed and returned into the office from which they issue, shall constitute and be proceeded in as one suit. All issues of fact in such suits shall be tried at a term of the court held in the division where the suit is so brought.

SEC. 745. In the district of Kentucky the clerks of the circuit and district courts, respectively, upon issuing original process in a civil action, shall make it returnable to the court nearest to the county of the residence of the defendant, or of that defendant whose county is nearest a court, if he have information sufficient, and shall immediately, upon payment by the plaintiff of his fees accrued, send the papers filed to the clerk of the court to which the process is made returnable; and whenever the process is not thus made returnable, any defendant may, upon motion, on or before the calling of the cause, have it transferred to the court to which it should have been sent had the clerk known the residence of the defendant when the action was brought.

SEC. 746. When the trial or hearing of any cause, civil or criminal, in a circuit or district court, has been commenced and is in progress before a jury or the court, it shall not be stayed or discontinued by the arrival of the time fixed by law for another session of said court; and the court may proceed therein and bring it to a conclusion, in the same manner and with the same effect as if another stated term of the court had not intervened.

SEC. 747. In all the courts of the United States the parties may plead and manage their own causes personally, or by the assistance of such counsel or attorneys at law as, by the rules of the said courts, respectively, are permitted to manage and conduct causes therein.

SEC. 748. No clerk, assistant or deputy clerk, of any territorial, district, or circuit court, or of the Court of Claims, or the Supreme Court of the United States, or marshal or deputy marshal of the United States within the district for which he is appointed, shall act as a solicitor, proctor, attorney, or counsel in any cause depending in either of said courts, or in any district for which he is acting as such officer.

SEC. 749. Whosoever violates the preceding section shall be stricken from the roll of attorneys by the court upon complaint, upon which the respondent shall have due notice, and be heard in his defense; and in the case of a marshal or deputy marshal so acting, he shall be recommended by the court for dismissal from office.

SEC. 750. In equity and admiralty causes, only the process, pleadings, and decree, and such orders and memorandums as may be necessary to show the jurisdiction of the court and regularity of the proceedings, shall be entered upon the final record. [See § 698.]

3 Mar., 1871, c. 108, s. 1, v. 16, p. 473.

Iowa; where suits are to be brought.

3 Mar., 1849, c. 124, ss. 1, 3, v. 9, pp. 410, 411.

30 June, 1870, c. 178, ss. 1, 3, v. 16, p. 174.

Kentucky; where suits to be returned and tried.

15 May, 1862, c. 71, s. 9, v. 12, p. 387.

Causes in progress of trial not discontinued by arrival of new term.

2 Mar., 1855, c. 140, s. 1, v. 10, p. 620.

Parties may manage their causes personally or by counsel.

24 Sept., 1789, c. 20, s. 35, v. 1, p. 92.

Certain officers forbidden to practice as attorneys, &c.

16 Jan., 1873, c. 36, s. 1, v. 17, p. 411.

Penalty for violating preceding section.

16 Jan., 1873, c. 36, s. 2, v. 17, p. 411.

Final record, how made in equity and admiralty causes.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 163.

## CHAPTER THIRTEEN.

## HABEAS CORPUS.

Sec.	Sec.
751. Power of courts to issue writs of <i>habeas corpus</i> .	760. Denial of return, counter-allegations, amendments.
752. Power of judges to grant writs of <i>habeas corpus</i> .	761. Summary hearing; disposition of party.
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754. Application for the writ of <i>habeas corpus</i> .	763. Appeals in cases of <i>habeas corpus</i> to circuit court.
755. Allowance and direction of the writ.	764. Appeal to Supreme Court.
756. Time of return.	765. Appeals, how taken.
757. Form of return.	766. Pending proceedings in certain cases, action by State authority void.
758. Body of the party to be produced.	
759. Day for hearing.	

Power of courts to issue writs of *habeas corpus*. SEC. 751. The Supreme Court and the circuit and district courts shall have power to issue writs of *habeas corpus*.

24 Sept., 1789, c. 20, s. 14, v. 1, p. 81. 10 April, 1869, c. 22, s. 2, v. 16, p. 44. 2 Mar., 1833, c. 57, s. 7, v. 4, p. 634. 5 Feb., 1867, c. 28, s. 1, v. 14, p. 385. 29 Aug., 1842, c. 257, s. 1, v. 5, p. 539.—U. S. v. Hamilton, 3 Dall., 17; *Ex parte* Burford, 3 Cr., 448; *Ex parte* Bollman, 4 Cr., 75; *Ex parte* Wilson, 6 Cr., 52; *Ex parte* Kearney, 7 Wh., 38; *Ex parte* Watkins, 3 Pet., 193; *Ex parte* Watkins, 7 Pet., 568; *Ex parte* Milburn, 9 Pet., 704; *Holmes v. Jennison*, 14 Pet., 540; *Ex parte* Barry, 2 How., 65; *Ex parte* Dorr, 3 How., 103; *Barry v. Mercein*, 5 How., 103; *In re Metzger*, 5 How., 176; *In re Kaine*, 14 How., 103; *Ex parte* Wells, 18 How., 307; *Ex parte* Milligan, 4 Wall., 2; *Ex parte* McCordle, 6 Wall., 318; *Ex parte* McCordle, 7 Wall., 506; *Ex parte* Yerger, 8 Wall., 85; *Ex parte* Lange, 18 Wall., 163; *In re* Heinrich, 5 Blatch., 414; *Ex parte* Keeler, Hemp., 306; U. S. v. Williamson, 3 Am. Law Rep., 729; *Bennet v. Bennet*, 1 Deady, 299; *Ex parte* Evarts, 7 Am. Law Rep., 79; *Norris v. Newton*, 5 McLean, 22; U. S. v. Rector, 5 McLean, 174; *Veremaitre's Case*, 13 Law Rep., 608; *Ex parte* Sifford, 5 Am. Law Rep., 659; *Ex parte* McCan, 14 Am. Law Rep., 158; U. S. v. French, 1 Gallis., 1; *Ex parte* Cheeney, 5 Law Rep., 19; *Ex parte* Des Roches, 1 McAllis., 68; *Ex parte* Pleasants, 4 Cr. C. C., 314; *Ex parte* Turner, 6 Int. Rev. Rec., 147; *Ex parte* Jenkins, 2 Wall., jr., 521; *Ex parte* Robinson, 6 McLean, 355; *Ex parte* Smith, 3 McLean, 121; *Meade's Case*, 1 Brock., 324; U. S. v. Anderson, Cooke, 143; *Fisk v. Union Pacific Railway*, 10 Blatch., 518; *In re* Joseph Stupp, 11 Blatch., 124; *In re* MacDonnell, 11 Blatch., 79, 170; *In re* Thomas, 12 Blatch., 370; *In re* Giacomo, 12 Blatch., 391; *In re* Joseph Stupp, 12 Blatch., 501; *In re* W. B. Bird, 2 Saw., 33; *In re* Bogart, 2 Saw., 396.

Power of judges to grant writs of *habeas corpus*. SEC. 752. The several justices and judges of the said courts, within their respective jurisdictions, shall have power to grant writs of *habeas corpus* for the purpose of an inquiry into the cause of restraint of liberty.

24 Sept., 1789, c. 20, s. 14, v. 1, p. 81. 10 April, 1869, c. 22, s. 2, v. 16, p. 44. 2 Mar., 1833, c. 57, s. 7, v. 4, p. 634. 5 Feb., 1867, c. 28, s. 1, v. 14, p. 385. 29 Aug., 1842, c. 257, s. 1, v. 5, p. 539.

Writ of *habeas corpus* when prisoner is in jail. SEC. 753. The writ of *habeas corpus* shall in no case extend to a prisoner in jail, unless where he is in custody under or by color of the authority of the United States, or is committed for trial before some court thereof; or is in custody for an act done or omitted in pursuance of a law of the United States, or of an order, process, or decree of a court or judge thereof; or is in custody in violation of the Constitution or of a law or treaty of the United States; or, being a subject or citizen of a foreign state, and domiciled therein, is in custody for an act done or omitted under any alleged right, title, authority, privilege, protection, or exemption claimed under the commission, or order, or sanction of any foreign state, or under color thereof, the validity and effect whereof depend upon the law of nations; or unless it is necessary to bring the prisoner into court to testify.

Application for the writ of *habeas corpus*. SEC. 754. Application for writ of *habeas corpus* shall be made to the court, or justice, or judge authorized to issue the same, by complaint in writing, signed by the person for whose relief it is intended, setting forth the facts concerning the detention of the party restrained, in whose custody he is detained, and by virtue of what claim or authority, if known. The facts set forth in the complaint shall be verified by the oath of the person making the application.

5 Feb., 1867, c. 28, s. 1, v. 14, p. 385.

SEC. 755. The court, or justice, or judge to whom such application is made shall forthwith award a writ of habeas corpus, unless it appears from the petition itself that the party is not entitled thereto. The writ shall be directed to the person in whose custody the party is detained.

Allowance and direction of the writ.

5 Feb., 1867, c. 28, s. 1, v. 14, p. 385.

*Ex parte Watkins*, 3 Pet., 193; *Ex parte Milligan*, 4 Wall., 2, (110.)

SEC. 756. Any person to whom such writ is directed shall make due return thereof within three days thereafter, unless the party be detained beyond the distance of twenty miles; and if beyond that distance and not beyond a distance of a hundred miles, within ten days; and if beyond the distance of a hundred miles, within twenty days.

Time of return.

5 Feb., 1867, c. 28, s. 1, v. 14, p. 385.

SEC. 757. The person to whom the writ is directed shall certify to the court, or justice, or judge before whom it is returnable the true cause of the detention of such party.

Form of return.

5 Feb., 1867, c. 28, s. 1, v. 14, p. 385.

SEC. 758. The person making the return shall at the same time bring the body of the party before the judge who granted the writ.

Body of the party to be produced.

5 Feb., 1867, c. 28, s. 1, v. 14, p. 385.

SEC. 759. When the writ is returned, a day shall be set for the hearing of the cause, not exceeding five days thereafter, unless the party petitioning requests a longer time.

Day for hearing.

5 Feb., 1867, c. 28, s. 1, v. 14, p. 385.

SEC. 760. The petitioner or the party imprisoned or restrained may deny any of the facts set forth in the return, or may allege any other facts that may be material in the case. Said denials or allegations shall be under oath. The return and all suggestions made against it may be amended, by leave of the court, or justice, or judge, before or after the same are filed, so that thereby the material facts may be ascertained.

Denial of return, counter-allegations, amendments.

5 Feb., 1867, c. 28, s. 1, v. 14, p. 385.

SEC. 761. The court, or justice, or judge shall proceed in a summary way to determine the facts of the case, by hearing the testimony and arguments, and thereupon to dispose of the party as law and justice require.

Summary hearing; disposition of party.

5 Feb., 1867, c. 28, s. 1, v. 14, p. 385.

SEC. 762. When a writ of habeas corpus is issued in the case of any prisoner who, being a subject or citizen of a foreign state and domiciled therein, is committed, or confined, or in custody, by or under the authority or law of any one of the United States, or process founded thereon, on account of any act done or omitted under an alleged right, title, authority, privilege, protection, or exemption, claimed under the commission or order or sanction of any foreign state, or under color thereof, the validity and effect whereof depend upon the law of nations, notice of the said proceeding, to be prescribed by the court, or justice, or judge at the time of granting said writ, shall be served on the attorney-general or other officer prosecuting the pleas of said State, and due proof of such service shall be made to the court, or justice, or judge before the hearing.

In cases involving the law of nations, notice to be served on State attorney-general.

29 Aug., 1842, c. 257, v. 5, p. 539.

SEC. 763. From the final decision of any court, justice, or judge inferior to the circuit court, upon an application for a writ of habeas corpus or upon such writ when issued, an appeal may be taken to the circuit court for the district in which the cause is heard:

Appeals in cases of habeas corpus to circuit court.

29 Aug., 1842, c. 257, v. 5, p. 539.

1. In the case of any person alleged to be restrained of his liberty in violation of the Constitution, or of any law or treaty of the United States.

5 Feb., 1867, c. 28, s. 1, v. 14, p. 385.

27 Mar., 1868, c. 34, s. 2, v. 15, p. 44.

2. In the case of any prisoner who, being a subject or citizen of a foreign state, and domiciled therein, is committed or confined, or in custody by or under the authority or law of the United States, or of any State, or process founded thereon, for or on account of any act done or omitted under any alleged right, title, authority, privilege, protection, or exemption, set up or claimed under the commission, order, or sanction of any foreign state or sovereignty, the validity and effect whereof depend upon the law of nations, or under color thereof.

*Ex parte McCordle*, 6 Wall., 318; *Ex parte McCordle*, 7 Wall., 506; *Ex parte Yerger*, 8 Wall., 85.

SEC. 764. From the final decision of such circuit court an appeal may be taken to the Supreme Court in the cases described in the last clause of the preceding section.

Appeal to Supreme Court.

29 Aug., 1842, c. 257, v. 5, p. 539.

Appeals, how taken.

29 Aug., 1842, c. 257, v. 5, p. 539.  
5 Feb., 1867, c. 28, s. 1, v. 14, p. 385.

Pending proceedings in certain cases, action by State authority void.

29 Aug., 1842, c. 257, v. 5, p. 539.  
5 Feb., 1867, c. 28, s. 1, v. 14, p. 385.

SEC. 765. The appeals allowed by the two preceding sections shall be taken on such terms, and under such regulations and orders, as well for the custody and appearance of the person alleged to be in prison or confined or restrained of his liberty, as for sending up to the appellate tribunal a transcript of the petition, writ of habeas corpus, return thereto, and other proceedings, as may be prescribed by the Supreme Court, or, in default thereof, by the court or judge hearing the cause.

SEC. 766. Pending the proceedings or appeal in the cases mentioned in the three preceding sections, and until final judgment therein, and after final judgment of discharge, any proceeding against the person so imprisoned or confined or restrained of his liberty, in any State court, or by or under the authority of any State, for any matter so heard and determined, or in process of being heard and determined, under such writ of habeas corpus, shall be deemed null and void.

## CHAPTER FOURTEEN.

### DISTRICT ATTORNEYS, MARSHALS, AND CLERKS.

Sec.

- 767. District attorneys.
- 768. Iowa, district attorney.
- 769. Term and oath of district attorneys.
- 770. Salaries of district attorneys.
- 771. Duties of district attorneys.
- 772. Statement of suits for fines, penalties, and forfeitures.
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- 774. Returns of district attorneys to Commissioner of Internal Revenue.
- 775. Reports by district attorney to Department of Justice.
- 776. Marshals.
- 777. Georgia, (N. D.,) marshal's office in.
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- 780. Deputy marshals.
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- 785. Marshal's bond to remain after judgment as further security.
- 786. Limitation of suit on marshal's bonds.

Sec.

- 787. Duties of marshal.
- 788. Marshals shall have, in each State, the same power as sheriffs in executing the laws of the United States.
- 789. In case of death of the marshals, deputies to continue.
- 790. Marshals and deputy marshals, when removed or office expires, may execute process in their hands.
- 791. Marshal's returns to the Solicitor of the Treasury.
- 792. Returns of marshals to Auditor of Post-Office Department.
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- 794. Oath of clerks.
- 795. Clerk's bond.
- 796. Bond of deputy clerks.
- 797. Clerk to forward to Solicitor of the Treasury a list of judgments.
- 798. Account of payments and moneys in court to be stated by the clerk.
- 799. Oaths to persons identifying papers in admiralty causes, when administered by clerks.

District attorneys.

24 Sept., 1789, c. 20, s. 35, v. 1, p. 92.  
20 June, 1874, c. 328, r. 18, p. 109.

Ala., 21 April, 1820, c. 47, s. 6, v. 3, p. 565; 10 Mar., 1824, c. 28, s. 8, v. 4, p. 10; 6 Feb., 1839, c. 20, s. 7, v. 5, p. 316. Ark., 15 June, 1836, c. 100, s. 6, v.

5, p. 51; 3 Mar., 1851, c. 24, s. 4, v. 9, p. 595. Ga., 11 Aug., 1848, c. 151, s. 7, v. 9, p. 281. Fla., 3 Mar., 1845, c. 75, s. 7, v. 5, p. 788; 23 Feb., 1847, c. 20, s. 5, v. 9, p. 131. Ill., 3 Mar., 1819, c. 70, s. 4, v. 3, p. 503; 13 Feb., 1855, c. 96, s. 9, v. 10, p. 607. Ind., 3 Mar., 1817, c. 100, s. 4, v. 3, p. 391. Iowa, 3 Mar., 1845, c. 76, s. 4, v. 5, p. 789. Kans., 29 Jan., 1861, c. 20, s. 4, v. 12, p. 128. La., 27 July, 1866, c. 280, s. 1, v. 14, p. 300. Mich., 1 July, 1836, c. 234, s. 4, v. 5, p. 62; 24 Feb., 1863, c. 54, s. 8, v. 12, p. 661. Minn., 11 May, 1858, c. 31, s. 3, v. 11, p. 285. Miss., 3 April, 1818, c. 29, s. 4, v. 3, p. 413; 18 June, 1838, c. 115, s. 6, v. 5, p. 248. Mo., 16 Mar., 1822, c. 12, s. 4, v. 3, p. 653; 3 Mar., 1857, c. 100, ss. 8, 9, v. 11, p. 198. Nebr., 25 Mar., 1867, c. 7, s. 1, v. 15, p. 5. Nev., 27 Feb., 1865, c. 64, s. 1, v. 13, p. 440. N. Y., 3 Mar., 1815, c. 95, v. 3, p. 235; 25 Feb., 1865, c. 54, s. 1, v. 13, p. 438. N. C., 4 June,

SEC. 767. There shall be appointed in each district, except in the middle district of Alabama, and the northern district of Georgia, and the western district of South Carolina, a person learned in the law, to act as attorney for the United States in such district. The district attorney of the northern district of Alabama shall perform the duties of district attorney of the middle district of said State; and the district attorney of the southern district of Georgia shall perform the duties of district attorney of the northern district of said State; and the district attorney of the eastern district of South Carolina shall perform the duties of district attorney for the western district of said State.

1790, c. 17, s. 1, v. 1, p. 126; 4 June, 1872, c. 282, s. 7, v. 17, p. 217. Ohio, 19 Feb., 1802, c. 7, s. 4, v. 2, p. 202; 10 Feb., 1855, c. 73, s. 8, v. 10, p. 605. Oreg., 3 Mar., 1859, c. 85, s. 3, v. 11, p. 437. Pa., 20 April, 1818, c. 108, s. 5, v. 3, p. 463. Tenn., 29 April, 1802, c. 31, s. 20, v. 2, p. 165; 18 June, 1838, c. 118, s. 11, v. 5, p. 250; 18 Jan., 1839, c. 3, s. 1, v. 5, p. 313. Tex., 29 Dec., 1845, c. 1, s. 3, v. 9, p. 1; 21 Feb., 1857, c. 57, s. 6, v. 11, p. 165. Vt., 2 Mar., 1791, c. 12, s. 1, v. 1, p. 197. Va., 3 Feb., 1871, c. 35, s. 8, v. 16, p. 404. W. Va., 4 Feb., 1819, c. 12, ss. 1, 3, v. 3, pp. 478, 479; 26 May, 1824, c. 167, s. 1, v. 4, p. 48; 11 June, 1864, c. 120, s. 1, v. 13, p. 124. Wis., 6 Aug., 1846, c. 89, s. 5, v. 9, p. 57; 29 June, 1870, c. 175, s. 8, v. 16, p. 172. 22 June 1874, c. 401, s. 3, v. 18, p. 195.

SEC. 768. The district attorney of the district of Iowa shall perform the duties of district attorney for all of the divisions of said district. Iowa, district attorney.

3 Mar., 1849, c. 124, s. 5, v. 9, p. 412. 3 Mar., 1859, c. 85, ss. 5, 8, pp. 437, 438. 30 June, 1870, c. 178, ss. 1, 3, v. 16, p. 174.

SEC. 769. District attorneys shall be appointed for a term of four years, and their commissions shall cease and expire at the expiration of four years from their respective dates. And every district attorney, before entering upon his office, shall be sworn to a faithful execution thereof. Term and oath of district attorney.

24 Sept., 1789, c. 20, s. 35, v. 1, p. 92. 15 May, 1820, c. 102, ss. 1, 2, v. 3, p. 582.

SEC. 770. The district attorney for the southern district of New York is entitled to receive quarterly, for all his services, a salary at the rate of six thousand dollars a year. For extra services the district attorney for the district of California is entitled to receive a salary at the rate of five hundred dollars a year, and the district attorneys for all other districts at the rate of two hundred dollars a year. Salaries of district attorneys.

N. Y., (S. D.,) 6 Aug., 1861, c. 55, s. 1, v. 12, p. 317. Cal., 28 Sept., 1850, c. 86, s. 8, v. 9, p. 522. Districts in 1841, 3 Mar., 1841, c. 35, s. 1, v. 5, p. 427. Ark., (W. D.,) 3 Mar., 1851, c. 24, s. 4, v. 9, p. 595. Fla., (N. D.,) 3 Mar., 1845, c. 75, s. 7, v. 5, p. 788. Fla., (S. D.,) 23 Feb., 1847, c. 20, s. 5, v. 9, p. 131. Iowa, 3 Mar., 1845, c. 76, s. 4, v. 5, p. 789. Kans., 29 Jan., 1861, c. 20, s. 4, v. 12, p. 128. Mich., (W. D.,) 24 Feb., 1863, c. 54, s. 8, v. 12, p. 661. Minn., 11 May, 1858, c. 31, s. 3, v. 11, p. 285. Nebr., 8 June, 1872, c. 350, v. 17, p. 337. N. Y., (E. D.,) 25 Feb., 1865, c. 54, s. 1, v. 13, p. 438. Ohio, (S. D.,) 10 Feb., 1855, c. 73, s. 8, v. 10, p. 605. Oreg., 3 Mar., 1859, c. 85, s. 3, v. 11, p. 437. Nev., 20 July, 1868, c. 176, s. 1, v. 15, p. 109. Texas, (E. D.,) 29 Dec., 1845, c. 1, s. 3, v. 9, p. 1. Texas, (W. D.,) 21 Feb., 1857, c. 57, s. 6, v. 11, p. 165. W. Va., 4 Feb., 1819, c. 12, ss. 1, 3, v. 3, pp. 478, 479; 26 May, 1824, c. 167, s. 1, v. 4, p. 48; 11 June, 1864, c. 120, s. 1, v. 13, p. 124. Wis., 6 Aug., 1846, c. 89, s. 5, v. 9, p. 57; 29 June, 1870, c. 175, s. 8, v. 16, p. 172.

SEC. 771. It shall be the duty of every district attorney to prosecute, in his district, all delinquents for crimes and offenses cognizable under the authority of the United States, and all civil actions in which the United States are concerned, and, unless otherwise instructed by the Secretary of the Treasury, to appear in behalf of the defendants in all suits or proceedings pending in his district against collectors, or other officers of the revenue, for any act done by them or for the recovery of any money exacted by or paid to such officers, and by them paid into the Treasury. Duties of district attorneys.

24 Sept., 1789, c. 20, s. 35, v. 1, p. 92. 3 Mar., 1863, c. 76, s. 13, v. 12, p. 741.

Levy Court v Ringgold, 5 Pet., 451; U. S. v. Corrie, 23 Law Rep., 145; U. S. v. McAvoy, 4 Pr. Cas., 337; The

Blatch., 418; U. S. v. Stowell, 2 Curt. C. C., 153; The Anna, Blatch. Peterhoff, Blatch. Pr. Cas., 463; U. S. v. Ingersoll, Crabbe, 135.

SEC. 772. Every district attorney shall, on instituting any suit for the recovery of any fine, penalty, or forfeiture, immediately transmit to the Solicitor of the Treasury a statement thereof. Statement of suits for fines, penalties, and forfeitures.

29 May, 1830, c. 153, s. 4, v. 4, p. 415.

SEC. 773. Every district attorney shall, immediately after the end of every term of the circuit and district courts for his district, forward to the Solicitor of the Treasury, except in the cases provided for in the next section, a full and particular statement, accompanied by the certificate of the clerks of said courts, respectively, of all causes pending in said courts, and of all causes decided therein during such term, in which the United States are party. He shall also, on the first day of October in each year, make a return to said Solicitor of the number of suits and proceedings commenced, pending, and determined within his district during the fiscal year next preceding the date of such return, showing the date when such proceeding or suit in each case was commenced. If the determination thereof has been delayed or continued beyond the usual or reasonable period, the reasons must be set forth, and a state- Returns of district attorneys to Solicitor of the Treasury.

29 May, 1830, c. 153, s. 3, v. 4, p. 414. 3 Mar., 1863, c. 76, s. 13, v. 12, p. 741.

2 Mar., 1867, c. 169, s. 3, v. 14, pp. 471, 472.

ment must be made of the measures taken by the district attorney to press such proceedings or suits to a close.

Returns of district attorneys to Commissioner of Internal Revenue.

2 Mar., 1867, c. 169, s. 3, v. 14, pp. 471, 472.

Reports by district attorney to Department of Justice.

2 July, 1836, c. 170, s. 16, v. 5, p. 83.  
8 June, 1872, c. 335, s. 309, v. 17, p. 324.

#### Marshals.

24 Sept., 1789, c. 20, s. 27, v. 1, p. 87.  
22 June, 1874, c. 397, r. 18, p. 193.  
Ala., 21 April, 1820, c. 47, s. 7, v. 3, p. 565; 5 May, 1820, c. 87, s. 1, v. 4, p. 399; 6 Feb., 1839, c. 20, s. 7, v. 5, p. 316. Ark., 15 June, 1836, c. 100, s. 7, v. 5, p. 51; 3 Mar., 1851, c. 24, s. 4, v. 9, p. 595. Ga., 11 Aug., 1848, c. 151, s. 7, v. 9, p. 281. Fla., 3 Mar., 1845, c. 75, s. 8, v. 5, p. 788; 23 Feb., 1847, c. 20, s. 6, v. 9, p. 131. Ill., 3 Mar., 1819, c. 70, s. 5, v. 3, p. 503; 13 Feb., 1855, c. 96, s. 9, v. 10, p. 607. Ind., 3 Mar., 1817, c. 100, s. 5, v. 3, p. 391. Iowa, 3 Mar., 1845, c. 76, s. 5, v. 5, p. 789. Kans., 29 Jan., 1861, c. 20, s. 4, v. 12, p. 128. La., 27 July, 1866, c. 280, s. 1, v. 14, p. 300. Mich., 1 July, 1836, c. 234, s. 5, v. 5, p. 62; 24 Feb., 1863, c. 54, s. 8, v. 12, p. 661. Minn., 11 May, 1858, c. 31, s. 3, v. 11, p. 285. Miss., 3 April, 1818, c. 29, s. 5, v. 3, p. 413; 18 June, 1838, c. 115, s. 6, v. 5, p. 248. Mo., 16 Mar., 1822, c. 12, s. 5, v. 3, p. 653; 3 Mar., 1857, c. 100, ss. 8, 9, v. 11, p. 198. Nebr., 25 Mar., 1867, c. 7, s. 1, v. 15, p. 5. Nev., 27 Feb., 1865, c. 64, s. 1, v. 13, p. 440. N. Y., 3 Mar., 1815, c. 95, v. 3, p. 235; 25 Feb., 1865, c. 54, s. 1, v. 13, p. 438. N. C., 4 June, 1790, c. 17, s. 1, v. 1, p. 126. Ohio, 19 Feb., 1802, c. 7, s. 5, v. 2, p. 202; 10 Feb., 1855, c. 73, s. 8, v. 10, p. 605. Oreg., 3 Mar., 1859, c. 85, s. 3, v. 11, p. 437. Pa., 20 April, 1818, c. 108, s. 5, v. 3, p. 463. Tenn., 29 April, 1802, c. 31, s. 19, v. 2, p. 165; 18 June, 1838, c. 118, s. 10, v. 5, p. 250; 18 Jan., 1839, c. 3, s. 1, v. 5, p. 313. Tex., 29 Dec., 1845, c. 1, s. 3, v. 9, p. 1; 21 Feb., 1857, c. 57, s. 6, v. 11, p. 165. Vt., 2 Mar., 1791, c. 12, s. 1, v. 1, p. 197. Va., 3 Feb., 1871, c. 35, s. 8, v. 16, p. 404. W. Va., 4 Feb., 1819, c. 12, ss. 1, 3, v. 3, pp. 478, 479; 26 May, 1824, c. 167, s. 1, v. 4, p. 48; 11 June, 1864, c. 120, s. 1, v. 13, p. 124. Wis., 6 Aug., 1846, c. 89, s. 5, v. 9, p. 57; 29 June, 1870, c. 175, s. 8, v. 16, p. 172. 22 June, 1874, c. 401, s. 3, r. 18, p. 195. 22 June, 1874, c. 390, s. 19, v. 18, p. 184.

Georgia, (N. D.,) marshal's office in.

18 Aug., 1848, c. 151, s. 7, v. 9, p. 281.

Iowa, marshal.

3 Mar., 1849, c. 124, s. 5, v. 9, p. 412.

3 Mar., 1859, c. 85, ss. 5, 8, v. 11, pp. 437, 438.

30 June, 1870, c. 178, ss. 1, 3, v. 16, p. 174.

Marshal's term.

SEC. 774. When any suit or proceeding arising under the internal-revenue laws, to which the United States are party, or any suit or proceeding against a collector or other officer of the internal revenue, wherein a district attorney appears, is commenced, the attorney for the district in which it is brought shall immediately report to the Commissioner of Internal Revenue the full particulars relating to the same; and he shall, immediately after the end of each term of the court in which such suit or proceeding is pending, forward to the said Commissioner a full and particular statement of its condition.

SEC. 775. Each district attorney shall, immediately after the end of every term in which any suit for moneys due on account of the Post-Office Department has been pending in his district, forward to the Department of Justice a statement of any judgment or order made, or step taken in the same, during such term, accompanied by a certificate of the clerk, showing the parties to and amount of every such judgment, with such other information as the Department of Justice may require. And the said attorney shall direct speedy and effectual execution upon said judgment, and the United States marshal to whom the same is directed shall make returns of the proceedings thereon to the Department of Justice, at such times as it may direct.

SEC. 776. A marshal shall be appointed in each district, except in the middle district of Alabama, and the northern district of Georgia, and the western district of South Carolina. The marshal of the southern district of Alabama shall perform the duties of marshal of the middle district of said State, and shall keep an office at Montgomery, in said middle district. The marshal of the southern district of Georgia shall perform the duties of marshal of the northern district of said State. The marshal of the eastern district of South Carolina shall perform the duties of marshal of the western district of said State.

SEC. 777. The marshal of the southern district of Georgia shall keep an office at Marietta, in the northern district, and his charges for mileage, in the execution of the duties of his office, within the northern district, shall be computed from Marietta.

SEC. 778. The marshal of the district of Iowa shall perform the duties of marshal for all of the divisions of said district, and shall keep an office at each of the places in the four divisions of said district where the circuit and district courts thereof are required to be held; and his charges for mileage, in the execution of the duties of his office, within said district, shall be computed from the city of Iowa.

SEC. 779. Marshals shall be appointed for a term of four years.

24 Sept., 1789, c. 20, s. 27, v. 1, p. 87. 20 June, 1874, c. 328, r. 18, p. 109.

SEC. 780. Every marshal may appoint one or more deputies, who shall be removable from office by the judge of the district court, or by the circuit court for the district, at the pleasure of either.

Deputy marshals.

24 Sept., 1789, c. 20, s. 27, v. 1, p. 87.  
23 June, 1874, c. 469, r. 18, p. 253.

SEC. 781. Marshals are entitled to receive salaries, as a compensation for extra services, as follows: The marshal of the district of California, at the rate of five hundred dollars a year; the marshal of the districts of North Carolina, at the rate of four hundred dollars a year; the marshals of all other districts, except the southern and eastern districts of New York, the eastern district of Pennsylvania, the southern district of Illinois, the western district of Missouri, the northern and southern districts of Georgia, and the districts of Massachusetts, Maryland, and Nevada, at the rate of two hundred dollars a year.

Marshals' salaries for extra services.

Cal., 28 Sept., 1850, c. 86, s. 9, v. 9, p. 522; 27 July, 1866, c. 280, s. 1, v. 14, p. 300. N.C. and N.J., 25 Feb., 1808, c. 12, s. 1, v. 2, pp. 468, 469. Me., N.

H., Vt., and Ky., 28 Feb., 1799, c. 19, s. 1, v. 1, p. 625. Tenn., 29 April, 1802, c. 31, s. 19, v. 2, p. 165; 24 Feb., 1807, c. 17, s. 4, v. 2, p. 421; 18 June, 1838, c. 118, s. 1, v. 5, p. 249; 18 Jan., 1839, c. 3, s. 1, v. 5, p. 313. R. I., 2 Mar., 1831, c. 91, s. 1, v. 4, p. 482. Conn., 6 Jan., 1829, c. 5, s. 1, v. 4, p. 330. Nebr., 8 June, 1872, c. 350, v. 17, p. 337. N. Y., (N. D.,) and Pa., (W. D.,) 15 May, 1820, c. 111, s. 4, v. 3, p. 598. Del., 24 Feb., 1835, c. 23, s. 1, v. 4, p. 753. Va., 21 Jan., 1829, c. 9, s. 1, v. 4, p. 331. W. Va., 4 Feb., 1819, c. 12, s. 4, v. 3, p. 479; 26 May, 1824, c. 167, s. 1, v. 4, p. 48; 11 June, 1864, c. 120, s. 1, v. 13, p. 124. Ohio, 19 Feb., 1803, c. 7, s. 5, v. 2, p. 202; 10 Feb., 1805, c. 73, s. 8, v. 10, p. 606. La., 8 April, 1812, c. 50, s. 4, v. 2, p. 703; 27 July, 1866, c. 280, s. 1, v. 14, p. 300. Miss., 3 April, 1818, c. 29, s. 5, v. 3, p. 413; 18 June, 1838, c. 115, s. 7, v. 5, p. 248. Ind., 3 Mar., 1817, c. 100, s. 5, v. 3, p. 391. Ill., (N. D.,) 3 Mar., 1819, c. 70, s. 5, v. 3, p. 503; 13 Feb., 1855, c. 96, s. 8, v. 10, p. 607. Ala., 5 May, 1830, c. 87, s. 2, v. 4, p. 399. Mo., (E. D.,) 16 Mar., 1822, c. 12, s. 5, v. 3, p. 653; 3 Mar., 1857, c. 100, s. 8, v. 11, p. 198. Mich., 1 July, 1836, c. 234, s. 5, v. 5, p. 62; 24 Feb., 1863, c. 54, s. 8, v. 12, p. 662. Ark., 15 June, 1836, c. 100, s. 7, v. 5, p. 51; 3 Mar., 1851, c. 24, s. 4, v. 9, p. 595. Fla., 3 Mar., 1845, c. 75, s. 8, v. 5, p. 788; 23 Feb., 1847, c. 20, s. 6, v. 9, p. 131. Tex., 29 Dec., 1845, c. 1, s. 3, v. 9, p. 2; 21 Feb., 1857, c. 57, s. 6, v. 11, p. 165. Wis., 6 Aug., 1846, c. 89, s. 5, v. 9, p. 58. Iowa, 3 Mar., 1845, c. 76, s. 5, v. 5, p. 789. Minn., 11 May, 1858, c. 31, s. 3, v. 11, p. 285. Oreg., 3 Mar., 1859, c. 85, s. 3, v. 11, p. 437. Kans., 29 Jan., 1861, c. 20, s. 4, v. 12, p. 128.

SEC. 782. Every marshal and deputy marshal shall, before he enters upon the duties of his appointment, take, before the district judge of the district, an oath or affirmation in the following form: "I, A. B., do solemnly swear (or affirm) that I will faithfully execute all lawful precepts directed to the marshal of the district of —, under the authority of the United States, and true returns make, and in all things well and truly, and without malice or partiality, perform the duties of the office of marshal (or marshal's deputy, as the case may be) of the district of —, during my continuance in said office, and take only my lawful fees. So help me God." The words "so help me God" shall be omitted in all cases where an affirmation is admitted instead of an oath: *Provided*, That when any person who is appointed deputy marshal resides and is more than twenty miles from the place where the district judge resides and is, the said oath of office may be taken by him before any judge or justice of any State court within the same district, or before any justice of the peace having authority therein, or before any notary public duly appointed in such State, or before any commissioner of a circuit court for such district, and shall, when certified by such officer to the said district judge, be as effectual as if taken before such district judge.

Oath of marshals and deputy marshals.

24 Sept., 1789, c. 20, ss. 7, 27, v. 1, pp. 76, 87.  
28 Feb., 1799 c. 19, s. 2, v. 1, p. 625.  
16 Sept., 1850, c. 52, ss. 1, 2, v. 9, p. 458.

SEC. 783. Every marshal, before he enters on the duties of his office, shall give bond before the district judge of the district, jointly and severally with two good and sufficient sureties, inhabitants and freeholders of such district, to be approved by said judge, in the sum of twenty thousand dollars, for the faithful performance of said duties by himself and his deputies. Said bond shall be filed and recorded in the office of the clerk of the district court or circuit court sitting within the district, and copies thereof, certified by the clerk, under the seal of the said court, shall be competent evidence in any court of justice.

Marshals' bond.

24 Sept., 1789, c. 20, s. 27, v. 1, p. 87.  
10 April, 1806, c. 21, s. 1, v. 2, p. 372.  
22 Feb. 1875, c. 95, s. 2, r. 18, p. 333.

U. S. v. Kirkpatrick, 9 Wh., 720; U. S. v. Van Zandt, 11

Wh., 184; *Dox v. Postmaster-General*, 1 Pet., 325; *Gwyn v. Breedlove*, 2 How., 29; (*Gwyn v. Barton*, 6 How., 7; *Adler v. Newcomb*, 2 Dill., 45.

SEC. 784. In case of a breach of the condition of a marshal's bond, any person thereby injured may institute in his own name and for his

Suits on marshal's bond; costs.

10 April, 1806, c. 21, s. 2, v. 2, p. 373.

U. S. v. Giles, 9 Cr., 212; U. S. v. Morris, 10 Wh., 246; Williams v. U. S. 1 How., 290; Gwyn v. Breedlove, 2 How., 29; Gwyn v. Buchanan, 4 How., 1; Gwyn v. Barton, 6 How., 7; Rogers v. The Marshall, 1 Wall., 644.

Marshal's bond to remain after judgment as further security.

10 April, 1806, c. 21, s. 3, v. 2, p. 374.

Limitation of suit on marshal's bonds.

10 April, 1806, c. 21, s. 4, v. 2, p. 374.

Montgomery v. Hernandez, 12 Wh., 133.

Duties of marshal.

24 Sept., 1789, c. 20, s. 27, v. 1, p. 87.

U. S. v. Giles, 9 Cr., 212.

Schwabacker v. Reily, 2 Dill., 127.

Marshals shall have, in each State, the same powers as sheriffs in executing the laws of the United States.

28 Feb., 1795, c. 36, s. 9, v. 1, p. 425. 29 July, 1861, c. 25, s. 7, v. 12, p. 282.

In case of death of the marshals, deputies to continue.

24 Sept., 1789, c. 20, s. 28, v. 1, p. 87.

Marshals and deputy marshals, when removed, or office expires, may execute process in their hands.

24 Sept., 1789, c. 20, s. 28, v. 1, p. 87. 7 May, 1800, c. 45, s. 3, v. 2, p. 61.

Doolittle's Lessee v. Bryan, 14 How., 563.

Marshal's returns to the Solicitor of the Treasury.

15 May, 1820, c. 107, s. 8, v. 3, p. 596.

29 May, 1830, c. 153, s. 2, v. 4, p. 414.

Returns of marshals to Auditor of Post-Office Department.

sole use a suit on said bond, and thereupon recover such damages as shall be legally assessed, with costs of suit, for which execution may issue for him in due form. If such party fails to recover in the suit, judgment shall be rendered and execution may issue against him for costs in favor of the defendant; and the United States shall in no case be liable for the same.

Rogers v. The Marshall, 1 Wall., 644.

SEC. 785. The said bond shall remain, after any judgment rendered thereon, as a security for the benefit of any person injured by breach of the condition of the same, until the whole penalty has been recovered; and the proceedings shall always be as directed in the preceding section.

21, s. 3, v. 2, p. 374.

SEC. 786. No suit on a marshal's bond shall be maintained unless it is commenced within six years after the right of action accrues, saving, nevertheless, the rights of infants, married women, and insane persons, so that they sue within three years after their disabilities are removed.

SEC. 787. It shall be the duty of the marshal of each district to attend the district and circuit courts when sitting therein, and to execute, throughout the district, all lawful precepts directed to him, and issued under the authority of the United States; and he shall have power to command all necessary assistance in the execution of his duty. [See § 4299.]

SEC. 788. The marshals and their deputies shall have, in each State, the same powers, in executing the laws of the United States, as the sheriffs and their deputies in such State may have, by law, in executing the laws thereof.

SEC. 789. In case of the death of any marshal, his deputy or deputies shall continue in office, unless otherwise specially removed, and shall execute the same in the name of the deceased, until another marshal is appointed, as provided in this chapter, and duly qualified. The defaults or misfeasances in office of such deputies in the mean time shall be adjudged a breach of the condition of the bond given by the marshal who appointed them; and the executor or administrator of the deceased marshal shall have like remedy for the defaults and misfeasances in office of such deputies, during such interval, as he would be entitled to if the marshal had continued in life and in the exercise of his said office until his successor was appointed and duly qualified.

SEC. 790. Every marshal or his deputy, when removed from office, or when the term for which the marshal is appointed expires, shall have power, notwithstanding, to execute all such precepts as may be in their hands respectively at the time of such removal or expiration of office; and the marshal shall be held responsible for the delivery to his successor of all prisoners who may be in his custody at the time of his removal, or when the term for which he is appointed expires; and for that purpose he may retain such prisoners in his custody until his successor is appointed and duly qualified.

SEC. 791. Every marshal shall, within thirty days before the commencement of each term of the circuit and district courts in his district, make returns to the Solicitor of the Treasury of the proceedings had upon all writs of execution, or other process which have been placed in his hands, for the collection of moneys adjudged and decreed to the United States in the said courts, respectively.

SEC. 792. Every marshal to whom any execution upon a judgment in any suit for moneys due on account of the Post-Office Department has been directed, shall make returns to the Sixth Auditor, at such times as



he may direct, of the proceedings which have taken place upon the said process of execution.

2 July, 1836, c. 270, s. 16, v. 5, p. 83.  
22 June, 1874, c. 390, s. 19, v. 18, p. 184.

SEC. 793. In case of a vacancy in the office of the district attorney or marshal within any circuit, the circuit justice of such circuit may fill the same, and the person appointed by him shall serve until an appointment is made by the President, and the appointee is duly qualified, and no longer. The appointment made by such justice shall be in writing, which shall be filed in the clerk's office of the circuit court, and a copy thereof shall be entered upon the journal of said court. Any marshal so appointed shall give bond, as if appointed by the President, and the bond shall be approved by said justice. It shall then be filed in the clerk's office of said court, and a copy shall be entered on the journal of the court. A certified copy of such entry shall be prima-facie proof of the execution of such bond, and of the contents thereof.

Vacancies in office of district attorney and marshal, how filled temporarily.

3 Mar., 1863, c. 93, s. 2, v. 12, p. 768.

SEC. 794. The clerk of the Supreme Court, and every clerk and deputy clerk of a circuit or district court, shall, before he enters upon the execution of his office, take an oath or affirmation in the following form: "I, A. B. being appointed a clerk of ———, do solemnly swear (or affirm) that I will truly and faithfully enter and record all the orders, decrees, judgments, and proceedings of the said court, and that I will faithfully and impartially discharge and perform all the duties of my said office, according to the best of my abilities and understanding. So help me God." The words "so help me God" shall be omitted in all cases where an affirmation is admitted instead of an oath.

Oath of clerks.

24 Sept., 1789, c. 20, s. 7, v. 1, p. 76.  
30 June, 1870, c. 180, s. 7, v. 16, p. 175.

SEC. 795. The clerk of every court shall give bond, in a sum to be fixed and with sureties to be approved by the court which appoints him, faithfully to discharge the duties of his office, and seasonably to record the decrees, judgments, and determinations of the court of which he is clerk; and a new bond may be required whenever the court deems it proper that such bond should be given. A copy of every bond given by a clerk shall be entered on the journal of the court for which he is appointed, and the bond shall be deposited for safe-keeping as the court may direct. A certified copy of such entry shall be prima-facie proof of the execution of such bond and of the contents thereof.

Clerk's bond.

24 Sept., 1879, c. 20, s. 7, v. 1, p. 76.  
3 Mar., 1863, c. 93, s. 2, v. 12, p. 768.  
22 Feb., 1875, c. 95, ss. 2, 3, v. 18, p. 333.

SEC. 796. Any circuit or district court may require any deputy clerk thereof to give bond to the United States for the faithful discharge of his duty as such deputy, in the same penalty, and with surety in the same manner, as is required by law of clerks; and such bond shall be recorded and preserved in like manner. But the taking of such bond shall not affect the legal responsibility of the clerk for the acts of such deputy.

Bond of deputy clerks.

30 June, 1870, c. 180, s. 7, v. 16, p. 175.

SEC. 797. Every clerk of a circuit or district court shall, within thirty days after the adjournment of each term thereof, forward to the Solicitor of the Treasury a list of all judgments and decrees, to which the United States are parties, which have been entered in said court, respectively, during such term, showing the amount adjudged or decreed, in each case, for or against the United States, and the term to which execution thereon will be returnable.

Clerk to forward to Solicitor of the Treasury a list of judgments.

15 May, 1820, c. 107, s. 8, v. 3, p. 596.  
29 May, 1830, c. 153, s. 2, v. 4, p. 414.  
22 Feb., 1875, c. 95, ss. 5, 6, v. 18, p. 334.

SEC. 798. At each regular session of any court of the United States, the clerk shall present to the court an account of all moneys remaining therein, or subject to its order, stating in detail in what causes they are deposited, and in what causes payments have been made; and said account and the vouchers thereof shall be filed in the court.

Account of payments and moneys in court to be stated by the clerk.

24 Mar., 1871, c. 2, s. 3, v. 17, p. 2.  
22 Feb., 1875, c. 95, s. 5, v. 18, p. 334.

SEC. 799. The clerks of the district and circuit courts may, in the absence or in case of the disability of the judges, administer oaths to all persons identifying papers found on board of vessels or elsewhere, to be used on trials in admiralty causes.

Oaths to persons identifying papers in admiralty causes, when administered by clerks.

8 May, 1792, c. 36, s. 10, v. 1, p. 278.

CHAPTER FIFTEEN.

JURIES.

Sec.	Sec.
800. Jurors, qualifications and selection of, according to State laws.	813. Grand juries of district courts may act in cases cognizable in circuit court.
801. Jurors in Pennsylvania.	814. Arkansas, western district, at Helena; jurors.
802. Jurors, how to be apportioned in the district.	815. Juries in Kentucky and Indiana.
803. Writ of venire, how issued and served.	816. North Carolina, juries at special terms.
804. Talesmen for petit juries.	817. Juries for western district of South Carolina.
805. Special juries in the circuit courts.	818. Vermont, charge to grand jury by the circuit court.
806. New York.	819. Challenges.
807. Vermont, when petit jury to be summoned.	820. Additional causes of disqualification and challenge of grand and petit jurors.
808. Number of grand jurors; completing jury.	821. Additional oath for grand and petit jurors.
809. Foreman of grand jury, appointment and powers of.	822. Grand and petit jurors, in cases under act 20 April, 1871, c. 22.
810. Grand juries, when summoned.	
811. Discharge of grand juries.	
812. Jurors not to be summoned oftener than once in two years.	

Jurors, qualifications and selection of, according to State laws.

20 July, 1840, c. 47, v. 5, p. 394.  
 17 June, 1862, c. 103, s. 1, v. 12, p. 430.  
 20 April, 1871, c. 22, s. 5, v. 17, p. 15.  
 3 Mar. 1849, c. 118, v. 9, p. 403.  
 15 July, 1870, c. 298, s. 3, v. 16, p. 363.  
 22 Dec., 1870, Res. 2, v. 16, p. 589.  
 1 Mar., 1875, c. 114, s. 4, v. 18, p. 336.  
 588; U. S. r. Reed, 2 Blatch., 435; U. S. r. Douglass, 2 Blatch., 208; U. S. r. Woodruff, 4 McLean, 105; U. S. r. Tallman, 10 Blatch., 21; U. S. r. Collins, 1 Woods, 499.

SEC. 800. Jurors to serve in the courts of the United States, in each State respectively, shall have the same qualifications, subject to the provisions hereinafter contained, and be entitled to the same exemptions, as jurors of the highest court of law in such State may have and be entitled to at the time when such jurors for service in the courts of the United States are summoned; and they shall be designated by ballot, lot, or otherwise, according to the mode of forming such juries then practiced in such State court, so far as such mode may be practicable by the courts of the United States or the officers thereof. And for this purpose the said courts may, by rule or order, conform the designation and impaneling of juries, in substance, to the laws and usages relating to jurors in the State courts, from time to time in force in such State. This section shall not apply to juries to serve in the courts of the United States in Pennsylvania. [See § 1671.]

Jurors in Pennsylvania.

3 Mar., 1849, c. 118, v. 9, p. 403.  
 20 July, 1840, c. 47, v. 5, p. 394.  
 13 May, 1800, c. 61, v. 2, p. 82.  
 15 July, 1870, c. 298, s. 3, v. 16, p. 363.  
 22 Dec., 1870, Res. No. 2, v. 16, p. 589.

SEC. 801. Jurors to serve in the courts of the United States in Pennsylvania shall be designated by lot or otherwise, in each district respectively, according to the mode of forming juries, to serve in the highest courts of law therein, which was practiced before the passage of the act of July twenty, eighteen hundred and forty, chapter forty-seven, so far as the same shall render such designation practicable by the courts and marshals of the United States. But this provision is subject to the provisions relating to the qualifications and oath of jurors hereinafter contained.

17 June, 1862, c. 103, s. 1, v. 12, p. 430. 20 April, 1871, c. 22, s. 5, v. 17, p. 15.

Jurors, how to be apportioned in the district.

24 Sept., 1789, c. 20, s. 29, v. 1, p. 88.

SEC. 802. Jurors shall be returned from such parts of the district, from time to time, as the court shall direct, so as to be most favorable to an impartial trial, and so as not to incur an unnecessary expense, or unduly to burden the citizens of any part of the district with such services.

M. S. r. Stowell, 2 Cur. C. C., 153; M. S. r. Woodruff, 4 McLean, 105.

Writ of venire, how issued and served.

24 Sept., 1789, c. 20, s. 29, v. 1, p. 88.

SEC. 803. Writs of venire facias, when directed by the court, shall issue from the clerk's office, and shall be served and returned by the marshal in person, or by his deputy; or, in case the marshal or his deputy is not an indifferent person, or is interested in the event of the cause, by such fit person as may be specially appointed for that purpose by the court, who shall administer to him an oath that he will truly and impartially serve and return the writ.

SEC. 804. When, from challenges or otherwise, there is not a petit jury to determine any civil or criminal cause, the marshal or his deputy shall, by order of the court in which such defect of jurors happens, return jurymen from the by-standers sufficient to complete the panel; and when the marshal or his deputy is disqualified as aforesaid, jurors may be so returned by such disinterested person as the court may appoint, and such person shall be sworn, as provided in the preceding section.

SEC. 805. When special juries are ordered in any circuit court, they shall be returned by the marshal in the same manner and form as is required in such cases by the laws of the several States.

SEC. 806. No jury shall be drawn for service exclusively in the circuit court for the northern district of New York at the adjourned terms thereof required by law to be held at Albany and Utica, but the jury drawn to serve in the district court held at the same times and places with said adjourned terms shall be used for the trial of issues of fact arising in civil causes in said circuit court, and the verdicts of said jury, and all proceedings upon the trial of said issues, shall be of the same effect as if the said jury had been drawn to serve in the said circuit court.

SEC. 807. The clerk of the district court for Vermont shall not cause a petit jury to be summoned or returned to any session in which there shall appear to be no issue proper for trial by jury, unless by special order of the judge.

SEC. 808. Every grand jury empaneled before any district or circuit court shall consist of not less than sixteen nor more than twenty-three persons. If of the persons summoned less than sixteen attend, they shall be placed on the grand jury, and the court shall order the marshal to summon, either immediately or for a day fixed, from the body of the district, and not from the by-standers, a sufficient number of persons to complete the grand jury. And whenever a challenge to a grand juror is allowed, and there are not in attendance other jurors sufficient to complete the grand jury, the court shall make a like order to the marshal to summon a sufficient number of persons for that purpose.

SEC. 809. From the persons summoned and accepted as grand jurors, the court shall appoint the foreman, who shall have power to administer oaths and affirmations to witnesses appearing before the grand jury.

SEC. 810. No grand jury shall be summoned to attend any circuit or district court unless one of the judges of such circuit court, or the judge of such district, in his own discretion, or upon a notification by the district attorney that such jury will be needed, orders a venire to issue therefor. And either of the said courts may in term order a grand jury to be summoned at such time, and to serve such time as it may direct, whenever, in its judgment, it may be proper to do so. But nothing herein shall operate to extend beyond the time permitted by law the imprisonment before indictment found of a person accused of a crime or offense, or the time during which a person so accused may be held under recognizance before indictment found.

SEC. 811. The circuit and district courts, the district courts of the Territories, and the supreme court of the District of Columbia, may discharge their grand juries whenever they deem a continuance of the sessions of such juries unnecessary.

SEC. 812. No person shall be summoned as a juror in any circuit or district court more than once in two years, and it shall be sufficient cause of challenge to any juror called to be sworn in any cause that he has been summoned and attended said court as a juror at any term of said court held within two years prior to the time of such challenge.

Talesmen for petit juries.

24 Sept., 1789, c. 20, s. 29, v. 1, p. 88.  
3 Mar., 1865, c. 86, s. 1, v. 13, p. 500.

U. S. v. Shackelford, 18 How., 588.

Special juries in the circuit courts.

29 April, 1802, c. 31, s. 30, v. 2, p. 167.

New York.

4 July, 1864, c. 245, s. 2, v. 13, p. 385.

Vermont, when petit jury to be summoned.

29 April, 1802, c. 31, s. 29, v. 2, p. 167.

Number of grand jurors; completing jury.

3 Mar., 1865, c. 86, s. 1, v. 13, p. 500.

Foreman of grand jury, appointment and powers of.

3 Mar., 1865, c. 86, s. 1, v. 13, p. 500.

Grand juries, when summoned.

24 Sept., 1789, c. 20, s. 29, v. 1, p. 88.  
20 May, 1826, c. 136, v. 4, p. 188.  
8 Aug., 1846, c. 98, s. 3, v. 9, p. 72.  
16 Aug., 1856, c. 124, s. 7, v. 11, p. 50.

Discharge of grand juries.

16 Aug., 1856, c. 124, s. 7, v. 11, p. 50.

Jurors not to be summoned oftener than once in two years.

15 July, 1870, c. 298, s. 2, v. 16, p. 363.

Grand juries of district courts may act in cases cognizable in circuit court.

SEC. 813. The grand jury impaneled and sworn in any district court may take cognizance of all crimes and offenses within the jurisdiction of the circuit court for said district as well as of said district court.

8 Aug., 1846, c. 98, s. 3, v. 9, p. 72.

Arkansas, west district, at Helena; jurors.

SEC. 814. In the western district of Arkansas such number of jurors shall be summoned at every term of the district court thereof, to be held at Helena, as may have been ordered at a previous term, or by the district judge in vacation. And a grand jury may be summoned to attend any such term when ordered by the court or by the judge in vacation. In case of a deficiency of jurors, talesmen may be summoned by order of the court.

Juries in Kentucky and Indiana.

SEC. 815. In the several districts of Kentucky and Indiana, such number of jurors shall be summoned by the marshal at every term of the circuit and district courts, respectively, as may have been ordered of record at the previous term; and in case there is not a sufficient number of jurors in attendance at any time, the court may order such number to be summoned as, in its judgment, may be necessary to transact the business of the court. And a grand jury may be summoned to attend every term of the circuit or district court by order of the court. The marshal may summon juries and talesmen in case of a deficiency, pursuant to an order of the court made during the term, and they shall serve for such time as the court may direct.

North Carolina; juries at special terms.

SEC. 816. The circuit and district courts for either of the districts of North Carolina may order a grand or petit jury, or both to attend any special term thereof, by an order to be entered of record thirty days before the day on which such special term is appointed to convene.

4 June, 1872, c. 282, s. 4, v. 17, p. 215.

Juries for western district of South Carolina.

SEC. 817. The grand and petit jurors for the district court sitting in the western district of South Carolina shall be drawn from the inhabitants of said district who are liable, according to the laws of said State, to do jury duty in the courts thereof; and all jurors shall be drawn during the sitting of the court for the next succeeding term.

16 Aug., 1856, c. 119, s. 2, v. 11, p. 43.  
21 Feb., 1823, c. 11, s. 1, v. 3, p. 726.

Vermont, charge to grand jury by the circuit court.

SEC. 818. In the district of Vermont, it shall be the duty of the circuit court, at its regular sessions, to give in charge to the grand juries all crimes, offenses, and misdemeanors which are cognizable as well in the district court thereof as in the said circuit court.

29 April, 1802, c. 31, s. 29, v. 2, p. 167.

Challenges.

SEC. 819. When the offense charged is treason or a capital offense, the defendant shall be entitled to twenty and the United States to five peremptory challenges. On the trial of any other felony, the defendant shall be entitled to ten and the United States to three peremptory challenges; and in all other cases, civil and criminal, each party shall be entitled to three peremptory challenges; and in all cases where there are several defendants or several plaintiffs, the parties on each side shall be deemed a single party for the purposes of all challenges under this section. All challenges, whether to the array or panel, or to individual jurors for cause or favor, shall be tried by the court without the aid of triers. [See §§ 1031, 4303.]

Additional causes of disqualification and challenge of grand and petit jurors.

SEC. 820. The following shall be causes of disqualification and challenge of grand and petit jurors in the courts of the United States, in addition to the causes existing by virtue of section eight hundred and twelve, namely: Without duress and coercion to have taken up arms or to have joined any insurrection or rebellion against the United States; to have adhered to any insurrection or rebellion, giving it aid and comfort; to have given, directly or indirectly, any assistance in money, arms, horses, clothes, or anything whatever, to or for the use or benefit of any person whom the giver of such assistance knew to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or

17 June, 1862, c. 103, s. 1, v. 12, p. 430.

U. S. v. Hammond, 2 Woods, 197.

to be about to resist, with force of arms, the execution of the laws of the United States, or whom he had good ground to believe to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; or to have counseled or advised any person to join any insurrection or rebellion, or to resist with force of arms the laws of the United States.

SEC. 821. At every term of any court of the United States the district attorney, or other person acting on behalf of the United States in said court, may move, and the court, in their discretion, may require the clerk to tender to every person summoned to serve as a grand or petit juror, or venireman or talesman, in said court, the following oath or affirmation, namely: "You do solemnly swear (or affirm) that you will support the Constitution of the United States of America; that you have not, without duress and constraint, taken up arms or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money or any other thing, to any person or persons whom you knew, or had good ground to believe, to have joined, or to be about to join, said insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; and that you have not counseled or advised any person to join any insurrection or rebellion against, or to resist with force of arms, the laws of the United States." Any person declining to take said oath shall be discharged by the court from serving on the grand or petit jury, or venire, to which he may have been summoned.

SEC. 822. No person shall be a grand or petit juror in any court of the United States, upon any inquiry, hearing, or trial of any suit, proceeding, or prosecution based upon or arising under the provisions of Title "CIVIL RIGHTS" and of Title "CRIMES," for enforcing the provisions of the fourteenth amendment to the Constitution, who is, in the judgment of the court, in complicity with any combination or conspiracy in said Titles set forth; and every grand and petit juror shall, before entering upon any such inquiry, hearing, or trial, take and subscribe an oath, in open court, that he has never, directly or indirectly, counseled, advised, or voluntarily aided any such combination or conspiracy.

## CHAPTER SIXTEEN.

### FEES.

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823.	Fees to be taxed.	835.	Compensation of district attorney.
824.	Attorneys, solicitors, and proctors.	836.	Sum to be paid to district attorney of southern district of New York for office-expenses.
825.	Fees in revenue cases and in suits on official bonds.	837.	District attorney and marshal in Oregon and Nevada.
826.	Fees on bonds, when not allowed.	838.	Prosecution of frauds on the revenue.
827.	Fees of district attorney for defense of revenue officers.	839.	Compensation retained by a clerk.
828.	Clerks' fees.	840.	Clerks in California, Oregon, and Nevada.
	Clerks' books to be open to inspection.	841.	Compensation of marshal.
829.	Marshals' fees.	842.	Additional compensation in prize causes.
830.	What fees to be paid to marshals.	843.	Allowances for each year made from the fees thereof.
831.	Attendance on rule-days and when circuit and district courts sit at same time.	844.	Payment of surplus fees into the Treasury.
832.	Marshal of the Supreme Court of the United States.	845.	Auditing of accounts of district attorney, &c., in Department of Justice.
833.	Semi-annual returns of fees by district attorneys, marshals, and clerks.	846.	Accounts of district attorneys, &c., to be certified to by district judge.
834.	What to be included in the semi-annual returns of district attorneys and marshals.		

Additional oath for grand and petit jurors.

17 June, 1862, c. 103, s. 2, v. 12, p. 430.

Grand and petit jurors, in cases under act 20 April, 1871, c. 22.

20 April, 1871, c. 22, s. 5, v. 17, p. 15.

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847. Commissioners' fees.  
 848. Witnesses' fees.  
 849. No officer of court to have witness fees.  
 850. Expenses of clerks, &c., of United States sent away as witnesses paid.  
 851. Seamen sent home as witnesses.  
 852. Fees of grand and petit jurors.

Sec.

853. Printers' fees.  
 854. Meaning of folio.  
 855. Jurors and witnesses, when paid by marshal.  
 856. Fees of district attorneys, marshal, &c., how paid.  
 857. Fees, how recovered.

## Fees to be taxed.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 161.  
 3 Mar., 1855, c. 155, s. 12, v. 10, pp. 670, 671.

*Ex parte Jaffrey*, 1 Lowell, 321; *Phillip's Case*, 11 C. Cls., 570.

SEC. 823. The following and no other compensation shall be taxed and allowed to attorneys, solicitors, and proctors in the courts of the United States, to district attorneys, clerks of the circuit and district courts, marshals, commissioners, witnesses, jurors, and printers in the several States and Territories, except in cases otherwise expressly provided by law. But nothing herein shall be construed to prohibit attorneys, solicitors, and proctors from charging to and receiving from their clients, other than the Government, such reasonable compensation for their services, in addition to the taxable costs, as may be in accordance with general usage in their respective States, or may be agreed upon between the parties.

## FEES OF ATTORNEYS, SOLICITORS, AND PROCTORS.

Attorneys, solicitors, and proctors.

26 Feb., 1853, c. 80, s. 1, v. 10, pp. 161, 162.

22 Feb., 1875, c. 95, v. 18, p. 333.

26 June, 1876, c. 147, v. 19, p. 62.

*Ex parte Robbins*, 2 Gallis., 320; *The Anna, Blatch*, Pr. Cas., 337; *U. S. v. Ingersoll*, Crabbe, 135.

SEC. 824. On a trial before a jury, in civil or criminal causes or before referees, or on a final hearing in equity or admiralty, a docket fee of twenty dollars: *Provided*, That in cases of admiralty and maritime jurisdiction, where the libellant recovers less than fifty dollars, the docket fee of his proctor shall be but ten dollars.

In cases at law, when judgment is rendered without a jury, ten dollars.

In cases at law, when the cause is discontinued, five dollars.

For scire facias, and other proceedings on recognizances, five dollars.

For each deposition taken and admitted in evidence in a cause, two dollars and fifty cents.

For services rendered in cases removed from a district to a circuit court by writ of error or appeal, five dollars.

For examination by a district attorney, before a judge or commissioner, of persons charged with crime, five dollars a day for the time necessarily employed.

For each day of his necessary attendance in a court of the United States on the business of the United States, when the court is held at the place of his abode, five dollars; and for his attendance when the court is held elsewhere, five dollars for each day of the term.

For traveling from the place of his abode to the place of holding any court of the United States in his district, or to the place of any examination before a judge or commissioner, of a person charged with crime, ten cents a mile for going and ten cents a mile for returning.

When an indictment for crime is tried before a jury and a conviction is had, the district attorney may be allowed, in addition to the attorney's fees herein provided, a counsel fee, in proportion to the importance and difficulty of the cause, not exceeding thirty dollars.

SEC. 825. There shall be taxed and paid to every district attorney two per centum upon all moneys collected or realized in any suit or proceeding arising under the revenue laws, and conducted by him, in which the United States is a party, which shall be in lieu of all costs and fees in such proceeding.

SEC. 826. No fee shall accrue to any district attorney on any bond left with him for collection, or in a suit commenced on any bond for the renewal of which provision is made by law, unless the party neglects to apply for such renewal for more than twenty days after the maturity of the bond.

SEC. 827. When a district attorney appears by direction of the Secretary or Solicitor of the Treasury, on behalf of any officer of the revenue in any suit against such officer, for any act done by him, or for the

Fees in revenue cases, and in suits on official bonds.

3 Mar., 1863, c. 76, s. 11, v. 12, p. 741.

Fees on bonds, when not allowed.

12 Oct., 1837, c. 3, s. 2, v. 5, p. 204.

Fees of district attorney for revenue officers.

recovery of any money received by him and paid into the Treasury in the performance of his official duty, he shall receive such compensation as may be certified to be proper by the court in which the suit is brought, and approved by the Secretary of the Treasury. [See § 4646.]

3 Mar., 1863, c. 76,  
s. 12, v. 12, p. 741.  
16 June, 1874, c.  
285, v. 18, p. 72.  
22 Feb., 1875, c.  
95, s. 7, v. 18, p. 334.

## CLERKS' FEES.

SEC. 828. For issuing and entering every process, commission, summons, capias, execution, warrant, attachment, or other writ, except a writ of venire, or a summons or subpoena for a witness, one dollar.

For issuing a writ of summons or subpoena, twenty-five cents.

For filing and entering every declaration, plea, or other paper, ten cents.

For administering an oath or affirmation, except to a juror, ten cents.

For taking an acknowledgment, twenty-five cents.

For taking and certifying depositions to file, twenty cents for each folio of one hundred words.

For a copy of such deposition furnished to a party on request, ten cents a folio.

For entering any return, rule, order, continuance, judgment, decree, or recognizance, or drawing any bond, or making any record, certificate, return, or report, for each folio, fifteen cents.

For a copy of any entry or record, or of any paper on file, for each folio, ten cents.

For making docketts and indexes, issuing venire, taxing costs, and all other services, on the trial or argument of a cause where issue is joined and testimony given, three dollars.

For making docketts and indexes, taxing costs, and all other services, in a cause where issue is joined, but no testimony is given, two dollars.

For making docketts and indexes, taxing costs, and other services, in a cause which is dismissed or discontinued, or where judgment or decree is made or rendered without issue, one dollar.

For making docketts and taxing costs, in cases removed by writ of error or appeal, one dollar.

For affixing the seal of the court to any instrument, when required, twenty cents.

For every search for any particular mortgage, judgment, or other lien, fifteen cents.

For searching the records of the court for judgments, decrees, or other instruments constituting a general lien on real estate, and certifying the result of such search, fifteen cents for each person against whom such search is required to be made.

For receiving, keeping, and paying out money, in pursuance of any statute or order of court, one per centum on the amount so received, kept, and paid.

For traveling from the office of the clerk, where he is required to reside, to the place of holding any court required by law to be held, five cents a mile for going and five cents for returning, and five dollars a day for his attendance on the court while actually in session.

All books in the offices of the clerks of the circuit and district courts, containing the docket or minute of the judgments, or decrees thereof, shall, during office hours, be open to the inspection of any person desiring to examine the same, without any fees or charge therefor.

## Clerks' fees.

26 Feb., 1853, c.  
80, s. 1, v. 10, pp.  
163, 167.  
16 June, 1874, c.  
285, v. 18, p. 72.  
22 Feb., 1875, c.  
95, v. 18, p. 333.  
22 Feb., 1875, c.  
95, s. 7, v. 18, p. 334.  
26 June, 1876, c.  
147, v. 19, p. 62.

Bottomlee v. U.  
S., 1 Story, 153;  
Pomeroy v. Harter,  
1 McLean, 448;  
Anon., Hempst.,  
450; Erwin v. Cum-  
mins, Hempst.,  
703; *Ex parte* Paris,  
3 Wood. & Min.,  
227.

## Books in clerks' offices open to inspection.

12 Aug., 1848, c.  
166, s. 1, v. 9, p. 292.

## MARSHALS' FEES.

SEC. 829. For service of any warrant, attachment, summons, capias, or other writ, except execution, venire, or a summons or subpoena for a witness, two dollars for each person on whom service is made.

For the keeping of personal property attached on mesne process, such compensation as the court, on petition setting forth the facts under oath, may allow.

## Marshals' fees.

26 Feb., 1853, c.  
80, s. 1, v. 10, p. 164.  
22 Feb., 1875, c.  
95, v. 18, p. 333.

26 June, 1876, c.  
147, v. 19, p. 62.

For serving venires and summoning every twelve men as grand or petit jurors, four dollars, or thirty-three and one-third cents each. In States where, by the laws thereof, jurors are drawn by lot, by constables, or other officers of corporate places, the marshal shall receive, for each jury, two dollars for the use of the officers employed in drawing and summoning the jurors and returning each venire, and two dollars for his own services in distributing the venires. But the fees for distributing and serving venires, drawing and summoning jurors by township officers, including the mileage chargeable by the marshal for each service, shall not at any court exceed fifty dollars.

For holding a court of inquiry or other proceedings before a jury, including the summoning of a jury, five dollars.

For serving a writ of subpoena on a witness, fifty cents; and no further compensation shall be allowed for any copy, summons, or notice for a witness.

For serving a writ of possession, partition, execution, or any final process, the same mileage as is allowed for the service of any other writ, and for making the service, seizing or levying on property, advertising and disposing of the same by sale, set off, or otherwise according to law receiving and paying over the money, the same fees and poundage as are or shall be allowed for similar services to the sheriffs of the States, respectively, in which the service is rendered.

For each bail-bond, fifty cents.

For summoning appraisers, fifty cents each.

For executing a deed prepared by a party or his attorney, one dollar.

For drawing and executing a deed, five dollars.

For copies of writs or papers furnished at the request of any party, ten cents a folio.

For every proclamation in admiralty, thirty cents.

For serving an attachment in rem or a libel in admiralty, two dollars.

For the necessary expenses of keeping boats, vessels, or other property attached or libeled in admiralty, not exceeding two dollars and fifty cents a day.

City of Washing-  
ton, 13 Blatch., 410.

When the debt or claim in admiralty is settled by the parties without a sale of the property, the marshal shall be entitled to a commission of one per centum on the first five hundred dollars of the claim or decree, and one-half of one per centum on the excess of any sum thereof over five hundred dollars: *Provided*, That, when the value of the property is less than the claim, such commission shall be allowed only on the appraised value thereof.

For sale of vessels or other property under process in admiralty, or under the order of a court of admiralty, and for receiving and paying over the money, two and one-half per centum on any sum under five hundred dollars, and one and one-quarter per centum on the excess of any sum over five hundred dollars.

For disbursing money to jurors and witnesses, and for other expenses, two per centum.

For expenses while employed in endeavoring to arrest, under process, any person charged with or convicted of a crime, the sum actually expended, not to exceed two dollars a day, in addition to his compensation for service and travel.

For every commitment or discharge of a prisoner, fifty cents.

For transporting criminals, ten cents a mile for himself and for each prisoner and necessary guard; except in the case provided for in the next paragraph.

12 May, 1864, c.  
85, s. 1, v. 13, p. 74.

For transporting criminals convicted of a crime in any district or Territory where there is no penitentiary available for the confinement of convicts of the United States, to a prison in another district or Territory designated by the Attorney-General, the reasonable actual expense of transportation of the criminals, the marshal, and the guards, and the necessary subsistence and hire.



For attending the circuit and district courts, when both are in session, or either of them when only one is in session, and for bringing in and committing prisoners and witnesses during the term, five dollars a day. 26 Feb., 1853, c. 80, s. 1, v. 10, p. 165.

For attending examinations before a commissioner, and bringing in, guarding, and returning prisoners charged with crime, and witnesses, two dollars a day; and for each deputy not exceeding two, necessarily attending, two dollars a day.

For traveling from his residence to the place of holding court, to attend a term thereof, ten cents a mile for going only.

For travel, in going only, to serve any process, warrant, attachment, or other writ, including writs of subpoena in civil or criminal cases, six cents a mile, to be computed from the place where the process is returned to the place of service, or, when more than one person is served therewith, to the place of service which is most remote, adding thereto the extra travel which is necessary to serve it on the others. But when more than two writs of any kind required to be served in behalf of the same party on the same person might be served at the same time, the marshal shall be entitled to compensation for travel on only two of such writs; and to save unnecessary expense, it shall be the duty of the clerk to insert the names of as many witnesses in a cause in such subpoena as convenience in serving the same will permit.

In all cases where mileage is allowed to the marshal he may elect to receive the same or his actual traveling expenses, to be proved on his oath, to the satisfaction of the court. [See § 1660.]

SEC. 830. There shall be paid to the marshal his fees for services rendered for the United States, for summoning jurors and witnesses in behalf of the United States, and in behalf of any prisoner to be tried for a capital offense, for the maintenance of prisoners of the United States confined in jail for any criminal offense; also, for his reasonable actual expense for the transportation of criminals, and of the marshal and guards, to prisons designated by the Attorney-General, and for hire and subsistence in that behalf, as hereinbefore provided; also, his fees for the commitment or discharge of prisoners; his expenses necessarily incurred for fuel, lights, and other contingencies that may accrue in holding the courts within this district, and providing the books necessary to record the proceedings thereof: *Provided*, That he shall not incur, or be allowed, an expense of more than twenty dollars in any one year for furniture, or fifty dollars for rent of a building and making improvements thereon without first submitting a statement and estimates to the Attorney-General and getting his instructions in the premises.

SEC. 831. No per diem or other allowance shall be made to any district attorney, clerk of a circuit court, clerk of a district court, marshal or deputy marshal, for attendance at rule-days of a circuit or district court; and when the circuit and district courts sit at the same time no greater per diem or other allowance shall be made to any such officer than for an attendance on one court.

SEC. 832. The marshal of the Supreme Court of the United States shall be entitled to receive for the service of any warrant, attachment, summons, capias, or other writ, except execution, venire, or a summons, or subpoena for a witness, one dollar for each person on whom such service may be made. His fees for all other services shall be the same as are herein allowed to other marshals; but he shall pay into the Treasury of the United States all fees received by him, and render a true account thereof at the close of each term to the Attorney-General.

SEC. 833. Every district attorney, clerk of a district court, clerk of a circuit court, and marshal, shall, on the first days of January and July, in each year, or within thirty days thereafter, make to the Attorney-General, in such form as he may prescribe, a written return for the half year ending on said days, respectively, of all the fees and emoluments of his office, of every name and character, and of all the necessary expenses of his office, including necessary clerk-hire, together with the vouchers for the payment of the same for such last half year. He shall state separately in such

What fees to be paid to marshals.

26 Feb., 1853, c. 80, s. 2, v. 10, p. 165.

12 May, 1864, c. 85, ss. 1, 3, v. 13, pp. 74, 75.

22 June, 1870, c. 150, s. 15, v. 16, p. 164.

16 June, 1874, c. 285, v. 18, p. 72.

22 Feb., 1875, c. 95, s. 7, v. 18, p. 334.

The Antelope, 12 Wh., 546.

Attendance on rule-days, and when circuit and district courts sit at same time.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 167.

Marshal of the Supreme Court of the United States.

27 June, 1864, c. 163, ss. 1, 4, v. 13, pp. 195, 196.

2 Mar., 1867, c. 156, s. 2, v. 14, p. 433.

22 June, 1870, c. 150, s. 15, v. 16, p. 164.

Semi-annual returns of fees by district attorneys, marshals, and clerks.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 165.

22 June, 1870, c. 150, s. 15, v. 16, p. 164.

returns the fees and emoluments received or payable under the bankrupt act; and every marshal shall state separately therein the fees and emoluments received or payable for services rendered by himself personally, those received or payable for services rendered by each of his deputies, naming him, and the proportion of such fees and emoluments which, by the terms of his service, each deputy is to receive. Said returns shall be verified by the oath of the officer making them. [See §§ 3085, 4644, 4647.]

What to be included in the semi-annual returns of district attorneys and marshals.

3 Mar., 1863, c. 76, ss. 11, 12, v. 12, p. 741.

27 June, 1864, c. 163, s. 2, v. 13, p. 196.

Compensation of district attorney.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 166.

3 Mar., 1863, c. 76, s. 11, v. 12, p. 741.

27 June, 1864, c. 163, s. 2, v. 13, p. 196.

30 June, 1864, c.

Sum to be paid to district attorney of southern district of New York for office expenses.

6 Aug., 1861, c. 55, s. 1, v. 12, p. 317.

22 June, 1870, c. 150, s. 15, v. 16, p.

District attorney and marshal in Oregon and Nevada.

27 Feb., 1865, c. 64, s. 6, v. 13, p. 440.

Prosecution of frauds on the revenue.

3 Mar., 1873, c. 244, v. 17, p. 581.

27 Feb., 1877, c. 69, v. 19, p. 241.

Compensation retained by a clerk.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 166.

22 June, 1870, c. 150, s. 15, v. 16, p. 174.

SEC. 834. The preceding section shall not apply to the fees and compensation allowed to district attorneys by sections eight hundred and twenty-five and eight hundred and twenty-seven. All other fees, charges, and emoluments to which a district attorney or a marshal may be entitled, by reason of the discharge of the duties of his office, as now or hereafter prescribed by law, or in any case in which the United States will be bound by the judgment rendered therein, whether prescribed by statute or allowed by a court, or any judge thereof, shall be included in the semi-annual return required of said officers by the preceding section.

SEC. 835. No district attorney shall be allowed by the Attorney-General to retain of the fees and emoluments of his office which he is required to include in his semi-annual return, for his personal compensation, over and above the necessary expenses of his office, including necessary clerk-hire, to be audited and allowed by the proper accounting officers of the Treasury Department, a sum exceeding six thousand dollars a year, or exceeding that rate for any time less than a year.

174, s. 19, v. 13, p. 312. 22 June, 1870, c. 150, s. 15, v. 16, p. 164.

SEC. 836. There shall be paid to the district attorney for the southern district of New York, in addition to his salary, at the rate of six thousand dollars a year, such sum as shall be necessary, together with the costs and fees allowed him by law, to pay such amount as may be fixed by the Attorney-General for the proper expenses of his office. But nothing in this or the preceding section shall forbid the allowance of additional compensation for services in prize causes, as provided in Title "PRIZE."

164. 30 June, 1864, c. 174, s. 19, v. 13, p. 312.

SEC. 837. The district attorneys and marshals for the districts of Oregon and Nevada shall be entitled to receive, for the like services, double the fees hereinbefore provided; but neither of them shall be allowed to retain of such fees any sum exceeding the aggregate compensation of such officer as hereinbefore provided.

SEC. 838. It shall be [the] duty of every district attorney to whom any collector of customs, or of internal revenue, shall report, according to law, any case in which any fine, penalty, or forfeiture has been incurred in the district of such attorney for the violation of any law of the United States relating to the revenue, to cause the proper proceedings to be commenced and prosecuted without delay, for the fines, penalties, and forfeitures in such case provided, unless, upon inquiry and examination, he shall decide that such proceedings cannot probably be sustained, or that the ends of public justice do not require that such proceedings should be instituted; in which case he shall report the facts in customs cases to the Secretary of the Treasury, and in internal-revenue cases to the Commissioner of Internal Revenue for their direction. And for the expenses incurred and services rendered in all such cases, the district attorney shall receive and be paid from the Treasury such sum as the Secretary of the Treasury shall deem just and reasonable, upon the certificate of the judge before whom such cases are tried or disposed of: *Provided*, That the annual compensation of such district attorney shall not exceed the maximum amount prescribed by law, by reason of such allowance and payment.

SEC. 839. No clerk of a district court, or clerk of a circuit court, shall be allowed by the Attorney-General, except as provided in the next section, and in section eight hundred and forty-two to retain of the fees and emoluments of his office, or, in case both of the said clerkships are held by the same person, of the fees and emoluments of the said offices,

respectively, for his personal compensation, over and above his necessary office expenses, including necessary clerk-hire, to be audited and allowed by the proper accounting officers of the Treasury, a sum exceeding three thousand five hundred dollars a year for any such district clerk or for any such circuit clerk, or exceeding that rate for any time less than a year.

SEC. 840. The clerks of the several circuit and district courts in California, Oregon, and Nevada shall be entitled to charge and receive double the fees hereinbefore allowed to clerks, and shall be allowed, respectively, by the Attorney-General, to retain of the fees so received by them, for their personal compensation, over and above the necessary expenses of their offices, including the salaries of deputy clerks, and necessary clerk-hire, to be audited by the proper accounting officers of the Treasury Department, any sum not exceeding seven thousand dollars a year, nor exceeding that rate for any time less than a year: *Provided*, That whenever, in either of the said districts, the same person holds the office of clerk of both the circuit and district courts, he shall be allowed by the Attorney-General to retain for his personal compensation, as aforesaid, only such sum as is herein allowed to be retained by a person holding the office of clerk of only one of the said courts.

SEC. 841. No marshal shall be allowed by the Attorney-General, except as provided in the next section, to retain of the fees and emoluments which he is required to include in his semi-annual return, as aforesaid, for his personal compensation, over and above the necessary expenses of his office, including necessary clerk-hire, to be audited and allowed by the proper accounting officers of the Treasury Department, and a proper allowance to his deputies, any sum exceeding six thousand dollars a year, or exceeding that rate for any time less than a year. The allowance to any deputy shall in no case exceed three-fourths of the fees and emoluments received or payable for the services rendered by him, and may be reduced below that rate by the Attorney-General, whenever the returns show such rate to be unreasonable.

SEC. 842. Clerks and marshals may be allowed to retain, for all official services in prize causes, an additional compensation not exceeding in amount one-half of the maximum compensation allowed to them, respectively, by the three preceding sections.

SEC. 843. The allowances for personal compensation of district attorneys, clerks, and marshals, for each calendar year, shall be made from the fees and emoluments of that year, and not otherwise.

SEC. 844. Every district attorney, clerk, and marshal shall, at the time of making his half-yearly return to the Attorney-General, pay into the Treasury, or deposit to the credit of the Treasurer, as he may be directed by the Attorney-General, any surplus of the fees and emoluments of his office, which said return shows to exist over and above the compensation and allowances authorized by law to be retained by him.

SEC. 845. In every case where the return of a district attorney, clerk, or marshal shows that a surplus may exist, the Attorney-General shall cause such returns to be carefully examined, and the accounts of disbursements to be regularly audited by the proper officer of his Department, and an account to be opened with such officer in proper books to be provided for that purpose.

SEC. 846. The accounts of district attorneys, clerks, marshals, and commissioners of circuit courts shall be examined and certified by the district judge of the district for which they are appointed, before they are presented to the accounting officers of the Treasury Department for settlement. They shall then be subject to revision upon their merits by said accounting officers, as in case of other public accounts: *Provided*, That no accounts of fees or costs paid to any witness or juror, upon the order of any judge or commissioner, shall be so re-examined as to charge

U. S. v. Bassett, 2 Story, 389.

Clerks in California, Oregon, and Nevada.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 163.  
19 Feb., 1864, c. 11, s. 6, v. 13, p. 5.  
27 Feb., 1865, c. 64, s. 7, v. 13, p. 440.  
22 June, 1870, c. 150, s. 15, v. 16, p. 164.  
8 June, 1872, c. 336, v. 17, p. 330.

Compensation of marshal.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 166.  
2 Mar., 1861, c. 84, s. 1, v. 12, p. 219.  
27 June, 1864, c. 163, s. 2, v. 13, p. 196.  
22 June, 1870, c. 150, s. 15, v. 16, p. 164.

Additional compensation in prize causes.

30 June, 1864, c. 174, s. 19, v. 13, p. 312.  
Allowances for each year made from the fees thereof.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 166. 20 June, 1874, c. 328, v. 18, p. 109.

Payment of surplus fees into the Treasury.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 166.  
22 June, 1870, c. 150, s. 15, v. 16, p. 164.

Auditing of accounts of district attorney, &c., in Department of Justice.

26 Feb., 1853, c. 80, s. 3, v. 10, pp. 15, v. 16, p. 164.

Accounts of district attorneys, &c., to be certified to by district judge.

16 Aug. 1856, c. 124, ss. 1, 2, v. 11, p. 49.  
18 Feb., 1875, c. 80, v. 18, p. 318.

any marshal for an erroneous taxation of such fees or costs. [That where the ministerial officers of the United States have or shall incur extraordinary expense in executing the laws thereof, the payment of which is not specifically provided for, the President of the United States is authorized to allow the payment thereof under the special taxation of the district or circuit court of the district in which the said services have been or shall be rendered, to be paid from the appropriation for defraying the expenses of the judiciary.]

## COMMISSIONERS' FEES.

Commissioners' fees.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 167.

SEC. 847. For administering an oath, ten cents.

For taking an acknowledgment, twenty-five cents.

For hearing and deciding on criminal charges, five dollars a day for the time necessarily employed.

For attending to a reference in a litigated matter, in a civil cause at law, in equity, or in admiralty, in pursuance of an order of the court, three dollars a day.

For taking and certifying depositions to file, twenty cents for each folio.

For each copy of the same furnished to a party on request, ten cents for each folio.

For issuing any warrant or writ, and for any other service, the same compensation as is allowed to clerks for like services.

For issuing any warrant under the tenth article of the treaty of August nine, one thousand eight hundred and forty-two, between the United States and the Queen of the United Kingdom of Great Britain and Ireland, against any person charged with any crime or offense set forth in said article, two dollars.

For issuing any warrant under the provision of the convention for the surrender of criminals, between the United States and the King of the French, concluded at Washington November nine, one thousand eight hundred and forty-three, two dollars.

For hearing and deciding upon the case of any person charged with any crime or offense, and arrested under the provisions of said treaty, or of said convention, five dollars a day for the time necessarily employed.

1 June, 1872, c. 255, s. 16, v. 17, p. 199.

For the examination and certificate in cases of applications for discharge of poor convicts imprisoned for non-payment of a fine or fine and costs, five dollars a day for the time necessarily employed. [See § 1042.]

## WITNESSES' FEES.

Witnesses' fees.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 167.  
1 May, 1876, c. 88, v. 19, p. 41.

Dennis v. Eddy, 12 Blatch., 195.

SEC. 848. For each day's attendance in court, or before any officer pursuant to law, one dollar and fifty cents, and five cents a mile for going from his place of residence to the place of trial or hearing, and five cents a mile for returning. When a witness is subpoenaed in more than one cause between the same parties, at the same court, only one travel fee and one per diem compensation shall be allowed for attendance. Both shall be taxed in the case first disposed of, after which the per diem attendance fee alone shall be taxed in the other cases in the order in which they are disposed of.

When a witness is detained in prison for want of security for his appearance, he shall be entitled, in addition to his subsistence, to a compensation of one dollar a day. [See §§ 879, 881.]

No officer of court to have witness fees.

SEC. 849. No officer of the United States courts, in any State or Territory, or in the District of Columbia, shall be entitled to witness fees for attending before any court or commissioner where he is officiating.

16 Aug. 1856, c.

Expenses of clerks, &c., of United States sent away as witnesses, paid.

124, s. 8, v. 11, p. 50. 21 July, 1852, c. 66, s. 1, v. 10, p. 16, (22.)

SEC. 850. When any clerk or other officer of the United States is sent away from his place of business as a witness for the Government, his necessary expenses, stated in items and sworn to, in going, returning, and attendance on the court, shall be audited and paid; but no mileage,

or other compensation in addition to his salary, shall in any case be allowed.

26 Feb., 1853, c. 80, s. 3, v. 10, pp. 167, 168.

SEC. 851. There shall be paid to each seaman or other person who is sent to the United States from any foreign port, station, sea, or ocean, by any United States minister, chargé d'affaires, consul, captain, or commander, to give testimony in any criminal case depending in any court of the United States, such compensation, exclusive of subsistence and transportation, as such court may adjudge to be proper, not exceeding one dollar for each day necessarily employed in such voyage, and in arriving at the place of examination or trial. In fixing such compensation, the court shall take into consideration the condition of said seaman or witness, and whether his voyage has been broken up, to his injury, by his being sent to the United States.

Seamen sent home as witnesses.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 168.

When such seaman or person is transported in an armed vessel of the United States no charge for subsistence or transportation shall be allowed. When he is transported in any other vessel, the compensation for his transportation and subsistence, not exceeding in any case fifty cents a day, may be fixed by the court, and shall be paid to the captain of said vessel accordingly.

#### JURORS' FEES.

SEC. 852. For actual attendance at any court or courts, and for the time necessarily occupied in going to and returning from the same, three dollars a day during such attendance.

Fees of grand and petit jurors.

15 July, 1870, c. 298, s. 1, v. 16, p. 363.

For the distance necessarily traveled from their residence in going to and returning from said court by the shortest practicable route, five cents a mile.

Edwards v. Bond, 5 McLean, 300.

#### PRINTERS' FEES.

SEC. 853. For publishing any notice, or order, required by law, or the lawful order of any court, Department, Bureau, or other person, in any newspaper, except as mentioned in sections thirty-eight hundred and twenty-three, thirty-eight hundred and twenty-four, and thirty-eight hundred and twenty-five, Title, "PUBLIC PRINTING, ADVERTISEMENTS, AND PUBLIC DOCUMENTS," forty cents per folio for the first insertion, and twenty cents per folio for each subsequent insertion. The compensation herein provided shall include the furnishing of lawful evidence, under oath, of publication, to be made and furnished by the printer or publisher making such publication.

Printers' fees.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 168.

SEC. 854. The term folio, in this chapter, shall mean one hundred words, counting each figure as a word. When there are over fifty and under one hundred words, they shall be counted as one folio; but a less number than fifty words shall not be counted, except when the whole statute, notice, or order contains less than fifty words.

Meaning of folio.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 168.

#### FEES: HOW PAID AND RECOVERED.

SEC. 855. In cases where the United States are parties, the marshal shall, on the order of the court, to be entered on its minutes, pay to the jurors and witnesses all fees to which they appear by such order to be entitled, which sum shall be allowed him at the Treasury in his accounts.

Jurors and witnesses, when paid by marshal.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 168.

SEC. 856. The fees of district attorneys, clerks, marshals, and commissioners, in cases where the United States are liable to pay the same, shall be paid on settling their accounts at the Treasury.

Fees of district attorneys, marshals, &c., how paid.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 168.

SEC. 857. The fees and compensations of the officers and persons hereinbefore mentioned, except those which are directed to be paid out of the Treasury, shall be recovered in like manner as the fees of the officers of the States respectively for like services are recovered.

Fees, how recovered.

8 May, 1792, c. 36, s. 6, v. 1, p. 278.

## CHAPTER SEVENTEEN.

## EVIDENCE.

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| <p>Sec.<br/>858. No witness excluded on account of color or interest, provided, &amp;c.<br/>859. Testimony of witnesses before Congress not admissible against them in criminal prosecutions.<br/>860. Pleadings, disclosures, &amp;c., not to be used in criminal proceedings.<br/>861. Mode of proof in common-law actions.<br/>862. Mode of proof in equity and admiralty causes.<br/>863. Depositions <i>de bene esse</i>.<br/>864. Mode of taking depositions <i>de bene esse</i>.<br/>865. Transmission to the court of depositions <i>de bene esse</i>.<br/>866. Depositions under a <i>dedimus potestatem</i> and in <i>perpetuam</i>, &amp;c.<br/>867. Depositions in <i>perpetuam</i>, &amp;c., admissible at discretion of the court.<br/>868. Depositions under a <i>dedimus potestatem</i>, how taken.<br/>869. <i>Subpœna duces tecum</i> under a <i>dedimus potestatem</i>.<br/>870. Witness under a <i>dedimus potestatem</i>, when required to attend.<br/>871. Depositions in District of Columbia in suits pending elsewhere.<br/>872. Same subject; when no commission nor notice.<br/>873. Same subject; manner of taking and transmitting the deposition.<br/>874. Same subject; witness-fees.<br/>875. Letters rogatory from United States courts.<br/>876. Subpœnas for witnesses to run into another district.<br/>877. Witnesses, form of subpœna; attendance under.<br/>878. Witnesses in behalf of indigent defendants in criminal cases.<br/>879. Recognizance of witnesses at the hearing of charges in criminal cases.<br/>880. Vermont, recognizance of witnesses, how taken.<br/>881. Recognizance of witnesses required at any time on application of district attorney.<br/>882. Copies of Department records and papers.<br/>883. Copies of records, &amp;c., in office of the Solicitor of the Treasury.<br/>884. Instruments and papers of Comptroller of the Currency.</p> | <p>Sec.<br/>885. Organization certificates of national banks.<br/>886. Transcripts from books, &amp;c., of the Treasury in suits against delinquents.<br/>887. Transcripts from books of the Treasury in indictments for embezzlement of public moneys.<br/>888. Copies of returns in return-office.<br/>889. Copies of post-office records and of Auditor's statement of account.<br/>890. Copies of statements of demands by Post-Office Department.<br/>891. Copies of records, &amp;c., of General Land-Office.<br/>892. Copies of records, &amp;c., of Patent-Office.<br/>893. Copies of foreign letters-patent.<br/>894. Printed copies of specifications and drawings of patents.<br/>895. Extracts from the Journals of Congress.<br/>896. Copies of records, &amp;c., in offices of United States consuls, &amp;c.<br/>897. Certain books and papers in offices of district and circuit courts in Texas, Florida, Wisconsin, Minnesota, Iowa, and Kansas.<br/>898. Transcribed records in the clerk's offices of western district of North Carolina.<br/>899. When original records are lost or destroyed.<br/>900. Same subject.<br/>901. Same subject.<br/>902. Records of northern district of Illinois destroyed by fire.<br/>903. Same subject.<br/>904. Same subject.<br/>905. Authentication of legislative acts and proof of judicial proceedings of States, &amp;c.<br/>906. Proof of records, &amp;c., kept in offices not pertaining to courts.<br/>907. Copies of foreign records, &amp;c., relating to land-titles in the United States.<br/>908. Little &amp; Brown's edition of the statutes to be evidence.<br/>909. Burden of proof, when it lies on claimant in seizure cases.<br/>910. Possessory actions for recovery of mining-titles.</p> |
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No witness excluded on account of color or interest; provided, &c.

2 July, 1864, c. 210, s. 3, v. 13, p. 351.

3 Mar., 1865, c. 113, v. 13, p. 533.

16 July, 1862, c. 189, s. 1, v. 12, p. 588.

U. S. v. Murphy,

16 Pet., 203; Smyth v. Strader, 4 How., 420; U. S. v. Reed, 12 How., 361; Wright v. Bales, 2 Bl., 535; Green v. U. S., 9 Wall., 655; Lucas v. Brooks, 18 Wall., 436; Cornett v. Williams, 20 Wall., 226; Packet Company v. Clough, 20 Wall., 528; Texas v. Chiles, 21 Wall., 488; Railroad Company v. Pollard, 22 Wall., 341; Johnson v. Owens, 2 Dill., 475; Elava v. Mazange's Administrator, 1 Woods, 623. 22 June, 1874, c. 390, s. 8, v. 18, p. 180.

SEC. 858. In the courts of the United States no witness shall be excluded in any action on account of color, or in any civil action because he is a party to or interested in the issue tried: *Provided*, That in actions by or against executors, administrators, or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other, as to any transaction with, or statement by, the testator, intestate, or ward, unless called to testify thereto by the opposite party, or required to testify thereto by the court. In all other respects, the laws of the State in which the court is held shall be the rules of decision as to the competency of witnesses in the courts of the United States in trials at common law, and in equity and admiralty. [See § 1977.]

SEC. 859. No testimony given by a witness before either House, or before any committee of either House of Congress; shall be used as evidence in any criminal proceeding against him in any court, except in a prosecution for perjury committed in giving such testimony. But an official paper or record produced by him is not within the said privilege. [See § 103.]

24 Jan., 1862, c. 11, v. 12, p. 333. 24 Jan., 1857, c. 19, s. 2, v. 11, p. 156.

SEC. 860. No pleading of a party, nor any discovery or evidence obtained from a party or witness by means of a judicial proceeding in this or any foreign country, shall be given in evidence, or in any manner used against him or his property or estate, in any court of the United States, in any criminal proceeding, or for the enforcement of any penalty or forfeiture: *Provided*, That this section shall not exempt any party or witness from prosecution and punishment for perjury committed in discovering or testifying as aforesaid.

Testimony of witnesses before Congress not admissible against them in criminal prosecutions.

Pleadings, disclosures, &c., not to be used in criminal proceedings.

25 Feb., 1868, c. 13, s. 1, v. 15, p. 37.

U. S. v. Hughes, 12 Blatch., 553; U. S. v. Three Tons Distillery, 6 Biss., 483.

SEC. 861. The mode of proof in the trial of actions at common law shall be by oral testimony and examination of witnesses in open court, except as hereinafter provided.

Mode of proof in common-law actions.

24 Sept., 1789, c. 20, s. 30, v. 1, p. 88. 20 Feb., 1812, c. 25, s. 3, v. 2, p. 682. 24 Jan., 1827, c. 4, ss. 1, 2, v. 4, pp. 197, 199.

SEC. 862. The mode of proof in causes of equity and of admiralty and maritime jurisdiction shall be according to rules now or hereafter prescribed by the Supreme Court, except as herein specially provided.

Mode of proof in equity and admiralty causes.

23 Aug., 1842, c. 188, s. 6, v. 5, p. 518.—*Blease v. Garlington*, 92 U. S., 1.

SEC. 863. The testimony of any witness may be taken in any civil cause depending in a district or circuit court by deposition *de bene esse*, when the witness lives at a greater distance from the place of trial than one hundred miles, or is bound on a voyage to sea, or is about to go out of the United States, or out of the district in which the case is to be tried, and to a greater distance than one hundred miles from the place of trial, before the time of trial, or when he is ancient and infirm. The deposition may be taken before any judge of any court of the United States, or any commissioner of a circuit court, or any clerk of a district or circuit court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the cause. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition, to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition; and in all cases in rem, the person having the agency or possession of the property at the time of seizure shall be deemed the adverse party, until a claim shall have been put in; and whenever, by reason of the absence from the district and want of an attorney of record or other reason, the giving of the notice herein required shall be impracticable, it shall be lawful to take such depositions as there shall be urgent necessity for taking, upon such notice as any judge authorized to hold courts in such circuit or district shall think reasonable and direct. Any person may be compelled to appear and depose as provided by this section, in the same manner as witnesses may be compelled to appear and testify in court.

Depositions *de bene esse*.

24 Sept., 1789, c. 20, s. 30, v. 1, p. 88. 1 Mar., 1817, c. 30, v. 3, p. 350. 26 Feb., 1853, c. 80, s. 1, v. 10, p. 163. 29 July, 1854, c. 159, s. 2, v. 10, p. 315. 9 May, 1872, c. 146, v. 17, p. 89.

The Samuel, 1 Wh., 16; The Argo, 2 Wh., 287; The London Packet, 2 Wh., 371; Mechanics' Bank v. Seaton, 1 Pet., 299; Bell v. Morrison, 1 Pet., 355; Patapsco Ins. Co. v. Southgate, 5 Pet., 616; Dick v. Runnels, 5 How., 7; Harris v. Wall, 7 How., 693; Fowler v. Merrill, 11 How., 375; Walsh v. Rogers, 13 How., 283; Hoyt v. Hammeikin, 14 How., 350; Nelson v. Woodruff, 1 Bl.,

156; The Ottawa, 3 Wall., 271; Tappan v. Beardsley, 10 Wall., 427; Shutte v. Thompson, 15 Wall., 151; Tooker v. Thompson, 3 McLean, 92; Buckingham v. Burgess, 3 McLean, 368; Moore v. Nelson, 3 McLean, 384; Vose v. Lawrence, 4 McLean, 203; Bell v. Nimmon, 4 McLean, 539; Price v. Morris, 5 McLean, 4; Goodhue v. Bartlett, 5 McLean, 186; Wilkinson v. Yale, 6 McLean, 18; Curtis v. Central Railway, 6 McLean, 401; Prouty et al. v. Draper et al., 2 Story, 199; Carrington v. Stinson, 1 Curt., 437; Evans v. Hettick, 3 Wash. C. C., 409; Pettibone v. Derringer, 4 Wash. C. C., 215; Merrill v. Dawson, Hemp., 563; Dade v. Young, 1 Cr. C. C., 123; Banks v. Miller, 1 Cr. C. C., 543; Wheaton v. Love, 1 Cr. C. C., 451; Vasse v. Smith, 2 Cr. C. C., 31; Peyton v. Veitch, 2 Cr. C. C., 123; Miller v. Young, 2 Cr. C. C., 53; Garrett v. Woodward, 2 Cr. C. C., 190; Thorpe v. Sim-

mons, 2 Cr. C. C., 195; Centre v. Keene, 2 Cr. C. C., 198; Woodward v. Hall, 2 Cr. C. C., 235; Edmonson v. Barrell, 2 Cr. C. C., 228; Van Ness v. Heineke, 2 Cr. C. C., 259; Bussard v. Catalino, 2 Cr. C. C., 421; Luther v. The Merritt Hunt, Newb., 4; Allen v. Blunt, 2 W. & M., 122; Whitney v. Hunt, 5 Cr. C. C., 120; Paul v. Lowry, 2 Cr. C. C., 628; Dinsmore v. Maroney, 4 Bl. C. C., 416; *Ex parte* Humphrey, 2 Bl. C. C., 228; Brown v. Piatt, 2 Cr. C. C., 253; The Argo, 2 Gallis., 314; Debutts v. McCulloch, 1 Cr. C. C., 286; Barrell v. Limington, 4 Cr. C. C., 70; *In re* Judson, 3 Bl. C. C., 148; *Ex parte* Peck, 3 Bl. C. C., 113; Rainer v. Haynes, Hemp., 689; Cahoon v. Ring, 1 Cliff., 592; Banert's Lessee v. Day, 3 Wash. C. C., 243; Russel v. Ashley, Hemp., 546; Ruggles v. Bucknor, 1 Paine C. C., 358; U. S. v. 1 Case Hair Pencils, 1 Paine C. C., 400; The Thomas and Henry, 1 Brock., 367.

Mode of taking depositions *de bene esse*.

24 Sept., 1789, c. 20, s. 30, v. 1, p. 88.  
9 May, 1872, c. 146, v. 17, p. 89.

Bell v. Morrison, 1 Pet., 351; Patapasco Ins. Co. v. Southgate, 5 Pet., 604; Cook v. Burnley, 11 Wall., 659; Shutte v. Thompson, 15 Wall., 151; Doe dem. Moore v. Nelson et al., 3 McLean, 383; Jones v. Knowles, 1 Cr. C. C., 523; Marstin v. McRae, Hemp., 688; Rainer v. Haynes, Hemp., 689; Thorpe & Burton v. Simmons, 2 Cr., 195; Centre v. Keene, 2 Cr. C. C., 198; Bussard v. Catalino, 2 Cr. C. C., 421.

Transmission to the court of depositions *de bene esse*.

24 Sept., 1789, c. 20, s. 30, v. 1, p. 88.

Beale v. Thompson, 8 Cr., 70; Evans v. Hettich, 7 Wh., 453; Stein v. Bowman, 13 Pet., 209; Harris v. Wall., 7 How., 693; Jones v. Neale, Mart., (N. C.), 81; Shankwiker v. Reading, 4 McLean, 240; Thorp v. Orr, 2 Cr. C. C., 335.

Depositions under a *dedimus potestatem* and in *perpetuam*, &c.

24 Sept., 1789, c. 20, s. 30, v. 1, p. 88.  
9 May, 1872, c. 146, v. 17, p. 89.

Guppy v. Brown, 4 Dall., 410; Buddecum v. Kirk, 3 Cr., 293; Sergeant v. Biddle, 4 Wh., 508; Evans v. Hettich, 7 Wh., 453; Gilpins v. Consequa, Pet. C. C., 85; Nelson v. U. S., Pet. C. C., 235; Willings v. Consequa, Pet. C. C., 301; Winthrop v. Insurance Company, 2 Wash. C. C., 7; Richardson v. Golden, 3 Wash. C. C., 109; Bell v. Davidson, 3 Wash. C. C., 332; Lonsdale v. Brown, 3 Wash. C. C., 404; Dodge v. Israel, 4 Wash. C. C., 323; The Schooner Ruby, 5 Mas., 451; Cunningham v. Otis, 1 Gall., 160; Leroy v. Delaware Ins. Co., 2 Wash. C. C., 223; U. S. v. Price's Administrator, 2 Wash. C. C., 356; Bauderau v. Montgomery, 4 Wash. C. C., 186; Peters v. Prevost, 1 Paine, 65.

Depositions in *perpetuam*, &c., admissible at discretion of the court.

20 Feb., 1812, c. 25, s. 3, v. 2, p. 682.—Gould v. Gould, 3 Story, 516.  
Deposition under a *dedimus potestatem*, how taken.

24 Jan., 1827, c. 4, s. 1, v. 4, p. 197.

York Co. v. Central R. R., 3 Wall., 13.

SEC. 864. Every person deposing as provided in the preceding section, shall be cautioned and sworn to testify the whole truth, and carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or by himself in the magistrate's presence, and by no other person, and shall, after it has been reduced to writing, be subscribed by the deponent.

SEC. 865. Every deposition taken under the two preceding sections shall be retained by the magistrate taking it, until he delivers it with his own hand into the court for which it is taken; or it shall, together with a certificate of the reasons as aforesaid of taking it and of the notice, if any, given to the adverse party, be by him sealed up and directed to such court, and remain under his seal until opened in court. But unless it appears to the satisfaction of the court that the witness is then dead, or gone out of the United States, or to a greater distance than one hundred miles from the place where the court is sitting, or that, by reason of age, sickness, bodily infirmity, or imprisonment, he is unable to travel and appear at court, such deposition shall not be used in the cause.

SEC. 866. In any case where it is necessary, in order to prevent a failure or delay of justice, any of the courts of the United States may grant a *dedimus potestatem* to take depositions according to common usage; and any circuit court, upon application to it as a court of equity, may, according to the usages of chancery, direct depositions to be taken in *perpetuam rei memoriam*, if they relate to any matters that may be cognizable in any court of the United States. And the provisions of sections eight hundred and sixty-three, eight hundred and sixty-four, and eight hundred and sixty-five, shall not apply to any deposition to be taken under the authority of this section.

SEC. 867. Any court of the United States may, in its discretion, admit in evidence in any cause before it any deposition taken in *perpetuam rei memoriam*, which would be so admissible in a court of the State wherein such cause is pending, according to the laws thereof.

SEC. 868. When a commission is issued by any court of the United States for taking the testimony of a witness named therein at any place within any district or Territory, the clerk of any court of the United States for such district or Territory shall, on the application of either party to the suit, or of his agent, issue a subpoena for such witness, commanding him to appear and testify before the commissioner named in the commission, at a time and place stated in the subpoena; and if any



witness, after being duly served with such subpoena, refuses or neglects to appear, or, after appearing, refuses to testify, not being privileged from giving testimony, and such refusal or neglect is proven to the satisfaction of any judge of the court whose clerk issues such subpoena, such judge may proceed to enforce obedience to the process, or punish the disobedience, as any court of the United States may proceed in case of disobedience to process of subpoena to testify issued by such court.

SEC. 869. When either party in such suit applies to any judge of a United States court in such district or Territory for a subpoena commanding the witness, therein to be named, to appear and testify before said commissioner, at the time and place to be stated in the subpoena, and to bring with him and produce to such commissioner any paper or writing or written instrument or book or other document, supposed to be in the possession or power of such witness, and to be described in the subpoena, such judge, on being satisfied by the affidavit of the person applying, or otherwise, that there is reason to believe that such paper, writing, written instrument, book, or other document is in the possession or power of the witness, and that the same, if produced, would be competent and material evidence for the party applying therefor, may order the clerk of said court to issue such subpoena accordingly. And if the witness, after being served with such subpoena, fails to produce to the commissioner, at the time and place stated in the subpoena, any such paper, writing, written instrument, book, or other document, being in his possession or power, and described in the subpoena, and such failure is proved to the satisfaction of said judge, he may proceed to enforce obedience to said process of subpoena, or punish the disobedience in like manner as any court of the United States may proceed in case of disobedience to like process issued by such court. When any such paper, writing, written instrument, book, or other document is produced to such commissioner, he shall, at the cost of the party requiring the same, cause to be made a correct copy thereof, or of so much thereof as shall be required by either of the parties.

SEC. 870. No witness shall be required, under the provisions of either of the two preceding sections, to attend at any place out of the county where he resides, nor more than forty miles from the place of his residence, to give his deposition; nor shall any witness be deemed guilty of contempt for disobeying any subpoena directed to him by virtue of either of the said sections, unless his fee for going to, returning from, and one day's attendance at, the place of examination, are paid or tendered to him at the time of the service of the subpoena.

SEC. 871. When a commission to take the testimony of any witness found within the District of Columbia, to be used in a suit depending in any State or territorial or foreign court, is issued from such court, or a notice to the same effect is given according to its rules of practice, and such commission or notice is produced to a justice of the supreme court of said District, and due proof is made to him that the testimony of such witness is material to the party desiring the same, the said justice shall issue a summons to the witness, requiring him to appear before the commissioners named in the commission or notice, to testify in such suit, at a time and at a place within said District therein specified.

SEC. 872. When it satisfactorily appears by affidavit to any justice of the supreme court of the District of Columbia, or to any commissioner for taking depositions appointed by said court—

First. That any person within said District is a material witness for either party in a suit pending in any State or territorial or foreign court;

Second. That no commission nor notice to take the testimony of such witness has been issued or given; and

Third. That, according to the practice of the court in which the suit is pending, the deposition of a witness taken without the presence and consent of both parties will be received on the trial or hearing thereof, such officer shall issue his summons, requiring the witness to appear before him at a place within the District, at some reasonable time, to be stated therein, to testify in such suit.

Subpoena *duces tecum* under a *dedimus potestatem*.

24 Jan., 1827, c. 4, s. 2, v. 4, p. 199.

1 Burr's Trial, 183.

Witness under a *dedimus potestatem*, when required to attend.

24 Jan., 1827, c. 4, ss. 1, 2, v. 4, pp. 197, 199.

Depositions in District of Columbia in suits pending elsewhere.

3 Mar., 1869, c. 128, s. 1, v. 15, p. 324.

Same subject; when no commission nor notice.

3 Mar., 1869, c. 128, s. 2, v. 15, p. 325.

Same subject; manner of taking and transmitting the deposition.

3 Mar., 1869, c. 128, s. 3, v. 15, p. 325.

Same subject; witness-fees.

3 Mar., 1869, c. 128, s. 4, v. 15, p. 325.

Letters rogatory from United States courts.

3 Mar., 1863, c. 95, s. 4, v. 12, p. 770.  
27 Feb., 1877, c. 69, v. 19, p. 241.

Nelson v. U. S., Pet. C. C., 235.

Subpoenas for witnesses to run into another district.

2 Mar., 1793, c. 22, s. 6, v. 1, p. 335.—Patapsco Ins.

Witnesses, form of subpoena; attendance under.

6 Feb., 1853, c. 80, s. 3, v. 10, p. 169.

Witnesses in behalf of indigent defendants in criminal cases.

8 Aug., 1846, c. 98, s. 11, v. 9, p. 74.

Recognizance of witnesses at the hearing of charges in criminal cases.

24 Sept., 1789, c. 20, s. 33, v. 1, p. 91.

SEC. 873. Testimony obtained under the two preceding sections shall be taken down in writing by the officer before whom the witness appears, and shall be certified and transmitted by him to the court in which the suit is pending, in such manner as the practice of that court may require. If any person refuses or neglects to appear at the time and place mentioned in the summons, or, on his appearance, refuses to testify, he shall be liable to the same penalties as would be incurred for a like offense on the trial of a suit.

SEC. 874. Every witness appearing and testifying under the said provisions relating to the District of Columbia shall be entitled to receive for each day's attendance, from the party at whose instance he is summoned, the fees now provided by law for each day he shall give attendance.

SEC. 875. When any commission or letter rogatory, issued to take the testimony of any witness in a foreign country, in any suit in which the United States are parties or have an interest, is executed by the court or the commissioner to whom it is directed, it shall be returned by such court or commissioner to the minister or consul of the United States nearest the place where it is executed. On receiving the same, the said minister or consul shall indorse thereon a certificate, stating when and where the same was received, and that the said deposition is in the same condition as when he received it; and he shall thereupon transmit the said letter or commission, so executed and certified, by mail, to the clerk of the court from which the same issued, in the manner in which his official dispatches are transmitted to the Government. And the testimony of witnesses so taken and returned shall be read as evidence on the trial of the suit in which it was taken, without objection as to the method of returning the same. [When letters rogatory are addressed from any court of a foreign country to any circuit court of the United States, a commissioner of such circuit court designated by said court to make the examination of the witnesses mentioned in said letters, shall have power to compel the witnesses to appear and depose in the same manner as witnesses may be compelled to appear and testify in courts.] [See §§ 4071-4074.]

SEC. 876. Subpoenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district: *Provided*, That in civil causes the witnesses living out of the district in which the court is held do not live at a greater distance than one hundred miles from the place of holding the same.

*Co. v. Southgate*, 5 Pet., 616; *Russell v. Ashley*, Hempst., 546.

SEC. 877. Witnesses who are required to attend any term of a circuit or district court on the part of the United States, shall be subpoenaed to attend to testify generally on their behalf, and not to depart the court without leave thereof, or of the district attorney; and under such process they shall appear before the grand or petit jury, or both, as they may be required by the court or district attorney.

SEC. 878. Whenever any person indicted in a court of the United States makes affidavit, setting forth that there are witnesses whose evidence is material to his defense; that he cannot safely go to trial without them; what he expects to prove by each of them; that they are within the district in which the court is held, or within one hundred miles of the place of trial; and that he is not possessed of sufficient means, and is actually unable to pay the fees of such witnesses, the court in term, or any judge thereof in vacation, may order that such witnesses be subpoenaed if found within the limits aforesaid. In such case the costs incurred by the process and the fees of the witnesses shall be paid in the same manner that similar costs and fees are paid in case of witnesses subpoenaed in behalf of the United States.

SEC. 879. Any judge or other officer who may be authorized to arrest and imprison or bail persons charged with any crime or offense against the United States may, at the hearing of any such charge, require of any witness produced against the prisoner, on pain of imprisonment, a recognizance, with or without sureties, in his discretion, for his appearance

to testify in the case. And where the crime or offense is charged to have been committed on the high seas, or elsewhere within the admiralty and maritime jurisdiction of the United States, he may, in his discretion, require a like recognizance, with such sureties as he may deem necessary, of any witness produced in behalf of the accused, whose testimony in his opinion is important, and is in danger of being otherwise lost. [See §§ 848, 1014.]

SEC. 880. In the district of Vermont, all recognizances of witnesses, taken by any magistrate in said district, for their appearance to testify in any case cognizable either in the district or circuit court thereof, shall be to the circuit court next thereafter to be held in the said district.

SEC. 881. Any judge of the United States, on the application of a district attorney, and on being satisfied by proof that the testimony of any person is competent and will be necessary on the trial of any criminal proceeding in which the United States are parties or are interested, may compel such person to give recognizance, with or without sureties, at his discretion, to appear to testify therein; and, for that purpose, may issue a warrant against such person, under his hand, with or without seal, directed to the marshal or other officer authorized to execute process in behalf of the United States, to arrest and bring before him such person. If the person so arrested neglects or refuses to give recognizance in the manner required, the judge may issue a warrant of commitment against him, and the officer shall convey him to the prison mentioned therein. And the said person shall remain in confinement until he is removed to the court for the purpose of giving his testimony, or until he gives the recognizance required by said judge. [See § 848.]

SEC. 882. Copies of any books, records, papers, or documents in any of the Executive Departments, authenticated under the seals of such Departments, respectively, shall be admitted in evidence equally with the originals thereof.

14, s. 5, v. 1, p. 69. 22 Feb., 1849, c. 61, s. 3, v. 9, p. 347. 31 May, 1854, c. 60, s. 2, v. 10, p. 297.

SEC. 883. Copies of any documents, records, books, or papers in the office of the Solicitor of the Treasury, certified by him under the seal of his office, or, when his office is vacant, by the officer acting as Solicitor for the time, shall be evidence equally with the originals.

22 Feb., 1849, c. 61, s. 2, v. 9, p. 347.

SEC. 884. Every certificate, assignment, and conveyance executed by the Comptroller of the Currency, in pursuance of law, and sealed with his seal of office, shall be received in evidence in all places and courts; and all copies of papers in his office, certified by him and authenticated by the said seal, shall in all cases be evidence equally with the originals. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

SEC. 885. Copies of the organization certificate of any national banking association, duly certified by the Comptroller of the Currency, and authenticated by his seal of office, shall be evidence in all courts and places within the jurisdiction of the United States of the existence of the association, and of every matter which could be proved by the production of the original certificate. [See § 5185.]

SEC. 886. When suit is brought in any case of delinquency of a revenue officer, or other person accountable for public money, a transcript from the books and proceedings of the Treasury Department, certified by the Register and authenticated under the seal of the Department, or, when the suit involves the accounts of the War or Navy Departments, certified by the Auditors respectively charged with the examination of those accounts, and authenticated under the seal of the Treasury Department, shall be admitted as evidence, and the court trying the cause shall be authorized to grant judgment and award execution accordingly. And all copies of bonds, contracts, or other papers relating to, or connected with, the settlement of any account between the United States and an individual, when certified by the Register, or by such Auditor,

23 Aug., 1842, c. 188, s. 2, v. 5, p. 517.  
8 Aug., 1846, c. 98, s. 7, v. 9, p. 73.

Vermont, recognizance of witnesses, how taken.

29 April, 1802, c. 31, s. 29, v. 2, p. 167.

Recognizance of witnesses required at any time on application of district attorney.

8 Aug., 1846, c. 98, s. 7, v. 9, p. 73.

Copies of Department records and papers.

15 Sept., 1789, c. 2, s. 2, v. 10, p. 297.

Copies of records, &c., in office of Solicitor of the Treasury.

Instruments and papers of Comptroller of the Currency.

3 June, 1864, c. 106, s. 2, v. 13, p. 100.

Organization certificates of national banks.

3 June, 1864, c. 106, s. 6, v. 13, p. 101.

Transcripts from books, &c., of the Treasury, in suits against delinquents.

3 Mar., 1797, c. 20, s. 1, v. 1, p. 512.  
3 Mar., 1817, c. 45, s. 11, v. 3, p. 367.

Walton v. U.S., 9 Wh., 651; U.S. v. Buford, 3 Pet., 12; Smith v. U.S., 5

Pet., 292; Cox v. U. S., 6 Pet., 172; U. S. v. Jones, 8 Pet., 375; Gratiot v. U. S., 15 Pet., 336; U. S. v. Irving, 1 How., 250; Hoyt v. U. S., 10 How., 109; Bruce v. U. S., 17 How., 437; U. S. v. Edwards, 1 McLean, 467; U. S. v. Hilliard et al., 3 McLean, 324; U. S.

v. Lent, 1 Paine, 417; U. S. v. Martin, 2 Paine, 68; U. S. v. Van Zandt, 2 Cr. C. C., 328; U. S. v. Griffith, 2 Cr. C. C., 336; U. S. v. Lee, 2 Cr. C. C., 462; U. S. v. Harrill, 1 McAll., 243; U. S. v. Mattison, Gilp., 44; U. S. v. Corwin, 1 Bond, 149; U. S. v. Gausсен, 19 Wall., 198.

Transcripts from books of the Treasury in indictments for embezzlement of public moneys.

6 Aug., 1846, c. 90, s. 16, v. 9, p. 63.

Copies of returns in returns-office.

2 June, 1862, c. 93, s. 4, v. 12, p. 412.

Copies of Post-Office records and of Auditor's statement of accounts.

2 July, 1836, c. 270, s. 15, v. 5, p. 82.  
17 May, 1864, c. 87, s. 11, v. 13, p. 78.  
27 July, 1868, c. 246, s. 18, v. 15, p. 197.

3 Mar., 1825, c. 64, s. 38, v. 4, p. 113.—U. S. v. Hodge, 13 How., 478; Lawrence v. U. S., 2 McLean, 581.

Copies of statements of demands by Post-Office Department.

27 July, 1868, c. 246, s. 19, v. 15, p. 197.

Copies of records, &c., of General Land-Office.

25 April, 1812, c. 68, s. 4, v. 2, p. 717.

as the case may be, to be true copies of the originals on file, and authenticated under the seal of the Department, may be annexed to such transcripts, and shall have equal validity, and be entitled to the same degree of credit which would be due to the original papers if produced and authenticated in court: *Provided*, That where suit is brought upon a bond or other sealed instrument, and the defendant pleads "non est factum," or makes his motion to the court, verifying such plea or motion by his oath, the court may take the same into consideration, and, if it appears to be necessary for the attainment of justice, may require the production of the original bond, contract, or other paper specified in such affidavit.

SEC. 887. Upon the trial of any indictment against any person for embezzling public moneys, it shall be sufficient evidence, for the purpose of showing a balance against such person, to produce a transcript from the books and proceedings of the Treasury Department, as provided by the preceding section.

2 Mar., 1797, c. 20, s. 1, v. 1, p. 512.—U. S. v. Gausсен, 19 Wall., 198.

SEC. 888. A copy of any return of a contract returned and filed in the returns-office of the Department of the Interior, as provided by law, when certified by the clerk of the said office to be full and complete, and when authenticated by the seal of the Department, shall be evidence in any prosecution against any officer for falsely and corruptly swearing to the affidavit required by law to be made by such officer in making his return of any contract, as required by law, to said returns-office. [See § 3744.]

SEC. 889. Copies of the quarterly returns of postmasters and of any papers pertaining to the accounts in the office of the Sixth Auditor, and transcripts from the money-order account-books of the Post-Office Department, when certified by the Sixth Auditor under the seal of his office, shall be admitted as evidence in the courts of the United States, in civil suits and criminal prosecutions; and in any civil suit, in case of delinquency of any postmaster or contractor, a statement of the account, certified as aforesaid, shall be admitted in evidence, and the court shall be authorized thereupon to give judgment and award execution, subject to the provisions of law as to proceedings in such civil suits.

SEC. 890. In all suits for the recovery of balances due from postmasters, a copy, duly certified under the seal of the Sixth Auditor, of the statement of any postmaster, special agent, or other person, employed by the Postmaster-General or the Auditor for that purpose, that he has mailed a letter to such delinquent postmaster at the post-office where the indebtedness accrued, or at his last usual place of abode; that a sufficient time has elapsed for said letter to have reached its destination in the ordinary course of the mail; and that payment of such balance has not been received, within the time designated in his instructions, shall be received as sufficient evidence in the courts of the United States, or other courts, that a demand has been made upon the delinquent postmaster; but when the account of a late postmaster has been once adjusted and settled, and a demand has been made for the balance appearing to be due, and afterward allowances are made or credits entered, it shall not be necessary to make a further demand for the new balance found to be due.

SEC. 891. Copies of any records, books, or papers in the General Land-Office, authenticated by the seal and certified by the Commissioner thereof, or, when his office is vacant, by the principal clerk, shall be evidence equally with the originals thereof. And literal exemplifications of any such records shall be held, when so introduced in evidence, to

be of the same validity as if the names of the officers signing and counter-signing the same had been fully inserted in such record. [See §§ 2469, 2470.] 4 July, 1836, c. 352, ss. 2, 7, v. 5, pp. 109, 111.

3 Mar., 1843, c. 95, ss. 1, 2, v. 5, pp. 627, 628.—*Galt v. Galloway*, 4 Pet., 331.

SEC. 892. Written or printed copies of any records, books, papers, or drawings belonging to the Patent-Office, and of letters-patent authenticated by the seal and certified by the Commissioner or Acting Commissioner thereof, shall be evidence in all cases wherein the originals could be evidence; and any person making application therefor, and paying the fee required by law, shall have certified copies thereof. Copies of records, &c., of Patent-Office.

8 July, 1870, c. 230, s. 57, v. 16, p. 207. Brooks et al. v. Jenkins et al., 3 McLean, 432; *Parker v. Haworth*, 4 McLean, 370; *Pettibone v. Derringer*, 4 Wash. C. C., 215; *Lee v. Blandy*, 2 Fish., 89, (see 1 Bond, 361;) *Woodworth v. Hall*, Wood. & Min., 260; *Emerson v. Hogg*, 2 Blatch., 12.

SEC. 893. Copies of the specifications and drawings of foreign letters-patent, certified as provided in the preceding section, shall be prima-facie evidence of the fact of the granting of such letters-patent, and of the date and contents thereof. Copies of foreign letters-patent.

SEC. 894. The printed copies of specifications and drawings of patents, which the Commissioner of Patents is authorized to print for gratuitous distribution, and to deposit in the capitols of the States and Territories, and in the clerk's offices of the district courts, shall, when certified by him and authenticated by the seal of his office, be received in all courts as evidence of all matters therein contained. Printed copies of specifications and drawings of patents.

SEC. 895. Extracts from the Journals of the Senate, or of the House of Representatives, and of the Executive Journal of the Senate when the injunction of secrecy is removed, certified by the Secretary of the Senate or by the Clerk of the House of Representatives, shall be admitted as evidence in the courts of the United States, and shall have the same force and effect as the originals would have if produced and authenticated in court. Extracts from the Journals of Congress.

SEC. 896. Copies of all official documents and papers in the office of any consul, vice-consul, or commercial agent of the United States, and of all official entries in the books or records of any such office, certified under the hand and seal of such officer, shall be admitted in evidence in the courts of the United States. [See § 1707.] 8 Aug., 1846, c. 107, s. 1, v. 9, p. 80.

SEC. 897. The transcripts into new books, made by the clerks of the district courts in the several districts of Texas, Florida, Wisconsin, Minnesota, Iowa, and Kansas, in pursuance of the act of June twenty-seven, eighteen hundred and sixty-four, chapter one hundred and sixty-five, from the records and journals transferred by them respectively, under the said act, to the clerks of the circuit courts in said districts, when certified by the clerks respectively making the same to be full and true copies from the original books, shall have the same force and effect as records as the originals. And the certificates of the clerks of said circuit courts, respectively, of transcripts of any of the books or papers so transferred to them, shall be received in evidence with the like effect as if made by the clerk of the court in which the proceedings were had. Copies of records, &c., in offices of United States consuls, &c.

SEC. 898. The transcripts into new books made by the clerks of the circuit and district courts for the western district of North Carolina, in pursuance of the act of June four, eighteen hundred and seventy-two, chapter two hundred and eighty-two, when certified by the clerks respectively making the same to be full and true copies from the original books, shall have the same force and effect as records as the originals. And the certificates of the clerks of said circuit and district courts respectively, of transcripts of any of the said transcribed records, shall also be received in evidence with the like effect as if made by the proper clerk from the originals from which such records were transcribed. 8 Jan., 1869, c. 7, v. 15, p. 266.

SEC. 899. When the record of any judgment, decree, or other proceeding of any court of the United States is lost or destroyed, any party or person interested therein may, on application to such court, and on showing to its satisfaction that the same was lost or destroyed without his fault, obtain from it an order authorizing such defect to be supplied by a duly certified copy of the original record, where the same can be obtained; Transcribed records in the clerks' offices of western district of North Carolina.

4 June, 1872, c. 282, s. 10, v. 17, p. 217.

When original records are lost or destroyed. 3 Mar., 1871, c. 111, s. 1, v. 16, p. 474.

and such certified copy shall thereafter have, in all respects, the same effect as the original record would have had.

Same subject. SEC. 900. When any such record is lost or destroyed, and the defect cannot be supplied as provided in the preceding section, any party or person interested therein may make a written application to the court to which the record belonged, verified by affidavit, showing such loss or destruction; that the same occurred without his fault or neglect; that certified copies of such record cannot be obtained by him; and showing also the substance of the record so lost or destroyed, and that the loss or destruction thereof, unless supplied, will or may result in damage to him. The court shall cause said application to be entered of record, and a copy of it shall be served personally upon every person interested therein, together with written notice that on a day therein stated, which shall not be less than sixty days after such service, said application will be heard; and if, upon such hearing, the court is satisfied that the statements contained in the application are true, it shall make and cause to be entered of record an order reciting the substance and effect of said lost or destroyed record. Said order shall have the same effect, so far as concerns the party or person making such application and the persons served as above provided, but subject to intervening rights, which the original record would have had, if the same had not been lost or destroyed.

Same subject. SEC. 901. When any cause has been removed to the Supreme Court, and the original record thereof is afterward lost, a duly certified copy of the record remaining in said court may be filed in the court from which the cause was removed, on motion of any party or person claiming to be interested therein; and the copy so filed shall have the same effect as the original record would have had if the same had not been lost or destroyed.

Records of northern district of Illinois destroyed by fire. SEC. 902. In the proceedings to restore the records of the circuit and district courts of the northern district of Illinois, destroyed by fire on the ninth of October, eighteen hundred and seventy-one, under the three preceding sections, the notice required may be served upon any non-resident of said district anywhere within the jurisdiction of the United States, or in any foreign country, the proof of the service of such notice, if made in a foreign country, to be certified by a minister or consul of the United States in such country, under his official seal.

Same subject. SEC. 903. A certified copy of the official return of the district attorney, clerk of the circuit or district court, or the marshal of the northern district of Illinois, made in pursuance of law, and on file in the Department of Justice, relating to any cause in either of said courts to which the United States was a party, the record of which was destroyed in said fire, may be filed in the court to which it appertains, and shall have the same force and effect as if it were an original return made to said court; and in any case in which the names of the parties, and the date and amount of the judgment or decree shall appear from such returns, it shall be lawful for the court in which they are filed to issue the necessary process to enforce such degree of judgment in the same manner as if the original record was before said court.

Same subject. SEC. 904. It shall be the duty of the district attorney for the northern district of Illinois to take such steps as may be necessary to restore the records and files of the circuit and district courts of said district which were destroyed by fire on the ninth of October, eighteen hundred and seventy-one, and in which the United States is interested, so far as the judges of said courts, respectively, shall deem it essential to the interests of the United States that said records and files be restored; and the judges of said courts, respectively, are authorized to direct such steps to be taken as, in their opinion, shall be deemed advisable to restore the judgment dockets and indices of said courts, and for that purpose may direct the performance, by the clerks of said courts, and by the United States attorney for said district, of any duty incident thereto; and said clerks and said district attorney shall be allowed such compensation and disbursements for services rendered under this section (in cases where

3 Mar., 1871, c. 111, s. 2, v. 16, p. 475.

3 Mar., 1871, c. 111, s. 3, v. 16, p. 475.

18 Mar., 1872, c. 56, s. 1, v. 17, p. 40.

18 Mar., 1872, c. 56, s. 2, v. 17, p. 41.

18 Mar., 1872, c. 56, s. 3, v. 17, p. 41.

no compensation is now provided by law for such services) as may be allowed by the Attorney-General, and certified to be just and reasonable by the judge of the court in which said services are rendered, and the amount so allowed shall be paid out of the judiciary fund: *Provided, however,* That the sum allowed the clerks of said courts shall not exceed the sum of twelve thousand dollars, and the entire compensation of the United States attorney for such services shall not exceed the sum of six thousand dollars.

SEC. 905. The acts of the legislature of any State or Territory, or of any country subject to the jurisdiction of the United States, shall be authenticated by having the seals of such State, Territory, or country affixed thereto. The records and judicial proceedings of the courts of any State or Territory, or of any such country, shall be proved or admitted in any other court within the United States, by the attestation of the clerk, and the seal of the court annexed, if there be a seal, together with a certificate of the judge, chief justice, or presiding magistrate, that the said attestation is in due form. And the said records and judicial proceedings, so authenticated, shall have such faith and credit given to them in every court within the United States as they have by law or usage in the courts of the State from which they are taken.

*ings v. Hull*, 9 Pet., 627; *Urtetiqui v. D'Arbel*, 9 Pet., 700; *McElmoyle v. Cohen*, 13 Pet., 312; *Stacey v. Thrasher*, 6 How., 44; *Bank of Alabama v. Dalton*, 9 How., 522; *D'Arcy v. Ketchum*, 11 How., 165; *Railroad v. Howard*, 13 How., 307; *Booth v. Clark*, 17 How., 322; *Mason v. Lawrason*, 1 Cr. C. C., 190; *Buford v. Hickman*, Hemp., 232; *Craig v. Brown*, Pet. C. C., 354; *Stewart v. Gray*, Hemp., 94; *Gardner v. Lindo*, 1 Cr. C. C., 78; *Trigg v. Conway*, Hemp., 538; *Turner v. Waddington*, 3 Wash. C. C., 126; *Catlin v. Underhill*, 4 McLean, 199; *Morgan v. Curtenius*, 4 McLean, 366; *Hale v. Brotherton*, 3 Cr. C. C., 594; *Mewster v. Spalding*, 6 McLean, 24; *Parrot v. Habersham*, 1 Cr. C. C., 14; *Talcott v. Delaware Ins. Co.*, 2 Wash. C. C., 449; *James v. Stookey*, 1 Wash. C. C., 330; *Bennett v. Bennett*, District Court, Oregon, 1867.

SEC. 906. All records and exemplifications of books, which may be kept in any public office of any State or Territory, or of any country subject to the jurisdiction of the United States, not appertaining to a court, shall be proved or admitted in any court or office in any other State or Territory, or in any such country, by the attestation of the keeper of the said records or books, and the seal of his office annexed, if there be a seal, together with a certificate of the presiding justice of the court of the county, parish, or district in which such office may be kept, or of the governor, or secretary of state, the chancellor or keeper of the great seal, of the State, or Territory, or country, that the said attestation is in due form, and by the proper officers. If the said certificate is given by the presiding justice of a court, it shall be further authenticated by the clerk or prothonotary of the said court, who shall certify, under his hand and the seal of his office, that the said presiding justice is duly commissioned and qualified; or, if given by such governor, secretary, chancellor, or keeper of the great seal, it shall be under the great seal of the State, Territory, or country aforesaid in which it is made. And the said records and exemplifications, so authenticated, shall have such faith and credit given to them in every court and office within the United States as they have by law or usage in the courts or offices of the State, Territory, or country, as aforesaid, from which they are taken.

SEC. 907. It shall be lawful for any keeper or person having the custody of laws, judgments, orders, decrees, journals, correspondence, or other public documents of any foreign government or its agents, relating to the title to lands claimed by or under the United States, on the application of the head of one of the Departments, the Solicitor of the Treasury, or the Commissioner of the General Land-Office, to authenticate copies thereof under his hand and seal, and to certify them to be correct and true copies of such laws, judgments, orders, decrees, journals, correspondence, or other public documents, respectively; and when such copies are certified by an American minister or consul, under his hand and seal of office, to be true copies of the originals, they shall be sealed

Authentication of legislative acts and proof of judicial proceedings of States, &c.

26 May, 1790, c. 11, v. 1, p. 122.

27 Mar., 1804, c. 56, s. 2, v. 2, p. 299.

*Ferguson v. Harwood*, 7 Cr., 408; *Mills v. Duryee*, 7 Cr., 481; *U. S. v. Amedy*, 11 Wh., 392; *Buckner v. Finley*, 2 Pet., 592; *Ow-*

*ings v. Hull*, 9 Pet., 627; *Urtetiqui v. D'Arbel*, 9 Pet., 700; *McElmoyle v. Cohen*, 13 Pet., 312; *Stacey v. Thrasher*, 6 How., 44; *Bank of Alabama v. Dalton*, 9 How., 522; *D'Arcy v. Ketchum*, 11 How., 165; *Railroad v. Howard*, 13 How., 307; *Booth v. Clark*, 17 How., 322; *Mason v. Lawrason*, 1 Cr. C. C., 190; *Buford v. Hickman*, Hemp., 232; *Craig v. Brown*, Pet. C. C., 354; *Stewart v. Gray*, Hemp., 94; *Gardner v. Lindo*, 1 Cr. C. C., 78; *Trigg v. Conway*, Hemp., 538; *Turner v. Waddington*, 3 Wash. C. C., 126; *Catlin v. Underhill*, 4 McLean, 199; *Morgan v. Curtenius*, 4 McLean, 366; *Hale v. Brotherton*, 3 Cr. C. C., 594; *Mewster v. Spalding*, 6 McLean, 24; *Parrot v. Habersham*, 1 Cr. C. C., 14; *Talcott v. Delaware Ins. Co.*, 2 Wash. C. C., 449; *James v. Stookey*, 1 Wash. C. C., 330; *Bennett v. Bennett*, District Court, Oregon, 1867.

Proofs of records, &c., kept in offices not pertaining to courts.

27 Mar., 1804, c. 56, ss. 1, 2, v. 2, pp. 298, 299.

21 Feb., 1871, c. 62, v. 16, p. 419.

Copies of foreign records, &c., relating to land-titles in the United States.

22 Feb., 1849, c. 61, s. 1, v. 9, p. 346.

2 Mar., 1849, c. 82, v. 9, p. 350.

up by him and returned to the Solicitor of the Treasury, who shall file them in his office, and cause them to be recorded in a book to be kept for that purpose. A copy of any such law, judgment, order, decree, journal, correspondence, or other public document, so filed, or of the same so recorded in said book, may be read in evidence in any court, where the title to land claimed by or under the United States may come into question, equally with the originals.

Little & Brown's edition of the Statutes to be evidence.

8 Aug., 1846, c. 100, s. 2, v. 9, p. 76.

Burden of proof, when it lies on claimant in seizure cases.

2 Mar., 1799, c. 22, ss. 70, 71, v. 1, p. 678.—*Locke v. U. S.*, 7 Cr., 339; *The Luminary*, 8 Wh., 407; *Clifton v. U. S.*, 4 How., 242; *Buckley v. U. S.*, 4 How., 251; *Cliquot's Champagne*, 3 Wall., 143; *The John Griffin*, 15 Wall., 29; *U. S. v. An Open Boat*, 5 Mas., 232.

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27 Feb., 1865, c. 64, s. 9, v. 13, p. 441.

SEC. 908. The edition of the laws and treaties of the United States, published by Little & Brown, shall be competent evidence of the several public and private acts of Congress, and of the several treaties therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.

SEC. 909. In suits or informations brought, where any seizure is made pursuant to any act providing for or regulating the collection of duties on imports or tonnage, if the property is claimed by any person, the burden of proof shall lie upon such claimant: *Provided*, That probable cause is shown for such prosecution, to be judged of by the court.

SEC. 910. No possessory action between persons, in any court of the United States, for the recovery of any mining title, or for damages to any such title, shall be affected by the fact that the paramount title to the land in which such mines lie is in the United States; but each case shall be adjudged by the law of possession.

## CHAPTER EIGHTEEN.

### PROCEDURE.

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8 May, 1792, c. 36, s. 1, v. 1, p. 275.

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29 Sept., 1789, c. 21, s. 2, v. 1, p. 93.

8 May, 1792, c. 36, s. 2, v. 1, p. 276.

19 May, 1828, c. 68, s. 1, v. 4, p. 278.

1 Aug., 1842, c. 109, v. 5, p. 499.

SEC. 911. All writs and processes issuing from the courts of the United States shall be under the seal of the court from which they issue, and shall be signed by the clerk thereof. Those issuing from the Supreme Court or a circuit court shall bear teste of the Chief Justice of the United States, or, when that office is vacant, of the associate justice next in precedence, and those issuing from a district court shall bear teste of the judge, or, when that office is vacant, of the clerk thereof. The seals of said courts shall be provided at the expense of the United States.

SEC. 912. All process issued from the courts of the United States shall bear teste from the day of such issue.

SEC. 913. The forms of mesne process and the forms and modes of proceeding in suits of equity and of admiralty and maritime jurisdiction in the circuit and district courts shall be according to the principles, rules, and usages which belong to courts of equity and of admiralty, respectively, except when it is otherwise provided by statute or by rules of court made in pursuance thereof; but the same shall be subject to alteration and addition by the said courts, respectively, and to regulation by the Supreme Court, by rules prescribed, from time to time, to any circuit or district court, not inconsistent with the laws of the United States.

*Grayson v. Virginia*, 3 Dall., 320; *Wayman v. Southard*, 10 Wh., 1; *Bank of United States v. Halstead*, 10 Wh., 51; *Munro v. Almeida*, 10 Wh., 488; *Boyle v. Zacharie*, 6 Pet., 658; *Duncan's Heirs v. U. S.*, 7 Pet., 435; *Beers v. Haughton*, 9 Pet., 359, 360; *Harrison v. Nixon*, 9 Pet., 507; *Story v. Livingston*, 13 Pet., 359; *Gaines v. Relf*, 15 Pet., 9; *Pennsylvania v. Wheeling Bridge Co.*, 13 How., 564; *McKinlay v. Morrish*, 21 How., 347; *Louisiana Ins. Co. v. Nickerson*, 2 Lowell, 310.

#### Practice and proceedings in other than equity and admiralty causes.

1 June, 1872, c. 255, s. 5, v. 17, p. 197.

SEC. 914. The practice, pleadings, and forms and modes of proceeding in civil causes, other than equity and admiralty causes, in the circuit and district courts, shall conform, as near as may be, to the practice, pleadings, and forms and modes of proceeding existing at the time in like causes in the courts of record of the State within which such circuit or district courts are held, any rule of court to the contrary notwithstanding.

*Elmore v. Grymes*, 1 Pet., 469; *U. S. v. Robeson*, 9 Pet., 319; *Wilcox v. Hunt*, 13 Pet., 378; *Minor v. Tillotson*, 2 How., 392; *Gwyn v. Barton*, 6 How., 7; *Townsend v. Jemison*, 7 How., 706; *U. S. v. Coxe*, 7 How., 833; *Sears v. Eastburn*, 10 How., 187; *Fenn v. Holme*, 21 How., 481; *Hooper v. Scheimer*, 23 How., 249; *Sheirburn v. Cordova*, 24 How., 423; *U. S. v. Council of Keokuk*, 6 Wall., 514; *Martin v. Criscuola*, 10 Blatch., 211; *Lewis v. Gould*, 13 Blatch., 216; *Bills v. New Orleans, &c.*, R. R. Co., 13 Blatch., 227; *Judson v. Macon County*, 2 Dill., 213; *Weed Sewing Machine Co. v. Wicks*, 3 Dill., 261; *Perkins v. City of Watertown*, 5 Biss., 320; *Jewett v. Hone*, 1 Woods, 530; *Hall v. Mining Company*, 1 Woods, 544; *Ethridge v. Jackson*, 2 Saw., 508; *Blease v. Garlington*, 92 U. S., 1.

#### Attachments.

1 June, 1872, c. 255, s. 6, v. 17, p. 197.

*Chittenden's Case*, 2 Woods, 437.

SEC. 915. In common-law causes in the circuit and district courts the plaintiff shall be entitled to similar remedies, by attachment or other process, against the property of the defendant, which are now provided by the laws of the State in which such court is held for the courts thereof; and such circuit or district courts may, from time to time, by general rules, adopt such State laws as may be in force in the States where they are held in relation to attachments and other process: *Provided*, That similar preliminary affidavits or proofs, and similar security, as required

by such State laws, shall be first furnished by the party seeking such attachment or other remedy.

SEC. 916. The party recovering a judgment in any common-law cause in any circuit or district court, shall be entitled to similar remedies upon the same, by execution or otherwise, to reach the property of the judgment debtor, as are now provided in like causes by the laws of the State in which such court is held, or by any such laws hereafter enacted which may be adopted by general rules of such circuit or district court; and such courts may, from time to time, by general rules, adopt such State laws as may hereafter be in force in such State in relation to remedies upon judgments, as aforesaid, by execution or otherwise.

648; *Ross v. Duval*, 13 Pet., 45; *U. S. v. Knight*, 14 Pet., 301; *Ames* 303; *Massingill v. Downs*, 7 How., 760.

SEC. 917. The Supreme Court shall have power to prescribe, from time to time, and in any manner not inconsistent with any law of the United States, the forms of writs and other process, the modes of framing and filing proceedings and pleadings, of taking and obtaining evidence, of obtaining discovery, of proceeding to obtain relief, of drawing up, entering, and enrolling decrees, and of proceeding before trustees appointed by the court, and generally to regulate the whole practice, to be used, in suits in equity or admiralty, by the circuit and district courts.

*The City of Lafayette*, 12 Pet., 472; *The Steamer St. Lawrence*, 1 Lee, 2 Bl., 509.

SEC. 918. The several circuit and district courts may, from time to time, and in any manner not inconsistent with any law of the United States, or with any rule prescribed by the Supreme Court under the preceding section, make rules and orders directing the returning of writs and processes, the filing of pleadings, the taking of rules, the entering and making up of judgments by default, and other matters in vacation, and otherwise regulate their own practice as may be necessary or convenient for the advancement of justice and the prevention of delays in proceedings.

43; *Mills v. Bank United States*, 11 Wh., 431; *The Steamer St. Lawrence*, 1 Louisiana Ins. Co. v. Nickerson, 2 Lowell, 310.

SEC. 919. All suits for the recovery of any duties, imposts, or taxes, or for the enforcement of any penalty or forfeiture provided by any act respecting imports or tonnage, or the registering and recording or enrolling and licensing of vessels, or the internal revenue, or direct taxes, and all suits arising under the postal laws, shall be brought in the name of the United States.

c. 1, s. 29, v. 1, p. 298. 18 Feb., 1793, c. 8, s. 35, v. 1, p. 317. 2 Mar., v. 1, pp. 695, 696. 13 July, 1866, c. 184, s. 9, v. 14, pp. 111, 145. 8 June, 1872, c. 335, s. 303, v. 17, p. 323.

SEC. 920. Whenever two or more things belonging to the same person are seized for an alleged violation of the revenue laws, the whole must be included in one suit; and if separate actions are prosecuted in such cases, the court shall consolidate them.

22 June, 1874, c. 391, ss. 21, 22, v. 18, p. 190.

SEC. 921. When causes of a like nature or relative to the same question are pending before a court of the United States, or of any Territory, the court may make such orders and rules concerning proceedings therein as may be conformable to the usages of courts for avoiding unnecessary costs or delay in the administration of justice, and may consolidate said causes when it appears reasonable to do so.

2 Sellon's Prac., 229.

SEC. 922. When the marshal or his deputy is a party in any cause, the writs and precepts therein shall be directed to such disinterested person as the court or any justice or judge thereof may appoint, and the person so appointed may execute and return them.

24 Sept., 1789, c. 20, s. 28, v. 1, p. 87.

Executions in common-law causes.

1 June, 1872, c. 255, s. 6, v. 17, p. 197.

*W a y m a n v. Southard*, 10 Wh., 1; *Bank U. S. v. Halstead*, 10 Wh., 51; *Boyle v. Zacharie et al.*, 6 Pet., v. Smith, 16 Pet.,

Power of the Supreme Court to regulate the practice of circuit and district courts.

23 Aug., 1842, c. 188, s. 6, v. 5, p. 518.

*W a y m a n v. Southard*, 10 Wh., 43; *Poultney v. Bl.*, 522; *Noonan v.*

Practice in the several courts to be regulated by their own rules.

2 Mar., 1793, c. 22, s. 7, v. 1, p. 335. 23 Aug., 1842, c. 188, s. 6, v. 5, p. 518.

*W a y m a n v. Southard*, 10 Wh.,

Suits for duties, imposts, taxes, penalties, or forfeitures.

4 Aug., 1790, c. 35, s. 67, v. 1, p. 176. 31 Dec., 1792,

1799, c. 22, s. 89, 1872, c. 335, s. 303,

Consolidation of revenue seizures.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 162. 21, 22, v. 18, p. 190.

Orders to save costs, and consolidation of causes of a like nature.

22 July, 1813, c. 14, s. 3, v. 3, p. 21.

When the marshal or his deputy is a party in a cause.

Seizure for forfeiture in certain cases.

4 Aug., 1790, c. 35, s. 67, v. 1, p. 176.  
31 Dec., 1792, c. 1, s. 29, v. 1, p. 298.  
18 Feb., 1793, c. 8, s. 35, v. 1, p. 317.  
2 Mar., 1799, c. 22, ss. 70, 89, v. 1, pp. 678, 695, 696.

Attachment in postal suits.

23 Feb., 1865, c. 47, s. 1, v. 13, pp. 432, 433.

Application for warrant; by whom and how made.

23 Feb., 1865, c. 47, s. 2, v. 13, p. 433.

Issuing warrant; duty of clerk and marshal.

23 Feb., 1865, c. 47, s. 2, v. 13, p. 433.

Schroubucker v. Reilly, 2 Dill., 127.

Ownership of attached property; trial; other remedies.

23 Feb., 1865, c. 47, s. 3, v. 13, p. 433.

SEC. 923. When any vessel, goods, wares, or merchandise are seized by any officer of the customs, and prosecuted for forfeiture by virtue of any law respecting the revenue, or the registering and recording, or the enrolling and licensing of vessels, the court shall cause fourteen days' notice to be given of such seizure and libel, by causing the substance of such libel, with the order of the court thereon, setting forth the time and place appointed for trial, to be inserted in some newspaper published near the place of seizure, and by posting up the same in the most public manner for the space of fourteen days, at or near the place of trial; and proclamation shall be made in such manner as the court shall direct. And if no person appears and claims such vessel, goods, wares, or merchandise, and gives bond to defend the prosecution thereof and to respond the cost in case he shall not support his claim, the court shall proceed to hear and determine the cause according to law.

SEC. 924. In all cases where debts are due from defaulting or delinquent postmasters, contractors, or other officers, agents, or employés of the Post-Office Department, a warrant of attachment may issue against all real and personal property and legal and equitable rights belonging to such officer, agent, or employé, and his sureties, or either of them, in the following cases:

First. When such officer, agent, or employé, and his sureties, or either of them, is a non-resident of the district where such officer, agent, or employé was appointed, or has departed from such district for the purpose of permanently residing out of the same, or of defrauding the United States, or of avoiding the service of civil process.

Second. When such officer, agent, or employé, and his sureties, or either of them, has conveyed away, or is about to convey away his property, or any part thereof, or has removed or is about to remove the same or any part thereof from the district wherein it is situate, with intent to defraud the United States.

And when any such property has been removed, certified copies of the warrant may be sent to the marshal of the district into which the same has been removed, under which certified copies he may seize said property and convey it to some convenient point within the jurisdiction of the court from which the warrant originally issued. And alias warrants may be issued in such cases upon due application, and the validity of the warrant first issued shall continue until the return day thereof.

SEC. 925. Application for such warrant of attachment may be made by any district or assistant district attorney, or any other person authorized by the Postmaster-General, before the judge, or, in his absence, before the clerk of any court of the United States having original jurisdiction of the cause of action. And such application shall be made upon an affidavit of the applicant, or of some other credible person, stating the existence of either of the grounds of attachment enumerated in the preceding section, and upon production of legal evidence of the debt.

SEC. 926. Upon any such application and upon due order of any judge of the court, or, in his absence, without such order, the clerk shall issue a warrant for the attachment of all the property of any kind belonging to the person specified in the affidavit, which warrant shall be executed with all possible dispatch by the marshal, who shall take the property attached, if personal, into his custody, and hold the same subject to all interlocutory or final orders of the court.

SEC. 927. At any time within twenty days before the return day of such warrant, the party whose property is attached may, on giving notice to the district attorney of his intention, file a plea in abatement, traversing the allegations of the affidavit, or denying the ownership of the property attached to be in the defendants or either of them; in which case the court may, upon application of either party, order an immediate trial by jury of the issues raised by the affidavit and plea; but the parties may, by consent, waive a trial by jury, in which case the court shall decide the issues raised. And any party claiming ownership of the property attached and a specific return thereof, shall be

confined to the remedy herein afforded, but his right to an action of trespass, or other action for damages, shall not be impaired hereby.

SEC. 928. When the property attached is sold on any interlocutory order of the court or is producing any revenue, the money arising from such sale or revenue shall be invested in securities of the United States, under the order of the court, and all accretions shall be held subject to the orders of the same.

SEC. 929. Immediately upon the execution of any such warrant of attachment, the marshal shall cause due publication thereof to be made, in the case of absconding debtors for two months and of non-residents for four months. The publication shall be made in some newspaper published in the district where the property is situate, and the details thereof shall be regulated by the order under which the warrant is issued.

SEC. 930. After the first publication of such notice of attachment as required by law, every person indebted to, or having possession of any property belonging to, the said defendants, or either of them, and having knowledge of such notice, shall account and answer for the amount of such debt and the value of such property; and any disposal or attempt to dispose of any such property, to the injury of the United States, shall be illegal and void. And when the person indebted to, or having possession of the property of, such defendants, or either of them, is known to the district attorney or marshal, such officer shall see that personal notice of the attachment is served upon such person, but the want of such notice shall not invalidate the attachment.

SEC. 931. Upon application of the party whose property has been attached, the court, or any judge thereof, may discharge the warrant of attachment as to the property of the applicant, provided such applicant shall execute to the United States a good and sufficient penal bond, in double the value of the property attached, to be approved by a judge of the court, and with condition for the return of said property, or to answer any judgment which may be rendered by the court in the premises.

SEC. 932. Nothing contained in the preceding eight sections shall be construed to limit or abridge, in any manner, such rights of the United States as have accrued or been allowed in any district under the former practice of, or the adoption of State laws by, the United States courts.

SEC. 933. An attachment of property, upon process instituted in any court of the United States, to satisfy such judgment as may be recovered by the plaintiff therein, except in the cases mentioned in the preceding nine sections, shall be dissolved when any contingency occurs by which, according to the laws of the State where said court is held, such attachment would be dissolved upon like process instituted in the courts of said State: *Provided*, That nothing herein contained shall interfere with any priority of the United States in the payment of debts.

SEC. 934. All property taken or detained by any officer or other person, under authority of any revenue law of the United States, shall be irrepleviable, and shall be deemed to be in the custody of the law, and subject only to the orders and decrees of the courts of the United States having jurisdiction thereof.

SEC. 935. In any suit by the United States against a corporation for the recovery of money upon a bill, note, or other security, the debtors of the corporation may be summoned as garnishees; and it shall be the duty of any person so summoned to appear in open court and to depose, in writing, to the amount which he was indebted to the said corporation at the time of the service of the summons and at the time of making such deposition; and judgment may be entered in favor of the United States for the sum admitted by such garnishee to be due to the said corporation, in the same manner as if it had been due to the United States: *Provided*, That no judgment shall be entered against any garnishee until after judgment has been rendered against the corporation defendant to the said action, nor until the sum in which the garnishee stands indebted is actually due.

Proceeds of attached property to be invested.

23 Feb., 1865, c. 47, s. 4, v. 13, p. 433.

Publication of attachment.

23 Feb., 1865, c. 47, s. 5, v. 13, p. 434.

Persons having property of defendants to account for it; sales void; personal notice.

23 Feb., 1865, c. 47, s. 6, v. 13, p. 434.

Discharge of attachment; bond.

23 Feb., 1865, c. 47, s. 7, v. 13, p. 434.

Accrued rights not to be abridged.

23 Feb., 1865, c. 47, s. 9, v. 13, p. 434.

Attachments dissolved in conformity with State laws.

14 Mar., 1848, c. 18, s. 1, v. 9, p. 213.

23 Feb., 1865, c. 47, ss. 1, 9, v. 13, pp. 432, 434.

Property taken under revenue laws irrepleviable.

2 Mar., 1833, c. 57, s. 2, v. 4, p. 632.

13 July, 1866, c. 184, s. 67, v. 14, p. 172.

Garnishees in suits by the United States, on notes, &c.

20 April, 1818, c. 83, s. 8, v. 3, p. 443.

Issue tendered  
whengarnisheed-  
nies indebtedness.

20 April, 1818, c.  
83, s. 9, v. 3, p. 443.

Garnisheefailing  
to appear.

20 April, 1818, c.  
83, s. 10, v. 3, p. 444.

Bailing of prop-  
erty seized under  
customs laws.

4 Aug., 1790, c.  
35, s. 67, v. 1, p. 176.

31 Dec., 1792, c.  
1, s. 29, v. 1, p. 298.

18 Feb., 1793, c.  
8, s. 35, v. 1, p. 317.

9 June, 1794, c.  
64, s. 1, v. 1, p. 395.

2 Mar., 1799, c.  
22, s. 89, v. 1, pp.  
695, 696.

Sale after con-  
demnation.

4 Aug., 1790, c.  
35, s. 68, v. 1, p. 177.

31 Dec., 1792, c.  
1, s. 29, v. 1, p. 298.

18 Feb., 1793, c.  
8, s. 35, v. 1, p. 317.

2 Mar., 1799, c.  
22, s. 90, v. 1, p. 696.

In cases of sei-  
zure, bailing of  
property in vaca-  
tion.

4 Aug., 1790, c.  
35, s. 67, v. 1, p. 176.

31 Dec., 1792, c.  
1, s. 29, v. 1, p. 298.

SEC. 936. When any person summoned as garnishee deposes in open court that he is not, and was not at the time of the service of the summons, indebted to such corporation, an issue may be tendered by the United States upon such demand, and if, upon the trial of that issue, a verdict is rendered against the garnishee, judgment shall be entered in favor of the United States, pursuant to such verdict, with costs of suit.

SEC. 937. If any person summoned as garnishee, as aforesaid, fails to appear at the term of the court to which he is summoned, he shall be subject to attachment for contempt of the court.

SEC. 938. Upon the prayer of any claimant to the court, that any vessel, goods, wares, or merchandise, seized and prosecuted under any law respecting the revenue from imports or tonnage, or the registering and recording, or the enrolling and licensing of vessels, or any part thereof, should be delivered to him, the court shall appoint three proper persons to appraise such property, who shall be sworn in open court, or before a commissioner appointed by the district court to administer oaths to appraisers, for the faithful discharge of their duty; and the appraisement shall be made at the expense of the party on whose prayer it is granted. If, on the return of the appraisement, the claimant, with one or more sureties, to be approved by the court, shall execute a bond to the United States for the payment of a sum equal to the sum at which the property prayed to be delivered is appraised, and produce a certificate from the collector of the district where the trial is had, and of the naval officer thereof, if any there be, that the duties on the goods, wares, and merchandise, or tonnage-duty on the vessel so claimed, have been paid or secured in like manner as if the same had been legally entered, the court shall, by rule, order such vessel, goods, wares, or merchandise to be delivered to such claimant; and the said bond shall be lodged with the proper officer of the court. If judgment passes in favor of the claimant, the court shall cause the said bond to be canceled; but if judgment passes against the claimant, as to the whole or any part of such vessel, goods, wares, or merchandise, and the claimant does not within twenty days thereafter pay into the court, or to the proper officer thereof, the amount of the appraised value of such vessel, goods, wares, or merchandise so condemned, with the costs, judgment shall be granted upon the bond, on motion in open court, without further delay. [See § 570.]

SEC. 939. All vessels, goods, wares, or merchandise which shall be condemned by virtue of any law respecting the revenue from imports or tonnage, or the registering and recording, or the enrolling and licensing of vessels, and for which bonds shall not have been given by the claimant, shall be sold by the marshal or other proper officer of the court in which condemnation shall be had, to the highest bidder, at public auction, by order of such court, and at such place as the court may appoint, giving at least fifteen days' notice (except in cases of perishable merchandise) in one or more of the public newspapers of the place where such sale shall be; or if no paper is published in such place, in one or more of the papers published in the nearest place thereto; for which advertising, a sum not exceeding five dollars shall be paid. And the amount of such sales, deducting all proper charges, shall be paid within ten days after such sale by the person selling the same to the clerk or other proper officer of the court directing such sale, to be by him, after deducting the charges allowed by the court, paid to the collector of the district in which such seizure or forfeiture has taken place, as hereinbefore directed.

SEC. 940. In any cause of admiralty and maritime jurisdiction, or other case of seizure, depending in any court of the United States, any judge of the said court, in vacation, shall have the same authority to order any vessel, or cargo, or other property to be delivered to the claimants, upon bail or bond, or to be sold when necessary, as the said court has in term time, and to appoint appraisers, and exercise every other incidental power necessary to the complete execution of the authority herein granted; and the recognizance of bail or bond, under such order, may be executed

before the clerk upon the party's producing the certificate of the collector of the district, of the sufficiency of the security offered; and the same proceedings shall be had in case of said order of delivery or of sale, as are had in like cases when ordered in term time: *Provided*, That upon every such application, either for an order of delivery or of sale, the collector and the attorney of the district shall have reasonable notice in cases of the United States, and the party or council in all other cases.

SEC. 941. When a warrant of arrest or other process in rem is issued in any cause of admiralty jurisdiction, except the cases of seizure for forfeiture under any law of the United States, the marshal shall stay the execution of such process, or discharge the property arrested if the process has been levied, on receiving from the claimant of the property a bond or stipulation in double the amount claimed by the libellant, with sufficient surety, to be approved by the judge of the court where the cause is pending, or, in his absence, by the collector of the port, conditioned to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court, and judgment thereon, against both the principal and sureties, may be recovered at the time of rendering the decree in the original cause.

SEC. 942. In all suits or prosecutions for the recovery of duties or pecuniary penalties prescribed by the laws of the United States, commenced in any State where, by the laws thereof, imprisonment for debt shall not have been abolished, the person against whom process is issued shall be held to special bail, subject to the rules which prevail in civil suits in which special bail is required.

28 Feb., 1839, c. 35, v. 5, p. 321. 14 Jan., 1841, c. 2, v. 5, p. 410.

SEC. 943. When a defendant who has procured bail to respond to the judgment in a suit in any court of the United States in any district is afterward arrested in any other district and is committed to a jail, the use of which had been ceded to the United States for the custody of prisoners, the judge of the court wherein the suit in which the defendant has so procured bail is depending, shall, at the request of the bail, order that such defendant be held in said jail, in the custody of the marshal of the district in which it is. The said marshal, upon the delivery of such order, duly authenticated, shall receive such person into his custody, and thereupon be chargeable for an escape, and shall forthwith make a certificate, under his hand and seal, of such commitment, and transmit the same to the court from which the order issued, and, if required, shall make and deliver to such bail or to his attorney a duplicate thereof. Upon the return of said certificate, the court which made the said order, or any judge thereof, may direct that an exoneretur be entered upon the bail-piece, where special bail shall have been found, or otherwise discharge such bail.

SEC. 944. When a defendant is committed by virtue of the order provided in the preceding section, he shall, unless sooner discharged by law, be holden in jail until final judgment is rendered in the suit in which he procured bail as aforesaid, and sixty days thereafter, if such judgment is rendered against him, in order that he may be charged in execution, which may, in such cases, be directed to and served by the marshal in whose custody he is.

SEC. 945. Bail and affidavits, when required or allowed in any civil cause in any circuit or district court, may be taken by a commissioner of the circuit court for the district; and such acknowledgments of bail and affidavits shall have the same effect as if taken before any judge of such courts.

25, s. 1, v. 2, p. 679. 1 Mar., 1817,

SEC. 946. When a bail-bond is given for the appearance of any person to answer in the district or circuit court for the district of Kentucky, the clerk of such court shall call the party at the time he is bound to appear. If the party fails, the clerk shall enter such failure on his minutes, and on said entry judgment may afterward be made of record by the court; but if the party appears, the clerk shall take another

18 Feb., 1793, c. 8, s. 35, v. 1, p. 317.  
2 Mar., 1799, c. 22, s. 89, v. 1, pp. 695, 696.  
5 April, 1832, c. 66, v. 4, p. 503.

Delivery bond in admiralty proceedings.

4 Aug., 1790, c. 35, s. 67, v. 1, p. 176.  
31 Dec., 1792, c. 1, s. 29, v. 1, p. 298.  
18 Feb., 1793, c. 8, s. 35, v. 1, p. 317.  
2 Mar., 1799, c. 22, s. 89, v. 1, pp. 695, 696.  
3 Mar., 1847, c. 55, v. 9, p. 181.

Special bail required in suits for duties and penalties.

2 Mar., 1799, c. 22, s. 65, v. 1, p. 676.  
—Conkl., 348, 349.

When defendant giving bail in one district is committed in another.

2 Mar., 1799, c. 32, s. 1, v. 1, p. 727.

Defendant held until judgment in the first suit.

2 Mar., 1799, c. 32, s. 3, v. 1, p. 727.

Bail and affidavits may be taken by commissioners of circuit courts.

20 Feb., 1812, c. 30, v. 3, p. 350.

Calling of bail, in Kentucky.

15 May, 1862, c. 71, s. 10, v. 12, p. 387.

bond, with sureties similar to the first, for further appearance at the next succeeding term of the court, and if the party fails to give such other bond and surety, he shall stand committed by order of the clerk until he complies.

When clerks may take bail *de bene esse*.

8 May, 1792, c. 36, s. 10, v. 1, p. 278.

Amendment of process.

1 June, 1872, c. 255, s. 3, v. 17, p. 197.

Priority of cases in which a State is a party.

30 June, 1870, c. 181, v. 16, p. 176.

Hoge et al. v. Richmond, &c., R. R. Co., 93 U. S., 1.

Notice of case for trial.

28 Feb., 1871, c. 99, s. 17, v. 16, p. 439.

Suits of United States against individuals, what credits allowed.

3 Mar., 1797, c. 20, s. 3, v. 1, p. 514.

U. S. v. Giles, 9 Cr., 236; Thelusion v. Smith, 2 Wh., 396; U. S. v. Wilkins, 6 Wh., 143; Walton v. U. S., 9 Wh., 650; Cox v. U. S., 6 Pet., 202; U. S. v. Refley, 7 Pet., 25; U. S. v. Fillebrown, 7 Pet., 48; U. S. v. Robeson, 9 Pet., 319; U. S. v. Hawkins, 10 Pet., 125; U. S. v. Laub, 12 Pet., 1; U. S. v. Bank of Metropolis, 15 Pet., 377; Gratiot v. U. S., 4 How., 112; U. S. v. Buchanan, 8 How., 105; DeGroot v. U. S., 5 Wall., 431; U. S. v. Eckford, 6 Wall., 484; U. S. v. Gilmore, 7 Wall., 491; Halliburton v. U. S., 13 Wall., 63.

In suits under postal laws, what credits allowed.

2 July, 1836, c. 270, s. 15, v. 5, p. 82.

U. S. v. Roberts, 9 How., 501; U. S. v. Hodge, 13 How., 478; Ware v. U. S., 4 Wall., 617.

Bill of exceptions.

1 June, 1872, c. 255, s. 4, v. 17, p. 197.

Defects of form; amendments.

24 Sept., 1789, c. 20, s. 32, v. 1, p. 91.

Brig Caroline v. U. S., 7 Cr., 496; The Marianna Flora, 11 Wh., 1; Bank of Kentucky v. Wistar, 3 Pet., 431; Jackson v. Ashton,

SEC. 947. Recognizances of special bail may be taken *de bene esse* by the clerks of the circuit and district courts, in the absence or in case of the disability of the judges, in any action depending in either of the said courts, where special bail is demandable.

SEC. 948. Any circuit or district court may at any time, in its discretion, and upon such terms as it may deem just, allow an amendment of any process returnable to or before it, where the defect has not prejudiced, and the amendment will not injure the party against whom such process issues.

SEC. 949. When a State is a party, or the execution of the revenue laws of a State is enjoined or stayed, in any suit in a court of the United States, such State or the party claiming under the revenue laws of a State, the execution whereof is enjoined or stayed, shall be entitled, on showing sufficient reason, to have the cause heard at any time after it is docketed, in preference to any civil cause pending in such court between private parties.

SEC. 950. In all civil actions in the courts of the United States either party may notice the same for trial.

SEC. 951. In suits brought by the United States against individuals, no claim for a credit shall be admitted, upon trial, except such as appear to have been presented to the accounting officers of the Treasury, for their examination, and to have been by them disallowed, in whole or in part, unless it is proved to the satisfaction of the court that the defendant is, at the time of the trial, in possession of vouchers not before in his power to procure, and that he was prevented from exhibiting a claim for such credit at the Treasury by absence from the United States or by some unavoidable accident.

U. S. v. Giles, 9 Cr., 236; Thelusion v. Smith, 2 Wh., 396; U. S. v. Wilkins, 6 Wh., 143; Walton v. U. S., 9 Wh., 650; Cox v. U. S., 6 Pet., 202; U. S. v. Refley, 7 Pet., 25; U. S. v. Fillebrown, 7 Pet., 48; U. S. v. Robeson, 9 Pet., 319; U. S. v. Hawkins, 10 Pet., 125; U. S. v. Laub, 12 Pet., 1; U. S. v. Bank of Metropolis, 15 Pet., 377; Gratiot v. U. S., 4 How., 112; U. S. v. Buchanan, 8 How., 105; DeGroot v. U. S., 5 Wall., 431; U. S. v. Eckford, 6 Wall., 484; U. S. v. Gilmore, 7 Wall., 491; Halliburton v. U. S., 13 Wall., 63.

SEC. 952. No claim for a credit shall be allowed upon the trial of any suit for delinquency against a postmaster, contractor, or other officer, agent, or employé of the Post-Office Department, unless the same has been presented to the Sixth Auditor and by him disallowed, in whole or in part, or unless it is proved to the satisfaction of the court that the defendant is, at the time of trial, in possession of vouchers not before in his power to procure, and that he was prevented from exhibiting to the said Auditor a claim for such credit by some unavoidable accident.

SEC. 953. A bill of exceptions allowed in any cause shall be deemed sufficiently authenticated if signed by the judge of the court in which the cause was tried, or by the presiding judge thereof, if more than one judge sat on the trial of the cause, without any seal of court or judge being annexed thereto.

SEC. 954. No summons, writ, declaration, return, process, judgment, or other proceedings in civil causes, in any court of the United States, shall be abated, arrested, quashed, or reversed for any defect or want of form; but such court shall proceed and give judgment according as the right of the cause and matter in law shall appear to it, without regarding any such defect, or want of form, except those which, in cases of demurrer, the party demurring specially sets down, together with his demurrer, as the cause thereof; and such court shall amend every such defect and want of form, other than those which the party demurring so expresses; and may at any time permit either of the parties to amend



any defect in the process or pleadings, upon such conditions as it shall, in its discretion and by its rules, prescribe.

*v. Schooner North Carolina*, 15 Pet., 40; *Matheson's Administrator v. Grant's Administrator*, 2 How., 263; *Garland v. Davis*, 4 How., 131; *Stockton v. Bishop*, 4 How., 155; *Kennedy v. Georgia Bank*, 8 How., 586; *Conrad v. Griffey*, 11 How., 480; *Parks v. Turner*, 12 How., 39; *Hudgins v. Kemp*, 18 How., 530; *Insurance Company v. Mordecai*, 21 How., 195; *Porter v. Foley*, 21 How., 393; *Railroad Company v. Lindsay*, 4 Wall., 650; *McVeigh v. U. S.*, 8 Wall., 640.

SEC. 955. When either of the parties, whether plaintiff, or petitioner, or defendant, in any suit in any court of the United States, dies before final judgment, the executor or administrator of such deceased party may, in case the cause of action survives by law, prosecute or defend any such suit to final judgment. The defendant shall answer accordingly; and the court shall hear and determine the cause and render judgment for or against the executor or administrator, as the case may require. And if such executor or administrator, having been duly served with a scire facias from the office of the clerk of the court where the suit is depending, twenty days beforehand, neglects or refuses to become party to the suit, the court may render judgment against the estate of the deceased party, in the same manner as if the executor or administrator had voluntarily made himself a party. The executor or administrator who becomes a party as aforesaid, shall, upon motion to the court, be entitled to a continuance of the suit until the next term of said court.

Death of parties.

24 Sept., 1789, c. 20, s. 31, v. 1, p. 90.

*Wilson v. Codman's Executor*, 3 Cr., 193; *McCoul v. Lukamp's Administrator*, 2 Wh., 111; *Green v. Watkins*, 6 Wh., 260; *Macker's Heirs v. Thomas*, 7 Wh., 530; *Clay v. Smith*, 3 Pet., 411; *McNutt v. Bland*, 2 How., 28; *Barribeau v. Brant*, 17 How., 43; *Griswold v. Hill*, 1 Paine, 483; *Hatch v. Eustace*, 1

*Gallis*, 160; *The James A. Wright*, 10 Blatch., 160.

SEC. 956. If there are two or more plaintiffs or defendants, in a suit where the cause of action survives to the surviving plaintiff or against the surviving defendant, and one or more of them dies, the writ or action shall not be thereby abated; but, such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff against the surviving defendant.

When one of several plaintiffs or defendants dies.

24 Sept., 1789, c. 20, s. 31, v. 1, p. 90.

SEC. 957. When suit is brought by the United States against any revenue officer or other person accountable for public money, who neglects or refuses to pay into the Treasury the sum or balance reported to be due to the United States, upon the adjustment of his account it shall be the duty of the court to grant judgment at the return term, upon motion, unless the defendant, in open court, (the United States attorney being present,) makes and subscribes an oath that he is equitably entitled to credits which had been, previous to the commencement of the suit, submitted to the accounting officers of the Treasury, and rejected; specifying in the affidavit each particular claim so rejected, and that he cannot then safely come to trial. If the court, when such oath is made, subscribed, and filed, is thereupon satisfied, a continuance until the next succeeding term may be granted. Such continuance may also be granted when the suit is brought upon a bond or other sealed instrument, and the defendant pleads non est factum, or makes a motion to the court, verifying such plea or motion by his oath, and the court thereupon requires the production of the original bond, contract, or other paper certified in the affidavit. And no continuance shall be granted except as herein provided.

Delinquents for public money; judgment at return term, unless, &c.

3 Mar., 1797, c. 20, s. 3, v. 1, p. 514.

SEC. 958. In suits arising under the postal laws the court shall proceed to trial, and render judgment at the return term; but whenever service of process is not made at least twenty days before the return day of such term, the defendant is entitled to one continuance, if, on his statement, the court deems it expedient; and if he makes affidavit that he has a claim against the Post-Office Department, which has been submitted to and disallowed by the Sixth Auditor, specifying such claim in his affidavit, and that he could not be prepared for trial at such term for want of evidence, the court, if satisfied thereof, may grant a continuance until the next term.

Suits under postal laws; judgment at return term, unless, &c.

3 Mar., 1825, c. 64, s. 38, v. 4, p. 113.

2 July, 1836, c. 270, s. 15, v. 5, p. 82.

SEC. 959. In all suits for the recovery of money upon debentures issued by the collectors of customs, under any act for the collection of duties, it shall be the duty of the court to grant judgment at the return term,

Suits on debentures; judgment at return term unless, &c.

2 Mar., 1799, c. 22, s. 80, v. 1, pp. 688, 689.

*Ex parte* U. S., 8 Pet., 700.

Suits on bonds for recovery of duties; judgment at return term, unless, &c.

2 Mar., 1799, c. 22, s. 65, v. 1, p. 676.

*Ex parte* U. S., 8 Pet., 700.

Judgment for sum due in equity on bonds, &c.

24 Sept., 1789, c. 20, s. 26, v. 1, p. 87.

*Farrar v. U.S.*, 5 Pet., 373.

Judgment for duties, &c., to state that it is to be collected in coin.

3 Mar., 1865, c. 80, s. 12, v. 13, p. 494.

Interest on bonds for duties.

2 Mar., 1799, c. 22, s. 65, v. 1, p. 676.

Interest on balances due Post-Office Department.

2 July, 1836, c. 270, s. 15, v. 5, p. 82.

Interest on debentures.

2 Mar., 1799, c. 22, s. 80, v. 1, pp. 687, 689.

Interest on judgments.

23 Aug., 1842, c. 118, s. 8, v. 5, p. 518.

*Perkins v. Fourniquet*, 14 How., 328; *National Bank v. Mechanics' National Bank*, 94 U.S., 437.

When judgments of United States courts cease to be liens.

4 July, 1840, c. 43, s. 4, v. 5, p. 393.—*Massingill v. Downs*, 7 How., 760; *Myers v. Tyson*, 13 Blatch., 242.

When plaintiff or petitioner recovers in a circuit court less than certain amounts, he recovers no costs.

unless the defendant, in open court, exhibits some plea, on oath, by which the court is satisfied that a continuance is necessary to the attainment of justice; in which case, and not otherwise, a continuance until the next term may be granted.

SEC. 960. When suit is brought on any bond for the recovery of duties due to the United States, it shall be the duty of the court to grant judgment at the return term, upon motion, unless the defendant, in open court, (the United States attorney being present,) makes oath that an error has been committed in the liquidation of the duties demanded upon such bond, specifying the errors alleged to have been committed, and that the same have been notified in writing to the collector of the district before the said return term; whereupon a continuance may be granted until the next term, and no longer, if the court is satisfied that such continuance is necessary for the attainment of justice.

SEC. 961. In all suits brought to recover the forfeiture annexed to any articles of agreement, covenant, bond, or other specialty, where the forfeiture, breach, or non-performance appears by the default or confession of the defendant, or upon demurrer, the court shall render judgment for the plaintiff to recover so much as is due according to equity. And when the sum for which judgment should be rendered is uncertain, it shall, if either of the parties request it, be assessed by a jury.

SEC. 962. In all suits by the United States for the recovery of duties upon imports, or of penalties for the non-payment thereof, the judgment shall recite that it is rendered for duties, and such judgment, with interest thereon, and costs, shall be payable in the coin by law receivable for duties; and the execution issued thereon shall set forth that the recovery is for duties, and shall require the marshal to satisfy the same in the coin by law receivable for duties; and in case of levy upon and sale of the property of the judgment debtor, the marshal shall refuse payment from any purchaser at such sale in any other money than that specified in the execution. [See § 3014.]

SEC. 963. Upon all bonds, on which suits are brought for the recovery of duties, interest shall be allowed, at the rate of six per centum a year, from the time when said bonds became due.

SEC. 964. In all suits for balances due to the Post-Office Department, interest thereon shall be recovered, from the time of the default, at the rate of six per centum a year.

SEC. 965. In suits upon debentures, issued by the collectors of the customs under any act for the collection of duties, interest shall be allowed, at the rate of six per centum per annum, from the time when such debenture became due and payable.

SEC. 966. Interest shall be allowed on all judgments in civil causes, recovered in a circuit or district court, and may be levied by the marshal under process of execution issued thereon, in all cases where, by the law of the State in which such court is held, interest may be levied under process of execution on judgments recovered in the courts of such State; and it shall be calculated from the date of the judgment, at such rate as is allowed by law on judgments recovered in the courts of such State.

SEC. 967. Judgments and decrees rendered in a circuit or district court, within any State, shall cease to be liens on real estate or chattels real, in the same manner and at like periods as judgments and decrees of the courts of such State cease, by law, to be liens thereon.

SEC. 968. When, in a circuit court, a plaintiff in an action at law originally brought there, or a petitioner in equity, other than the United States, recovers less than the sum or value of five hundred dollars, exclusive of costs, in a case which cannot be brought there unless the amount in dispute, exclusive of costs, exceeds said sum or value; or a

libelant, upon his own appeal, recovers less than the sum or value of three hundred dollars, exclusive of costs, he shall not be allowed, but, at the discretion of the court, may be adjudged to pay, costs.

24 Sept., 1789, c. 20, s. 20, v. 1, p. 83.  
3 Mar., 1803, c. 40, s. 2, v. 2, p. 244.

Leeds v. Cameron, 3 Sum., 488; Kneass v. Schuylkill Bank, 4 Wash. C. C., 106; Cattle v. Payne, 3 Day, 289; Ellis v. Jarvis, 3 Mas., 457; Field v. Schell, 4 Blatch., 435.

SEC. 969. When a suit for the recovery of any penalty or forfeiture accruing under any law providing internal revenue is brought upon information received from any person other than a collector, deputy collector, or inspector of internal revenue, the United States shall not be subject to any costs of suit.

Costs in internal-revenue suits upon information.

13 July, 1866, c. 184, s. 9, v. 14, p. 111.

SEC. 970. When, in any prosecution commenced on account of the seizure of any vessel, goods, wares, or merchandise, made by any collector or other officer, under any act of Congress authorizing such seizure, judgment is rendered for the claimant, but it appears to the court that there was reasonable cause of seizure, the court shall cause a proper certificate thereof to be entered, and the claimant shall not, in such case, be entitled to costs, nor shall the person who made the seizure, nor the prosecutor, be liable to suit or judgment on account of such suit or prosecution: *Provided*, That the vessel, goods, wares, or merchandise be, after judgment, forthwith returned to such claimant or his agent.

Claimant not entitled to costs when reasonable cause of seizure.

2 Mar., 1799, c. 22, s. 89, v. 1, pp. 695, 696.

24 Feb., 1807, c. 19, s. 1, v. 2, p. 422.

The Apollon, 9 Wh., 362; U. S. v. Riddle, 5 Cr., 311; Locke v. U. S., 7 Cr., 339; Otis v. Watkins, 9 Cr., 339; Averill v. Smith, 17 Wall., 82, (93.); Shattuck v. Maley, 1 Wash. C. C., 249; Friendship and Cargo, 1 Gallis., 111; The Friendship, 2 Gallis., 112; U. S. v. Gay, 2 Gallis., 360; The Ship Recorder, 2 Blatch., 120; La Jeune Eugenie, 2 Mas., 436.

SEC. 971. If, in any suit against an officer or other person executing or aiding or assisting in the seizure of goods, under any act providing for or regulating the collection of duties on imports or tonnage, the plaintiff is nonsuited, or judgment passed against him, the defendant shall recover double costs.

Double costs, when plaintiff is nonsuited in action against officer making seizure, &c.

2 Mar., 1799, c. 22, s. 71, v. 1, p. 678.

SEC. 972. In all recoveries under the copyright laws, either for damages, forfeitures, or penalties, full costs shall be allowed thereon.

Copyright suits, full costs allowed.

8 July, 1870, c. 230, s. 108, v. 16, p. 215.

SEC. 973. When judgment or decree is rendered for the plaintiff or complainant, in any suit at law or in equity, for the infringement of a part of a patent, in which it appears that the patentee, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor, no costs shall be recovered, unless the proper disclaimer, as provided by the patent-laws, has been entered at the Patent-Office before the suit was brought.

Costs not recoverable in certain suits for infringement of patent, unless disclaimer entered, &c.

8 July, 1870, c. 230, s. 60, v. 16, p. 207.

SEC. 974. When judgment is rendered against the defendant in a prosecution for any fine or forfeiture incurred under a statute of the United States, he shall be subject to the payment of costs; and on every conviction for any other offense not capital, the court may, in its discretion, award that the defendant shall pay the costs of the prosecution.

When costs of prosecution to be paid by defendant.

8 May, 1792, c. 36, s. 5, v. 1, p. 277.

SEC. 975. If any informer or plaintiff on a penal statute, to whom the penalty or any part thereof, if recovered, is directed to accrue, discontinues his suit or prosecution, or is nonsuited therein, or if upon trial judgment is rendered in favor of the defendant, the court shall award to the defendant his costs, unless such informer or plaintiff is an officer of the United States specially authorized to commence such prosecution, and the court, at the trial in open court, certifies upon the record that there was reasonable cause for commencing the same; in which case no costs shall be adjudged to the defendant.

When costs are recovered by defendant in a prosecution.

8 May, 1792, c. 36, s. 5, v. 1, p. 277.

SEC. 976. If any informer on a penal statute, to whom the penalty or any part thereof, if recovered, is directed to accrue, discontinues his suit or prosecution, or is nonsuited therein, or if upon trial judgment is rendered in favor of the defendant, such informer shall be alone liable to the clerk, marshal, and attorney for the fees of such prosecution, unless he is an officer of the United States whose duty it is to commence such

Fees of clerk, marshal, &c.; when payable by informer; when by United States.

28 Feb., 1799, c. 19, s. 8, v. 1, p. 626.

prosecution, and the court certifies that there was reasonable cause for commencing the same; in which case the United States shall be responsible for such fees.

**COSTS, WHEN SEVERAL ACTIONS ARE BROUGHT AGAINST PARTIES WHO MIGHT BE JOINED IN ONE.**

22 July, 1813, c. 14, s. 1, v. 3, p. 19.

**ALLOWANCE OF COSTS IN LIBELS AGAINST VESSEL AND CARGO.**

22 July, 1813, c. 14, s. 2, v. 3, p. 20.

**CLAIMANT'S COSTS TO BE PAID BEFORE POSSESSION, WHEN, &c.**

22 July, 1813, c. 14, s. 2, v. 3, p. 21.

**WHEN DISTRICT ATTORNEY IS ENTITLED TO BUT ONE BILL OF COSTS FOR SEVERAL PROSECUTIONS.**

26 Feb., 1853, c. 80, s. 1, v. 10, p. 162.

**TAXATION OF FEES OF WITNESS BEFORE A COMMISSIONER.**

16 Aug., 1856, c. 124, s. 3, v. 11, p. 49.

**ATTORNEY LIABLE FOR COSTS VEXATIONOUSLY INCREASED BY HIM.**

22 July, 1813, c. 14, s. 3, v. 3, p. 21.  
26 Feb., 1853, c. 80, s. 1, v. 10, p. 162.

**BILL OF COSTS, HOW TAXED.**

26 Feb., 1853, c. 80, s. 3, v. 10, p. 168.

*The Liverpool Packet*, 2 Spr., 37: *Lyell v. Miller*, 6 McLean, 422.

**BILL OF COSTS TO BE SWORN TO BEFORE TAXED OR ALLOWED.**

26 Feb., 1853, c. 80, s. 3, v. 10, p. 169.  
23 June, 1874, c. 469, s. 7, v. 18, p. 256.

**EXECUTIONS TO RUN IN ALL THE DISTRICTS OF A STATE.**

SEC. 977. If several actions or processes are instituted, in a court of the United States or one of the Territories, against persons who might legally be joined in one action or process touching the matter in dispute, the party pursuing the same shall not recover, on all of the judgments therein which may be rendered in his favor, the costs of more than one action or process, unless special cause for said several actions or processes is satisfactorily shown on motion in open court.

SEC. 978. When proceedings are had before a court of the United States or of the Territories, on several libels against any vessel and cargo, which might legally be joined in one libel, there shall not be allowed thereon more costs than on one libel, unless special cause for libeling the vessel and cargo separately is satisfactorily shown on motion in open court. And in proceedings on several libels or informations against any cargo, or parts of cargo, or merchandise seized as forfeited for the same cause, there shall not be allowed more costs than would be lawful on one libel or information, whatever may be the number of owners or consignees therein concerned. But allowance may be made on one libel or information for the costs incidental to several claims.

SEC. 979. When judgment is rendered in favor of the claimant of any vessel or other property seized on behalf of the United States, and libeled or informed against as forfeited under any law thereof, he shall be entitled to possession of the same when his own costs are paid.

SEC. 980. When a district attorney prosecutes two or more indictments, suits, or proceedings which should be joined, he shall be paid but one bill of costs for all of them.

SEC. 981. In no case shall the fees of more than four witnesses be taxed against the United States, in the examination of any criminal case before a commissioner of a circuit court, unless their materiality and importance are first approved and certified to by the district attorney for the district in which the examination is had; and such taxation shall be subject to revision, as in other cases.

SEC. 982. If any attorney, proctor, or other person admitted to conduct causes in any court of the United States, or of any Territory, appears to have multiplied the proceedings in any cause before such court, so as to increase costs unreasonably and vexatiously, he shall be required, by order of the court, to satisfy any excess of costs so increased.

SEC. 983. The bill of fees of the clerk, marshal, and attorney, and the amount paid printers and witnesses, and lawful fees for exemplifications and copies of papers necessarily obtained for use on trials in cases where by law costs are recoverable in favor of the prevailing party, shall be taxed by a judge or clerk of the court, and be included in and form a portion of a judgment or decree against the losing party. Such taxed bills shall be filed with the papers in the cause.

SEC. 984. Before any bill of costs shall be taxed by any judge or other officer, or allowed by any officer of the Treasury, in favor of clerks, marshals, commissioners, or district attorneys, the party claiming such bill shall prove by his own oath, or that of some other person having a knowledge of the facts, to be attached to such bill, and filed therewith, that the services charged therein have been actually and necessarily performed, as therein stated.

SEC. 985. All writs of execution upon judgments or decrees obtained in a circuit or district court, in any State which is divided into two or more districts, may run and be executed in any part of such State; but

shall be issued from, and made returnable to, the court wherein the judgment was obtained.

20 May, 1826, c. 124, v. 4, p. 184.

Lyman Ventilating Company v. Southard, 12 Blatch., 405.

SEC. 986. All writs of execution upon judgments obtained for the use of the United States, in any court thereof, in one State, may run and be executed in any other State, or in any Territory, but shall be issued from, and made returnable to, the court wherein the judgment was obtained.

Executions in favor of United States to run in every State and Territory.

3 Mar., 1797, c. 20, s. 6, v. 1, p. 515.

SEC. 987. When a circuit court enters judgment in a civil action, either upon a verdict or on a finding of the court upon the facts, in cases where such finding is allowed, execution may, on motion of either party, at the discretion of the court, and on such conditions for the security of the adverse party as it may judge proper, be stayed forty-two days from the time of entering judgment, to give time to file in the clerk's office of said court a petition for a new trial. If such petition is filed within said term of forty-two days, with a certificate thereon from any judge of such court that he allows it to be filed, which certificate he may make or refuse at his discretion, execution shall, of course, be further stayed to the next session of said court. If a new trial be granted, the former judgment shall be thereby rendered void.

Execution stayed on conditions.

24 Sept., 1789, c.

20, s. 18, v. 1, p. 83.

3 Mar., 1865, c.

86, s. 4, v. 13, p. 501.

Cooper, ex., v. Omohundro, 19 Wall., 65.

SEC. 988. In any State where judgments are liens upon the property of the defendant, and where, by the laws of such State, defendants are entitled, in the courts thereof, to a stay of execution for one term or more, defendants in actions in the courts of the United States, held therein, shall be entitled to a stay of execution for one term.

When judgment-debtor entitled to a continuance of one term.

19 May, 1828, c.

68, s. 2, v. 4, p. 281.

SEC. 989. When a recovery is had in any suit or proceeding against a collector or other officer of the revenue for any act done by him, or for the recovery of any money exacted by or paid to him and by him paid into the Treasury, in the performance of his official duty, and the court certifies that there was probable cause for the act done by the collector or other officer, or that he acted under the directions of the Secretary of the Treasury, or other proper officer of the Government, no execution shall issue against such collector or other officer, but the amount so recovered shall, upon final judgment, be provided for and paid out of the proper appropriation from the Treasury.

Execution not to issue against officers of revenue in cases of probable cause, &c.

3 Mar., 1863, c.

76, s. 12, v. 12, p.

741.

Andrae v. Redfield, 12 Blatch., 407.

SEC. 990. No person shall be imprisoned for debt in any State, on process issuing from a court of the United States, where, by the laws of such State, imprisonment for debt has been or shall be abolished. And all modifications, conditions, and restrictions upon imprisonment for debt, provided by the laws of any State, shall be applicable to the process issuing from the courts of the United States to be executed therein; and the same course of proceedings shall be adopted therein as may be adopted in the courts of such State.

Imprisonment for debt.

28 Feb., 1839, c.

35, v. 5, p. 321.

14 Jan., 1841, c.

2, v. 5, p. 410.

2 Mar., 1867, c.

180, v. 14, p. 543.

Randolph v. Donaldson, 9 Cr., 76; Marshall v. Bazin, 7 N. Y. Leg. Obs., 342; Hodge v. Bemis, 12 Law Rep., 470, S. C., 2 Am. L. J., 337; Gardner v. Isaacson, 1 Ab., 141; Gaines v. Travis, 1 Ab., 422; United States v. Tetlow, 2 Low., 159.

SEC. 991. When any person is arrested or imprisoned in any State, on mesne process or execution issued from any court of the United States, in any civil action, he shall be entitled to discharge from such arrest or imprisonment in the same manner as if he were so arrested and imprisoned on like process from the courts of such State. The same oath may be taken, and the same notice thereof shall be required, as may be provided by the laws of such State, and the same course of proceedings shall be adopted as may be adopted in the courts thereof. But all such proceedings shall be had before one of the commissioners of the circuit court for the district where the defendant is so held.

Discharge from arrest or imprisonment on mesne or final process.

6 Jan., 1800, c. 4,

s. 2, v. 2, p. 5.

7 Jan., 1824, c. 3,

v. 4, p. 1.

22 April, 1824, c.

39, ss. 1, 2, v. 4, pp.

19, 20.

2 Mar., 1867, c.

180, v. 14, p. 543.—King v. Riddle, 7 Cr., 168; Duncan v. Durst, 1 How., 301; McNutt v. Bland, 2 How., 9; Snead v. McCoull, 12 How., 407.

SEC. 992. Persons imprisoned on process issuing from any court of the United States in civil actions, as well at the suit of the United States as

Privileges of jail limits.

6 Jan., 1800, c. 4, s. 1, v. 2, p. 4. at the suit of any person, shall be entitled to the same privileges of the yards of the respective jails as persons confined in like cases on process from the courts of the respective States are entitled to, and under the like regulations and restrictions.

19 May, 1828, c. 68, s. 1, v. 4, p. 278.  
1 Aug., 1842, c. 109, v. 5, p. 499.—*Ex parte Wilson*, 6 Cr., 52; *U. S. v. Knight*, 14 Pet., 314.

Goodstaken on a *fieri facias*, how appraised.

2 Mar., 1793, c. 22, s. 8, v. 1, p. 335.

*Bronson v. Kinzie*, 1 How., 323.

Death of marshal after levy or after sale.

7 May, 1800, c. 45, s. 3, v. 2, p. 61.

*Doolittle v. Bryan*, 14 How., 563.

Moneys paid into court, where and how deposited.

24 Mar., 1871, c. 2, s. 1, v. 17, p. 1.

How moneys deposited to be withdrawn.

24 Mar., 1871, c. 2, s. 2, v. 17, p. 1.

Removal of causes by writ of error.

24 Sept., 1789, c. 20, s. 22, v. 1, p. 84.

5 Feb., 1867, c. 28, s. 2, v. 14, p. 386.

The writ: *Wood v. Lyde*, 4 Cr. 180; *U. S. v. Hodge*, 3 How., 534; *U. S. v. Villabolas*, 6 How., 81; *U. S. v. Curry*, 6 How., 112; *Brooks v. Norris*, 11 How., 204; *Steamer Virginia v. West*, 19 How., 182; *Insurance Company v. Mordecai*, 21 How., 200; *Overton v. Cheek*, 22 How., 46; *Castro v. U. S.*, 3 Wall., 46; *Mussina v. Cavazos*, 6 Wall., 355; *Bartemeyer v. Iowa*, 14 Wall., 26; *Storm v. U. S.*, 94 U. S., 76; *Hurst v. Hollingsworth*, 94 U. S., 111; *Dayton v. Lash*, 94 U. S., 112.

Transcript: *Owens v. Hanney*, 9 Cr., 180; *Williams v. Norris*, 12 Wh., 117; *Stockton v. Bishop*, 4 How., 155; *Innerarity v. Byrne*, 5 How., 295; *Villabolas v. U. S.*, 6 How., 81; *Steamer Virginia v. West*, 19 How., 182; *U. S. v. Gomez*, 1 Wall., 690; *Sparrow v. Strong*, 3 Wall., 103; *Stearns v. U. S.*, 4 Wall., 1; *Edmonson v. Bloomshire*, 7 Wall., 306;

SEC. 993. When it is required by the laws of any State that goods taken in execution on a writ of *fieri facias* shall be appraised, before the sale thereof, the appraisers appointed under the authority of the State may appraise goods taken in execution on a *fieri facias* issued out of any court of the United States, in the same manner as if such writ had issued out of a court of such State. And the marshal, in whose custody such goods may be, shall summon the appraisers, in the same manner as the sheriff is, by the laws of such State, required to summon them; and if the appraisers, being duly summoned, fail to attend and perform the duties required of them, the marshal may proceed to sell such goods without an appraisal. When such appraisers attend they shall be entitled to the like fees as in cases of appraisements under the laws of the State.

SEC. 994. When a marshal dies, or is removed from office, or the term of his commission expires, after he has taken in execution, under process from a court of the United States, any lands, tenements, or hereditaments, and before sale or other final disposition thereof, the like process shall issue to the succeeding marshal, and the same proceeding shall be had as if such marshal had not died or been removed, or the term of his commission had not expired. And when a marshal dies or is removed from office, or the term of his commission expires, after he has sold any lands, tenements, or hereditaments, under process from a court of the United States, and before a deed for the same is executed by him to the purchaser, such court may, on application by the purchaser, or by the plaintiff at whose suit the sale was made, setting forth the case and the reason why the title was not perfected by said marshal, order the marshal for the time being to perfect the title and execute a deed to the purchaser, upon his paying the purchase-money and costs remaining unpaid.

SEC. 995. All moneys paid into any court of the United States, or received by the officers thereof, in any cause pending or adjudicated in such court, shall be forthwith deposited with the Treasurer, an assistant treasurer, or a designated depository of the United States, in the name and to the credit of such court: *Provided*, That nothing herein shall be construed to prevent the delivery of any such money upon security, according to agreement of parties, under the direction of the court.

SEC. 996. No money deposited as aforesaid shall be withdrawn except by order of the judge or judges of said courts respectively, in term or in vacation, to be signed by such judge or judges, and to be entered and certified of record by the clerk; and every such order shall state the cause in or on account of which it is drawn.

#### PROCEDURE ON ERROR AND APPEAL.

SEC. 997. There shall be annexed to and returned with any writ of error for the removal of a cause, at the day and place therein mentioned, an authenticated transcript of the record, an assignment of errors, and a prayer for reversal, with a citation to the adverse party.

Blitz v. Brown, 7 Wall., 693; Avendano v. Gay, 8 Wall., 376; The Lucy, 8 Wall., 307; Hoe v. Wilson, 9 Wall., 501; U. S. v. Vigil, 10 Wall., 423.

Citation: Lloyd v. Alexander, 1 Cr., 365; Yeaton v. Lenox, 7 Pet., 220; U. S. v. Hodge, 3 How., 534; McDonogh v. Millandon, 3 How., 693; Sheppard v. Wilson, 5 How., 210; Innerarity v. Byrne, 5 How., 295; Villabolas v. U. S., 6 How., 81; U. S. v. Curry, 6 How., 106; Peale v. Phipps, 8 How., 256; Buckingham v. McLean, 13 How., 150; Davenport v. Fletcher, 16 How., 142; Poydras de la Lande v. Treasurer of Louisiana, 17 How., 1; Carrol v. Dorsey, 20 How., 207; Bacon v. Hart, 1 Bl., 38; U. S. v. Gomez, 1 Wall., 690; Castro v. U. S., 3 Wall., 46; Sparrow v. Strong, 3 Wall., 103; McClane v. Boon, 6 Wall., 244; Alviso v. U. S., 6 Wall., 457; City of Washington v. Jennison, 6 Wall., 495; Pierce v. Cox, 9 Wall., 787; Bigler v. Waller, 12 Wall., 142; Bartemeyer v. Iowa, 14 Wall., 26.

SEC. 998. When the writ is issued by a circuit court to a district court, the citation shall be signed by the judge of such district court, or by the circuit judge of such circuit court, or by a justice of the Supreme Court, and the adverse party shall have at least twenty days' notice.

Citation.

24 Sept., 1789, c. 20, s. 22, v. 1, p. 84.  
5 Feb., 1867, c. 28, s. 2, v. 14, p. 386.

SEC. 999. When the writ is issued by the Supreme Court to a circuit court, the citation shall be signed by a judge of such circuit court, or by a justice of the Supreme Court, and the adverse party shall have at least thirty days' notice; and when it is issued by the Supreme Court to a State court, the citation shall be signed by the Chief Justice, or judge, or chancellor of such court, rendering the judgment or passing the decree complained of, or by a justice of the Supreme Court of the United States, and the adverse party shall have at least thirty days' notice.

Citation, Supreme Court.

24 Sept., 1789, c. 20, s. 22, v. 1, p. 84.  
5 Feb., 1867, c. 28, s. 2, v. 14, p. 386.

How., 210; Villabolas v. U. S., 6 How., 81; Davidson v. Lanier, 4 Wall., 453; Palmer v. Downer, 7 Wall., 541; Bartemeyer v. Iowa, 14 Wall., 26.

SEC. 1000. Every justice or judge signing a citation on any writ of error, shall, except in cases brought up by the United States or by direction of any Department of the Government, take good and sufficient security that the plaintiff in error or the appellant shall prosecute his writ or appeal to effect, and, if he fail to make his plea good, shall answer all damages and costs, where the writ is a supersedeas and stays execution, or all costs only where it is not a supersedeas as aforesaid.

Bond in error and on appeal.

24 Sept., 1789, c. 20, s. 22, v. 1, p. 84.  
12 Dec., 1794, c. 3, v. 1, p. 404.  
21 Feb., 1863, c. 50, v. 12, p. 657.  
27 July, 1868, c.

255, s. 1, v. 15, p. 226.—Brockett v. Brockett, 2 How., 238; Davenport v. Fletcher, 16 How., 142; Hudgins v. Kemp, 18 How., 530; Roberts v. Cooper, 19 How., 373; Anson v. Blue Ridge R. R., 23 How., 1; Orchard v. Hughes, 1 Wall., 76; Brobst v. Brobst, 2 Wall., 96; Davidson v. Lanier, 4 Wall., 447; *Ex parte* The Milwaukee R. R., 5 Wall., 188; Seymour v. Freer, 5 Wall., 822; Rubber Company v. Goodyear, 6 Wall., 153; Silver v. Ladd, 6 Wall., 440; Edmonson v. Bloomshire, 7 Wall., 306; French v. Shoemaker, 12 Wall., 86; Bigler v. Waller, 12 Wall., 142; Telegraph Company v. Eyser, 19 Wall., 419; Board of Commissioners v. Gorman, 19 Wall., 661; Kitchen v. Randolph, 93 U. S., 86.

SEC. 1001. Whenever a writ of error, appeal, or other process in law, admiralty, or equity, issues from or is brought up to the Supreme Court, or a circuit court, either by the United States or by direction of any Department of the Government, no bond, obligation, or security shall be required from the United States, or from any party acting under the direction aforesaid, either to prosecute said suit, or to answer in damages or costs. In case of an adverse decision, such costs as by law are taxable against the United States, or against the party acting by direction as aforesaid, shall be paid out of the contingent fund of the Department under whose directions the proceedings were instituted.

No bond required of United States, &c.

21 Feb., 1863, c. 50, v. 12, p. 657.  
27 July, 1868, c. 255, s. 1, v. 15, p. 226.

SEC. 1002. Writs of error shall be prosecuted from the final judgments of district courts acting as circuit courts to the Supreme Court in the same manner as from the final judgments of circuit courts.

Writs of error to district courts acting as circuit courts.

24 Sept., 1789, c. 20, s. 10, v. 1, p. 77. 22 June, 1874, c. 401, s. 7, v. 18, p. 196. Ala., 4 Aug., 1842, c. 123, s. 1, v. 5, p. 504; 8 Aug., 1846, c. 104, s. 1, v. 9, p. 78. Ark., 3 Mar., 1851, c. 24, s. 3, v. 9, p. 595. Ga., 11 Aug., 1848, c. 151, s. 9, v. 3, p. 281. Miss., 16 Feb., 1839, c. 27, s. 3, v. 5, p. 317. W. Va., 4 Feb., 1819, c. 12, s. 2, v. 9, p. 479; 3 Mar., 1837, c. 34, s. 3, v. 5, p. 177; 28 Mar., 1838, c. 46, s. 1, v. 5, p. 215; 11 June, 1864, c. 120, s. 1, v. 13, p. 124.

SEC. 1003. Writs of error from the Supreme Court to a State court in cases authorized by law, shall be issued in the same manner, and under the same regulations, and shall have the same effect as if the judgment

Writs of error to State courts, manner of issue.

24 Sept., 1789, c. 20, s. 25, v. 1, p. 85-6.

5 Feb., 1867, c. 28, s. 2, v. 14, p. 386.

—*Gelston v. Hoyt*, 3 Wh., 246; *Buell v. Van Ness*, 8 Wh., 312; *McGuire v. The Commonwealth*, 3 Wall., 382; *Aldrich v. Aetna Company*, 8 Wall., 495; *Gleason v. Florida*, 9 Wall., 779; *Bartemeyer v. Iowa*, 14 Wall., 26.

Writs of error returnable to the Supreme Court, how issued.

8 May, 1792, c. 36, s. 9, v. 1, p. 278.

*Buell v. Van Ness*, 8 Wh., 312; *Sheppard v. Wilson*, 5 How., 210; *Mussina v. Cavazos*, 6 Wall., 355.

Amendment of writ of error.

1 June, 1872, c. 255, s. 3, v. 17, p. 196.

*Carroll v. Dorsey*, 20 How., 206; *Mussina v. Cavazos*, 6 Wall., 355; *Hampton v. Rouse*, 15 Wall., 684; *Atherton et al. v. Fowler et al.*, U. S., 143.

Amendments in prize appeals.

3 Mar., 1873, c. 230, s. 2, v. 17, p. 556.

Supersedeas.

24 Sept., 1789, c. 20, s. 23, v. 1, p. 85.

1 June, 1872, c. 255, s. 11, v. 17, p. 198.

18 Feb., 1875, c. 80, v. 18, p. 318.

*Hogan v. Ross*, 11 How., 294; *Stafford v. Union Bank*, 16 How., 135; *Adams v. Law*, 16 How., 144; *Green v. Van Buskirk*, 3 Wall., 448; *City of Washington v. Dennison*, 6 Wall., 495; *Railroad v. Harris*, 7 Wall., 574; *Telegraph Co. v. Eyser*, 19 Wall., 419; *Board of Commissioners v. Gorman*, 19 Wall., 661; *Doyle v. Wisconsin*, 94 U. S., 50; *Goddard v. Ordway*, 94 U. S., 672.

Writs of error and appeals to Supreme Court, time for taking.

1 June, 1872, c. 255, s. 2, v. 17, p. 196.

*Thomas v. Brockenbrough*, 10 Wh., 146; *Brooks v. Norris*, 11 How., 204; *Hanger v. Abbott*, 6 Wall., 532; *The Protector*, 9 Wall., 687.

Appeals in prize causes, within what time.

30 June, 1864, c. 174, s. 13, v. 13, p. 310.

or decree complained of had been rendered or passed in a court of the United States.

SEC. 1004. Writs of error returnable to the Supreme Court may be issued as well by the clerks of the circuit courts, under the seals thereof, as by the clerk of the Supreme Court. When so issued they shall be, as nearly as each case may admit, agreeable to the form of a writ of error transmitted to the clerks of the several circuit courts by the clerk of the Supreme Court, in pursuance of section nine of the act of May eight, seventeen hundred and ninety-two, chapter thirty-six.

SEC. 1005. The Supreme Court may, at any time, in its discretion and upon such terms as it may deem just, allow an amendment of a writ of error, when there is a mistake in the teste of the writ, or a seal to the writ is wanting, or when the writ is made returnable on a day other than the day of the commencement of the term next ensuing the issue of the writ, or when the statement of the title of the action or parties thereto in the writ is defective, if the defect can be remedied by reference to the accompanying record, and in all other particulars of form: *Provided*, The defect has not prejudiced, and the amendment will not injure, the defendant in error.

SEC. 1006. The Supreme Court may, if, in its judgment, the purposes of justice require it, allow any amendment, either in form or substance, of any appeal in prize causes. [See § 4636.]

SEC. 1007. In any case where a writ of error may be a supersedeas, the defendant may obtain such supersedeas by serving the writ of error, by lodging a copy thereof for the adverse party in the clerk's office where the record remains, within sixty days, Sundays exclusive, after the rendering of the judgment complained of, and giving the security required by law on the issuing of the citation. But if he desires to stay process on the judgment, he may, having served his writ of error as aforesaid, give the security required by law within sixty days after the rendition of such judgment, or afterward with the permission of a justice or judge of the appellate court. And in such cases where a writ of error may be a supersedeas, executions shall not issue until the expiration of [*the said term of sixty*] [ten] days.

SEC. 1008. No judgment, decree, or order of a circuit or district court, in any civil action, at law or in equity, shall be reviewed in the Supreme Court, on writ of error or appeal, unless the writ of error is brought, or the appeal is taken, within two years after the entry of such judgment, decree, or order: *Provided*, That where a party entitled to prosecute a writ of error or to take an appeal is an infant, insane person, or imprisoned, such writ of error may be prosecuted, or such appeal may be taken, within two years after the judgment, decree, or order, exclusive of the term of such disability. [See § 635.]

SEC. 1009. Appeals in prize causes shall be made within thirty days after the rendering of the decree appealed from, unless the court previously extends the time, for cause shown in the particular case: *Provided*, That the Supreme Court may, if in its judgment the purposes of justice require it, allow an appeal in any prize cause, if it appears that any notice of appeal, or of intention to appeal, was filed with the clerk



of the district court within thirty days next after the rendition of the final decree therein. [See §§ 695, 4636.] 3 Mar., 1873, c. 230, s. 2, v. 17, p. 556.

SEC. 1010. Where, upon a writ of error, judgment is affirmed in the Supreme Court or a circuit court, the court shall adjudge to the respondents in error just damages for his delay, and single or double costs, at its discretion. The Neustra Señora de Reglas, 16 Wall., 29. Damages and costs on affirmance in error.

24 Sept., 1789, c. 20, ss. 23, 25, v. 1, p. 386.—Rules 23, 24, 30, Supreme Court. Winchester v. Jackson, 3 Cr., 514; Himley v. Rose, 5 Cr., 313; McIver v. Wattles, 9 Wh., 650; Boyce's Executors v. Grundy, 9 Pet., 275; Kilbourne v. Savings Institution, 22 How., 503; Hennessy v. Sheldon, 12 Wall., 440. West Wisconsin Railway Co. v. Folley, 94 U. S., 100.

SEC. 1011. There shall be no reversal in the Supreme Court or in a circuit court upon a writ of error, for error in ruling [and] [any] plea in abatement, other than a plea to the jurisdiction of the court, or for any error in fact. Reversal on error limited. 24 Sept., 1789, c. 20, s. 22, v. 1, p. 84. 2 Mar., 1803, c. 135.

SEC. 1012. Appeals from the circuit courts and district courts acting as circuit courts, and from district courts in prize causes, shall be subject to the same rules, regulations, and restrictions as are or may be prescribed in law in cases of writs of error. Appeals from circuit courts to Supreme Court. 3 Mar., 1803, c. 40, s. 2, v. 2, p. 244. 30 June, 1864, c. 174, s. 13, v. 13, p. 310.—Yeaton v. Lenox, 7 Pet., 220; Villabolas v. U. S., 6 How., 81; U. S. v. Curry, 6 How., 106; Stafford v. Union Bank, 16 How., 139; Steamer Virginia v. West, 19 How., 182; U. S. v. Gomez, 3 Wall., 763; The Protector, 11 Wall., 82.

SEC. 1013. Where appeal is duly taken by both parties from the judgment or decree of a circuit or district court to the Supreme Court, a transcript of the record filed in the Supreme Court by either appellant may be used on both appeals, and both shall be heard thereon in the same manner as if records had been filed by the appellants in both cases. Where both parties appeal to the Supreme Court, one record sufficient. 6 Aug., 1861, c. 61, s. 1, v. 12, p. 319.

## CRIMINAL PROCEDURE.

SEC. 1014. For any crime or offense against the United States, the offender may, by any justice or judge of the United States, or by any commissioner of a circuit court to take bail, or by any chancellor, judge of a supreme or superior court, chief or first judge of common pleas, mayor of a city, justice of the peace, or other magistrate, of any State where he may be found, and agreeably to the usual mode of process against offenders in such State, and at the expense of the United States, be arrested and imprisoned, or bailed, as the case may be, for trial before such court of the United States as by law has cognizance of the offense. Copies of the process shall be returned as speedily as may be into the clerk's office of such court, together with the recognizances of the witnesses for their appearance to testify in the case. And where any offender or witness is committed in any district other than that where the offense is to be tried, it shall be the duty of the judge of the district where such offender or witness is imprisoned, seasonably to issue, and of the marshal to execute, a warrant for his removal to the district where the trial is to be had. [See § 879.] Offenders against the United States, how arrested and removed for trial. 24 Sept., 1789, c. 20, s. 33, v. 1, p. 91. 2 Mar., 1793, c. 22, s. 4, v. 1, p. 334. 22 Aug., 1842, c. 188, s. 1, v. 5, p. 516.

SEC. 1015. Bail shall be admitted upon all arrests in criminal cases where the offense is not punishable by death; and in such cases it may be taken by any of the persons authorized by the preceding section to arrest and imprison offenders. Bail shall be admitted in cases not capital; by whom. 24 Sept., 1789, c. 20, s. 33, v. 1, p. 91. 2 Mar., 1793, c. 22, s. 4, v. 1, p. 334. 10 April, 1869, c. 22, s. 2, v. 16, p. 44.

SEC. 1016. Bail may be admitted upon all arrests in criminal cases where the punishment may be death; but in such cases it shall be taken only by the Supreme Court or a circuit court, or by a justice of the Supreme Court, a circuit judge, or a judge of a district court, who shall exercise their discretion therein, having regard to the nature and circumstance of the offense, and of the evidence, and to the usages of law. Bail may be admitted in capital cases; by whom. 24 Sept., 1789, c. 20, s. 33, v. 1, p. 91. 2 Mar., 1793, c. 22, s. 4, v. 1, p. 334. 10 April, 1869, c. 22, s. 2, v. 16, p. 44.

Bail in criminal cases removed by writ of error from State courts.

24 Sept., 1789, c. 20, s. 25, v. 1, p. 85.  
13 July, 1866, c. 184, s. 69, v. 14, p. 172.

5 Feb., 1867, c. 28, s. 2, v. 14, p. 386.

Surrender of criminals by their bail.

8 Aug., 1846, c. 98, s. 4, v. 9, p. 73.

New bail to be given in certain cases.

8 Aug., 1846, c. 98, s. 6, v. 9, p. 73.

When penalty of recognizances may be remitted.

28 Feb., 1839, c. 36, s. 6, v. 5, p. 322.

Indictments and presentments to be by at least twelve grand jurors.

3 Mar., 1865, c. 86, s. 1, v. 13, p. 500.

Offenses against the elective franchise, how prosecuted.

31 May, 1870, c. 114, s. 8, v. 16, p. 142.

Matters set forth in prosecutions for perjury before a naval court-martial.

17 July, 1862, c. 204, s. 1, art. 13, v. 12, p. 604.

Charges which may be joined in one indictment shall be so joined.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 162.  
U. S. v. Jacoby, 12 Blatch., 491.

Indictments, defects of form.

1 June, 1872, c. 255, s. 8, v. 17, p. 198.

SEC. 1017. When a writ of error is issued for the revision of the judgment of a State court, in any criminal proceeding where is drawn in question the validity of a statute of, or an authority exercised under, the United States, or where any title, right, privilege, or immunity is claimed under the Constitution, or any statute of, or commission held or authority exercised under, the United States, the defendant, if charged with an offense that is bailable by the laws of such State, shall not be released from custody until a final judgment upon such writ, or until a bond, with sufficient sureties, in a reasonable sum, as ordered and approved by the State court, is given; and if the offense is not so bailable, until a final judgment upon the writ of error. [See § 709.]

SEC. 1018. Any party charged with a criminal offense and admitted to bail, may, in vacation, be arrested by his bail, and delivered to the marshal or his deputy, before any judge or other officer having power to commit for such offense; and at the request of such bail, the judge or other officer shall recommit the party so arrested to the custody of the marshal, and indorse on the recognizance, or certified copy thereof, the discharge and exoneratur of such bail; and the party so committed shall therefrom be held in custody until discharged by due course of law.

SEC. 1019. When proof is made to any judge of the United States, or other magistrate having authority to commit on criminal charges as aforesaid, that a person previously admitted to bail on any such charge is about to abscond, and that his bail is insufficient, the judge or magistrate shall require such person to give better security, or, for default thereof, cause him to be committed to prison; and an order for his arrest may be indorsed on the former commitment, or a new warrant therefor may be issued, by such judge or magistrate, setting forth the cause thereof.

SEC. 1020. When any recognizance in a criminal cause, taken for, or in, or returnable to, any court of the United States, is forfeited by a breach of the condition thereof, such court may, in its discretion, remit the whole or a part of the penalty, whenever it appears to the court that there has been no willful default of the party, and that a trial can, notwithstanding, be had in the cause, and that public justice does not otherwise require the same penalty to be enforced.

SEC. 1021. No indictment shall be found, nor shall any presentment be made, without the concurrence of at least twelve grand jurors.

SEC. 1022. All crimes and offenses committed against the provisions of chapter seven, Title "CRIMES," which are not infamous, may be prosecuted either by indictment or by information filed by a district attorney.

SEC. 1023. In prosecutions for perjury committed on examination before a naval general court-martial, or for the subornation thereof, it shall be sufficient to set forth the offense charged on the defendant, without setting forth the authority by which the court was held, or the particular matters brought before, or intended to be brought before, said court.

SEC. 1024. When there are several charges against any person for the same act or transaction, or for two or more acts or transactions connected together, or for two or more acts or transactions of the same class of crimes or offenses, which may be properly joined, instead of having several indictments the whole may be joined in one indictment in separate counts; and if two or more indictments are found in such cases, the court may order them to be consolidated.

SEC. 1025. No indictment found and presented by a grand jury in any district or circuit or other court of the United States shall be deemed insufficient, nor shall the trial, judgment, or other proceeding thereon be affected by reason of any defect or imperfection in matter of form only, which shall not tend to the prejudice of the defendant.

SEC. 1026. In every case in any court of the United States, where a demurrer is interposed to an indictment, or to any count or counts thereof, or to any information, and the demurrer is overruled, the judgment shall be respondeat ouster; and thereupon a trial may be ordered at the same term, or a continuance may be ordered, as justice may require.

Judgment on demurrer to an indictment.

23 May, 1872, c. 202, v. 17, p. 158.

SEC. 1027. When two or more charges are made, or two or more indictments are found against any person, only one writ or warrant shall be necessary to commit him for trial; and it shall be sufficient to state in the writ the name or general character of the offenses, or to refer to them only in very general terms.

When several indictments against the same person, one writ sufficient.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 162.

SEC. 1028. Whenever a prisoner is committed to a sheriff or jailer by virtue of a writ, warrant, or mittimus, a copy thereof shall be delivered to such sheriff or jailer, as his authority to hold the prisoner, and the original writ, warrant, or mittimus shall be returned to the proper court or officer, with the officer's return thereon.

Copy of writ to be jailer's authority; original returned.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 163.

SEC. 1029. Only one writ or warrant is necessary to remove a prisoner from one district to another. One copy thereof may be delivered to the sheriff or jailer from whose custody the prisoner is taken, and another to the sheriff or jailer to whose custody he is committed, and the original writ, with the marshal's return thereon, shall be returned to the clerk of the district to which he is removed.

Writ for removal of a prisoner from one district to another.

26 Feb., 1853, c. 80, s. 1, v. 10, pp. 162, 163.

SEC. 1030. No writ is necessary to bring into court any prisoner or person in custody, or for remanding him from the court into custody; but the same shall be done on the order of the court or district attorney, for which no fees shall be charged by the clerk or marshal.

No writ necessary to bring into court a person in custody.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 169. 23 June, 1874, c. 469, s. 7, v. 18, p. 256.

SEC. 1031. If, in the trial of a capital offense, the party indicted peremptorily challenges jurors above the number allowed him by law, such excess of challenges shall be disallowed by the court, and the cause shall proceed for trial in the same manner as if they had not been made. [See § 819.]

When peremptory challenges exceed the number allowed by law.

3 Mar., 1835, c. 40, s. 4, v. 4, p. 777. s. 2, v. 13, p. 500.

SEC. 1032. When any person indicted for any offense against the United States, whether capital or otherwise, upon his arraignment stands mute, or refuses to plead or answer thereto, it shall be the duty of the court to enter the plea of not guilty on his behalf, in the same manner as if he had pleaded not guilty thereto. And when the party pleads not guilty, or such plea is entered as aforesaid, the cause shall be deemed at issue, and shall, without further form or ceremony, be tried by a jury.

Prisoner standing mute, &c.

30 April, 1790, c. 9, s. 30, v. 1, p. 119. 3 Mar., 1825, c. 65, s. 14, v. 4, p. 118. 3 Mar., 1835, c. 40, s. 4, v. 4, p. 777.

SEC. 1033. When any person is indicted of treason, a copy of the indictment and a list of the jury, and of the witnesses to be produced on the trial for proving the indictment, stating the place of abode of each juror and witness, shall be delivered to him at least three entire days before he is tried for the same. When any person is indicted of any other capital offense, such copy of the indictment and list of the jurors and witnesses shall be delivered to him at least two entire days before the trial.

Copy of indictment and list of jurors and witnesses to be delivered to prisoner in capital cases.

30 April, 1790, c. 9, s. 29, v. 1, p. 118. U. S. v. Southmayd, 6 Biss., 321.

SEC. 1034. Every person who is indicted of treason or other capital crime, shall be allowed to make his full defense by counsel learned in the law; and the court before which he is tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, and they shall have free access to him at all seasonable hours. He shall be allowed, in his defense, to make any proof that he can produce by lawful witnesses, and shall have the like process of the court to compel his witnesses to appear at his trial, as is usually granted to compel witnesses to appear on behalf of the prosecution.

Persons indicted for capital crimes entitled to counsel and to compel witnesses.

30 April, 1790, c. 9, s. 29, v. 1, p. 118.

SEC. 1035. In all criminal causes the defendant may be found guilty of any offense the commission of which is necessarily included in that with which he is charged in the indictment, or may be found guilty of

Verdict of less offense than charged.

1 June, 1872, c. 255, s. 9, v. 17, p. 198.

Verdict against part of several joint defendants.

1 June, 1872, c. 255, s. 10, v. 17, p. 198.

Indictments remitted by circuit and district courts to each other.

8 Aug., 1846, c. 98, s. 2, v. 9, p. 72.

U. S. v. Murphy, 3 Wall., 649; U. S. v. Morris, 1 Curt. C. C., 23.

Remission from district to circuit court of difficult cases.

8 Aug., 1846, c. 98, s. 3, v. 9, p. 72.

All capital cases remitted from district to circuit courts.

8 Aug., 1846, c. 98, s. 3, v. 9, p. 72.

When a capital case is carried to the Supreme Court execution postponed.

3 Mar., 1869, c. 142, v. 15, p. 338.

Judgments for fines, how collected.

1 June, 1872, c. 255, s. 12, v. 17, p. 198.

Poor convicts sentenced and imprisoned for fines.

1 June, 1872, c. 255, s. 14, v. 17, p. 198.

an attempt to commit the offense so charged: *Provided*, That such attempt be itself a separate offense.

SEC. 1036. On an indictment against several, if the jury cannot agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment shall be entered accordingly; and the cause as to the other defendants may be tried by another jury.

SEC. 1037. Whenever the district attorney deems it necessary, any circuit court may, by order entered on its minutes, remit any indictment pending therein to the next session of the district court of the same district, where the offense charged in the indictment is cognizable by the said district court. And in like manner any district court may remit to the next session of the circuit court of the same district any indictment pending in the said district court. And such remission shall carry with it all recognizances, processes, and proceedings pending in the case in the court from which the remission is made; and the court to which such remission is made shall, after the order of remission is filed therein, act in the case as if the indictment, and all other proceedings in the same, had been originated in said court.

SEC. 1038. Any district court may, by order entered on its minutes, remit any indictment pending therein to the next session of the circuit court for the same district, when, in the opinion of such district court, difficult and important questions of law are involved in the case; and thereupon the proceedings in such case shall be the same in the circuit court as if such indictment had been originally found and presented therein.

SEC. 1039. Every indictment of a capital offense, presented to a district court, together with the recognizances taken therein, shall, by order entered on its minutes, be remitted to the next session of the circuit court for the same district; and, on the filing of such order and indictment with the clerk of such circuit court, that court shall proceed thereon, in the same manner as if said indictment had been originally found and presented therein.

SEC. 1040. Whenever a judgment of death is rendered in any court of the United States, and the case is carried to the Supreme Court in pursuance of law, the court rendering such judgment shall, by its order, postpone the execution thereof from time to time and from term to term, until the mandate of the Supreme Court in the case is received and entered upon the records of such lower court. In case of affirmance by the Supreme Court, the court rendering the original judgment shall appoint a day for the execution thereof; and in case of reversal, such further proceedings shall be had in the lower court as the Supreme Court may direct.

SEC. 1041. In all criminal or penal causes in which judgment or sentence has been or shall be rendered, imposing the payment of a fine or penalty, whether alone or with any other kind of punishment, the said judgment, so far as the fine or penalty is concerned, may be enforced by execution against the property of the defendant in like manner as judgments in civil cases are enforced: *Provided*, That where the judgment directs that the defendant shall be imprisoned until the fine or penalty imposed is paid, the issue of execution on the judgment shall not operate to discharge the defendant from imprisonment until the amount of the judgment is collected or otherwise paid.

SEC. 1042. When a poor convict, sentenced by any court of the United States to pay a fine, or fine and cost, whether with or without imprisonment, has been confined in prison thirty days, solely for the non-payment of such fine, or fine and cost, he may make application in writing to any commissioner of the United States court in the district where he is imprisoned, setting forth his inability to pay such fine, or fine and cost, and after notice to the district attorney of the United States, who may appear, offer evidence, and be heard, the commissioner shall proceed to hear and determine the matter; and if on examination it shall appear to him that such convict is unable to pay such fine, or fine and

cost, and that he has not any property exceeding twenty dollars in value, except such as is by law exempt from being taken on execution for debt, the commissioner shall administer to him the following oath: "I do solemnly swear that I have not any property, real or personal, to the amount of twenty dollars, except such as is by law exempt from being taken on civil precept for debt by the laws of (State where oath is administered); and that I have no property in any way conveyed or concealed, or in any way disposed of, for any future use or benefit. So help me God." And thereupon such convict shall be discharged, the commissioner giving to the jailer or keeper of the jail a certificate setting forth the facts. [See §§ 847, 8296.]

## CHAPTER NINETEEN.

### LIMITATIONS.

Sec.	Sec.
1043. Capital offenses.	1047. Penalties and forfeitures under laws of the United States.
1044. Offenses not capital.	1048. Parties beyond reach of process during the rebellion.
1045. Fleeing from justice.	
1046. Crimes under the revenue laws.	

SEC. 1043. No person shall be prosecuted, tried, or punished for treason or other capital offense, willful murder excepted, unless the indictment is found within three years next after such treason or capital offense is done or committed.

Capital offenses.

30 April, 1790, c.

9, s. 32, v. 1, p. 119.

U. S. v. Brown, 2 Cow., 267.

Offenses not capital.

30 April, 1790, c.

9, s. 32, v. 1, p. 119.

13 Apr., 1876, c.

56, v. 19, pp. 32, 33.

Adams, *qui tam*,

v. Woods, 2 Cr.,

336; U. S. v. Cook,

17 Wall., 168;

Johnson v. U. S., 3

SEC. 1044. [No person shall be prosecuted, tried, or punished for any offense not capital, except as provided in section one thousand and forty-six, unless the indictment is found or the information is instituted within two years next after such offense is committed.] [No person shall be prosecuted, tried, or punished for any offense, not capital, except as provided in section one thousand and forty-six, unless the indictment is found, or the information is instituted within three years next after such offense shall have been committed. But this act shall not have effect to authorize the prosecution, trial or punishment for any offense, barred by the provisions of existing laws.]

McLean, 89; U. S. v. Slocum, 1 Cr. C. C., 485; U. S. v. Watkins, 3 Cr. C. C., 442; U. S. v. White, 5 Cr. C. C. 38; U. S. v. White, 5 Cr. C. C., 73, 116.

SEC. 1045. Nothing in the two preceding sections shall extend to any person fleeing from justice.

Fleeing from justice.

30 April, 1790, c. 9, s. 32, v. 1, p. 119.—U. S. v. O'Brian, 3 Dill., 381.

SEC. 1046. No person shall be prosecuted, tried, or punished for any crime arising under the revenue laws, or the slave-trade laws of the United States, unless the indictment is found or the information is instituted within five years next after the committing of such crime.

Crimes under the revenue laws.

26 Mar., 1804, c.

40, s. 3, v. 2, p. 290.

20 April, 1818, c.

91, s. 9, v. 3, p. 452.

28 Feb., 1839, c.

36, s. 4, v. p. 322.

2 Mar., 1799, c. 22,

s. 89, v. 1, p. 695.

26 Mar., 1804, c.

40, s. 3, v. 2, p. 290.

20 April, 1818, c.

91, s. 9, v. 3, p. 452.

28 Feb., 1839, c.

36, s. 4, v. p. 322.

22 June, 1874, c. 391, ss. 21, 22,

p. 183.—Stimpson

SEC. 1047. No suit or prosecution for any penalty or forfeiture, pecuniary or otherwise, accruing under the laws of the United States, shall be maintained, except in cases where it is otherwise specially provided, unless the same is commenced within five years from the time when the penalty or forfeiture accrued: *Provided*, That the person of the offender, or the property liable for such penalty or forfeiture, shall, within the same period, be found within the United States; so that the proper process therefor may be instituted and served against such person or property.

Penalties and forfeitures under laws of United States.

2 Mar., 1799, c. 22,

s. 89, v. 1, p. 695.

26 Mar., 1804, c.

40, s. 3, v. 2, p. 290.

20 April, 1818, c.

91, s. 9, v. 3, p. 452.

28 Feb., 1839, c.

36, s. 4, v. p. 322.

22 June, 1874, c. 391, ss. 21, 22,

p. 183.—Stimpson

3 Mar., 1863, c. 76, s. 14, v. 12, p. 741. 25 July, 1868, c. 236, s. 1, v. 15, p. 183.—Stimpson

r. Pond, 2 Curt. C. C., 502; U. S. v. Norton, 91 U. S., 566. 22 June, 1874, c. 391, ss. 21, 22,

v. 18, p. 190.

SEC. 1048. In all cases where, during the late rebellion, any person could not, by reason of resistance to the execution of the laws of the United States, or of the interruption of the ordinary course of judicial proceedings, be served with process for the commencement of any action,

Parties beyond reach of process during the rebellion.

Parties beyond reach of process during the rebellion.

11 June, 1864, c. 118, v. 13, p. 123. civil or criminal, which had accrued against him, the time during which such person was beyond the reach of legal process shall not be taken as any part of the time limited by law for the commencement of such action.

U. S. v. Wiley, 11 Wall., 508.  
 Graydon et al. v. Sweet, 1 Woods, 418; U. S. v. Muhlenbrink, 1 Woods, 569; Lockhart v. Horn, 1 Woods, 628.

## CHAPTER TWENTY.

### THE COURT OF CLAIMS.

#### ORGANIZATION AND SESSIONS.

Sec.

1049. Judges.  
 1050. Seal.  
 1051. Court-rooms, &c., how provided.  
 1052. Sessions, quorum.  
 1053. Officers of the court.  
 1054. Salaries of clerks, bailiff, and messenger.

Sec.

1055. Clerk's bond.  
 1056. Contingent fund.  
 1057. Reports to Congress, copies for Departments, &c.  
 1058. Members of Congress not to practice in the court.

#### Judges.

24 Feb., 1855, c. 122, s. 1, v. 10, p. 612.

3 Mar., 1863, c. 92, s. 1, v. 12, p. 765.

8 May, 1872, c. 140, s. 13, v. 17, p. 85.

#### Seal.

3 Mar., 1863, c. 92, s. 4, v. 12, p. 766.

Court-rooms, &c., how provided.

24 Feb., 1855, c. 122, s. 10, v. 10, p. 614.

#### Sessions, quorum.

24 Feb., 1855, c. 122, s. 10, v. 10, p. 614.

6 Aug., 1856, c. 81, s. 1, v. 11, p. 30.

3 Mar., 1863, c. 92, s. 13, v. 12, p. 768.

Officers of the court.

24 Feb., 1855, c. 122, s. 11, v. 10, p. 614.

3 Mar., 1863, c. 92, s. 4, v. 12, p. 765.

Salaries of clerks, bailiff, and messenger.

24 Feb., 1855, c. 122, s. 11, v. 10, p. 614.

3 Mar., 1863, c. 92, s. 4, v. 12, p. 765. 7 June, 1870, c. 124, v. 16, p. 148. 12 July, 1870, c. 251, s. 3, v. 16, p. 250. 8 May, 1872, c. 140, s. 1, v. 17, p. 82.

SEC. 1049. The Court of Claims, established by the act of February twenty-four, eighteen hundred and fifty-five, shall be continued. It shall consist of a chief justice and four judges, who shall be appointed by the President, by and with the advice and consent of the Senate, and hold their offices during good behavior. Each of them shall take an oath to support the Constitution of the United States, and to discharge faithfully the duties of his office, and shall be entitled to receive an annual salary of four thousand five hundred dollars, payable quarterly from the Treasury.

SEC. 1050. The Court of Claims shall have a seal, with such device as it may order.

SEC. 1051. It shall be the duty of the Speaker of the House of Representatives to appropriate such rooms in the Capitol, at Washington, for the use of the Court of Claims, as may be necessary for their accommodation, unless it appears to him that such rooms cannot be so appropriated without interfering with the business of Congress. In that case, the court shall procure, at the city of Washington, such rooms as may be necessary for the transaction of their business.

SEC. 1052. The Court of Claims shall hold one annual session, at the city of Washington, beginning on the first Monday in December, and continuing as long as may be necessary for the prompt disposition of the business of the court. And any two of the judges of said court shall constitute a quorum, and may hold a court for the transaction of business.

17 Mar., 1866, c. 19, s. 2, v. 14, p. 9. 23 June, 1874, c. 468, v. 18, p. 252.

SEC. 1053. The said court shall appoint a chief clerk, an assistant clerk, if deemed necessary, a bailiff, and a messenger. The clerks shall take an oath for the faithful discharge of their duties, and shall be under the direction of the court in the performance thereof; and for misconduct or incapacity they may be removed by it from office; but the court shall report such removals, with the cause thereof, to Congress, if in session, or, if not, at the next session. The bailiff shall hold his office for a term of four years, unless sooner removed by the court for cause.

SEC. 1054. The salary of the chief clerk shall be three thousand dollars a year, of the assistant clerk two thousand dollars a year, of the bailiff fifteen hundred dollars a year, and of the messenger eight hundred and forty dollars a year, payable quarterly from the Treasury.

SEC. 1055. The chief clerk shall give bond to the United States in such amount, in such form, and with such security as shall be approved by the Secretary of the Treasury.

SEC. 1056. The said clerk shall have authority, when he has given bond as provided in the preceding section, to disburse, under the direction of the court, the contingent fund which may from time to time be appropriated for its use; and his accounts shall be settled by the proper accounting officers of the Treasury in the same way as the accounts of other disbursing agents of the Government are settled.

SEC. 1057. On the first day of every December session of Congress, the clerk of the Court of Claims shall transmit to Congress a full and complete statement of all the judgments rendered by the court during the previous year, stating the amounts thereof and the parties in whose favor they were rendered, together with a brief synopsis of the nature of the claims upon which they were rendered. And at the end of every term of the court he shall transmit a copy of its decisions to the heads of Departments; to the Solicitor, the Comptrollers, and the Auditors of the Treasury; to the Commissioners of the General Land-Office and of Indian Affairs; to the chiefs of bureaus, and to other officers charged with the adjustment of claims against the United States.

SEC. 1058. Members of either House of Congress shall not practice in the Court of Claims.

Clerk's bond.

6 Aug., 1856, c. 81, s. 3, v. 11, p. 30.  
Contingent fund.

6 Aug., 1856, c. 81, s. 3, v. 11, p. 30.

Reports to Congress, copies for Departments, &c.

17 Mar., 1866, c. 19, s. 3, v. 14, p. 9.  
25 June, 1868, c. 71, s. 9, v. 15, p. 77.

Members of Congress not to practice in the court.

3 Mar., 1863, c. 92, s. 4, v. 12, p. 765.

## CHAPTER TWENTY-ONE.

### THE COURT OF CLAIMS.

#### JURISDICTION, POWERS, AND PROCEDURE.

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| Sec.   | Sec.   |
| 1059. Jurisdiction.  | 1075. Commissioner to take testimony.                          |
| 1060. Private claims in Congress, when transmitted to Court of Claims.         | 1076. Power to call upon Departments for information.          |
| 1061. Judgment for set-off or counter-claim, how enforced.                     | 1077. When testimony not to be taken.                          |
| 1062. Decree on account of paymasters, &c.                                     | 1078. Witnesses not excluded on account of color.              |
| 1063. Claims referred by Departments.  | 1079. Parties and persons interested excluded as witnesses.    |
| 1064. Procedure in cases transmitted by Departments.                           | 1080. Examination of claimant.                                 |
| 1065. Judgments in cases transmitted by Departments, how paid.                 | 1081. Testimony taken where deponent resides.                  |
| 1066. Claims growing out of treaties not cognizable therein.                   | 1082. Witnesses, how compelled to attend before commissioners. |
| 1067. Claims pending in other courts not to be prosecuted in Court of Claims.  | 1083. Cross-examination.                                       |
| 1068. Aliens.  | 1084. Witnesses, how sworn.                                    |
| 1069. Limitation.  | 1085. Fees of commissioner, by whom paid.                      |
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| 1073. Petition dismissed if issue found against claimant as to allegiance, &c. | 1089. Payment of judgments.                                    |
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|  | 1091. Interest on claims.                                      |
|  | 1092. Payment of judgment a full discharge, &c.                |
|  | 1093. Final judgments a bar.                                   |

SEC. 1059. The Court of Claims shall have jurisdiction to hear and determine the following matters:

First. All claims founded upon any law of Congress, or upon any regulation of an Executive Department, or upon any contract, expressed or implied, with the Government of the United States, and all claims which may be referred to it by either House of Congress.

Jurisdiction.

Claims founded on statutes or contracts, or referred by Congress.

24 Feb., 1855, c. 122, s. 1, v. 10, p. 612; 22 June, 1874, c. 393, s. 2, v. 18, p. 192; 3 Mar., 1875, c. 149, r. 18, p. 481.—*Nichols v. U. S.*, 7 Wall., 129; *Dorsheimer v. U. S.*, 7 Wall., 166; *Bonner v. U. S.*, 9 Wall., 156; *Vigo's Case*, 21 Wall., 648.

**Set-offs and counter-claims of United States.**

3 Mar., 1863, c. 92, s. 3, v. 12, p. 765.

Clyde v. U. S., 13 Wall., 38; U. S. v. Russell, 13 Wall., 623; U. S. v. Bostwick, 94 U. S., 53; Fichera's Case, 9 C. Cls., 254; Macatley's Case, 11 C. Cls., 693; Clark's Case, 11 C. Cls., 698; Roman et al. v. U. S., 11 C. Cls., 761; Campbell's Case, 13 C. Cls., 470.

**Disbursing officers.**

9 May, 1866, c. 75, s. 1, v. 14, p. 44.

U. S. v. Clark, 94 U. S., 73.

**Claims for captured and abandoned property.**

12 Mar., 1863, c. 120, s. 3, v. 12, p. 820.

2 July, 1864, c. 225, ss. 2, 3, v. 13, pp. 375, 376.

27 July, 1868, c. 276, s. 3, v. 15, p. 243.

18 Feb., 1875, c. 80, v. 18, p. 318.

U. S. v. Anderson, 9 Wall., 56; Pugh v. U. S., 13 Wall., 633; U. S. v. Kimball, 13 Wall., 636; U. S. v. Crussell, 14 Wall., 1; Slawson v. U. S., 16 Wall., 310; Havcraft v. U. S., 22 Wall., 81; U. S. v. O'Grady, 22 Wall., 641; U. S. v. Villalonga, 23 Wall., 35; Spencer v. U. S., 91 U. S., 577; Lamar, ex., v. Browne et al., 92 U. S., 187.

**Private claims in Congress, when transmitted to Court of Claims.**

3 Mar., 1863, c. 92, s. 2, v. 12, p. 765.

**Judgments for set-off or counter-claim, how enforced.**

3 Mar., 1863, c. 92, s. 3, v. 12, p. 765.

Allen v. U. S., 17 Wall., 207.

**Decree on accounts of paymasters, &c.**

9 May, 1866, c. 75, s. 2, v. 14, p. 44.

Hall's Case, 9 C. Cls., 270; Holman's Case, 11 C. Cls., 642.

**Claims referred by Departments.**

Second. All set-offs, counter-claims, claims for damages, whether liquidated or unliquidated, or other demands whatsoever, on the part of the Government of the United States against any person making claim against the Government in said court.

Third. The claim of any paymaster, quartermaster, commissary of subsistence, or other disbursing officer of the United States, or of his administrators or executors, for relief from responsibility on account of capture or otherwise, while in the line of his duty, of Government funds, vouchers, records, or papers in his charge, and for which such officer was and is held responsible.

Fourth. Of all claims for the proceeds of captured or abandoned property, as provided by the act of March 12, eighteen hundred and sixty-three, chapter one hundred and twenty, entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," or by the act of July two, eighteen hundred and sixty-four, chapter two hundred and twenty-five, being an act in addition thereto: *Provided*, That the remedy given in cases of seizure under the said acts, by preferring claim in the Court of Claims, shall be exclusive, precluding the owner of any property taken by agents of the Treasury Department as abandoned or captured property in virtue or under color of said acts from suit at common law, or any other mode of redress whatever, before any court other than said Court of Claims: [*Provided also*, That the jurisdiction of the Court of Claims shall not extend to any claim against the United States growing out of the destruction or appropriation of, or damage to, property by the Army or Navy engaged in the suppression of the rebellion.]

SEC. 1060. All petitions and bills praying or providing for the satisfaction of private claims against the Government, founded upon any law of Congress, or upon any regulation of an Executive Department, or upon any contract, expressed or implied, with the Government of the United States, shall, unless otherwise ordered by resolution of the House in which they are introduced, be transmitted by the Secretary of the Senate or the Clerk of the House of Representatives, with all the accompanying documents, to the Court of Claims.

SEC. 1061. Upon the trial of any cause in which any set-off, counter-claim, claim for damages, or other demand is set up on the part of the Government against any person making claim against the Government in said court, the court shall hear and determine such claim or demand both for and against the Government and claimant; and if upon the whole case it finds that the claimant is indebted to the Government, it shall render judgment to that effect, and such judgment shall be final, with the right of appeal, as in other cases provided for by law. Any transcript of such judgment, filed in the clerk's office of any district or circuit court, shall be entered upon the records thereof, and shall thereby become and be a judgment of such court and be enforced as other judgments in such courts are enforced.

SEC. 1062. Whenever the Court of Claims ascertains the facts of any loss by any paymaster, quartermaster, commissary of subsistence, or other disbursing officer, in the cases hereinbefore provided, to have been without fault or negligence on the part of such officer, it shall make a decree setting forth the amount thereof, and upon such decree the proper accounting officers of the Treasury shall allow to such officer the amount so decreed, as a credit in the settlement of his accounts.

SEC. 1063. Whenever any claim is made against any Executive Department, involving disputed facts or controverted questions of law, where the amount in controversy exceeds three thousand dollars, or where the



decision will affect a class of cases, or furnish a precedent for the future action of any Executive Department in the adjustment of a class of cases, without regard to the amount involved in the particular case, or where any authority, right, privilege, or exemption is claimed or denied under the Constitution of the United States, the head of such Department may cause such claim, with all the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims, and the same shall be there proceeded in as if originally commenced by the voluntary action of the claimant; and the Secretary of the Treasury may, upon the certificate of any Auditor or Comptroller of the Treasury, direct any account, matter, or claim, of the character, amount, or class described in this section, to be transmitted, with all the vouchers, papers, documents, and proofs pertaining thereto, to the said court, for trial and adjudication: *Provided*, That no case shall be referred by any head of a Department unless it belongs to one of the several classes of cases which, by reason of the subject-matter and character, the said court might, under existing laws, take jurisdiction of on such voluntary action of the claimant.

SEC. 1064. All cases transmitted by the head of any Department, or upon the certificate of any Auditor or Comptroller, according to the provisions of the preceding section, shall be proceeded in as other cases pending in the Court of Claims, and shall, in all respects, be subject to the same rules and regulations.

SEC. 1065. The amount of any final judgment or decree rendered in favor of the claimant, in any case transmitted to the Court of Claims under the two preceding sections, shall be paid out of any specific appropriation applicable to the case, if any such there be; and where no such appropriation exists, the judgment or decree shall be paid in the same manner as other judgments of the said court.

SEC. 1066. The jurisdiction of the said court shall not extend to any claim against the Government not pending therein on December one, eighteen hundred and sixty-two, growing out of or dependent on any treaty stipulation entered into with foreign nations or with the Indian tribes.

SEC. 1067. No person shall file or prosecute in the Court of Claims, or in the Supreme Court on appeal therefrom, any claim for or in respect to which he or any assignee of his has pending in any other court any suit or process against any person who, at the time when the cause of action alleged in such suit or process arose, was, in respect thereto, acting or professing to act, mediately or immediately, under the authority of the United States.

SEC. 1068. Aliens, who are citizens or subjects of any government which accords to citizens of the United States the right to prosecute claims against such government in its courts, shall have the privilege of prosecuting claims against the United States in the Court of Claims, whereof such court, by reason of their subject-matter and character, might take jurisdiction.

*lisle v. U. S.*, 16 Wall., 147; *Hill v. U. S.*, 8 C. Cls., 470; *Fichera's*

SEC. 1069. Every claim against the United States, cognizable by the Court of Claims, shall be forever barred unless the petition setting forth a statement thereof is filed in the court, or transmitted to it by the Secretary of the Senate or the Clerk of the House of Representatives as provided by law, within six years after the claim first accrues: *Provided*, That the claims of married women first accrued during marriage, of persons under the age of twenty-one years first accrued during minority, and of idiots, lunatics, insane persons, and persons beyond the seas at the time the claim accrued, entitled to the claim, shall not be barred if the petition be filed in the court or transmitted, as aforesaid, within three

25 June, 1868, c. 71, s. 7, v. 15, p. 76.  
16 June, 1874, c. 285, v. 18, p. 75.

*Bright's Case*, 8 C. Cls., 326;  
*Winnissimmett Co.*, 13 C. Cls., 319;  
*Campbell's Case*, 13 C. Cls., 470.

Procedure in cases transmitted by Departments.

25 June, 1868, c. 71, s. 7, v. 15, p. 76.—  
*Clyde v. U. S.*, 13 Wall., 38.

Judgments in cases transmitted by Departments, how paid.

25 June, 1868, c. 71, s. 7, v. 15, p. 76.—  
3 Mar., 1875, c. 149, v. 18, p. 481.

Claims growing out of treaties not cognizable therein.

3 Mar., 1863, c. 92, s. 9, v. 12, p. 767.—*Ex parte Atocha*, 17 Wall., 439.

Claims pending in other courts not to be prosecuted in Court of Claims.

25 June, 1868, c. 71, s. 8, v. 15, p. 77.

Aliens.

27 July, 1868, c. 276, s. 2, v. 15, p. 243.

*U. S. v. O'Keefe*, 11 Wall., 178; *Car-*  
*Case*, 9 C. Cls., 254.

Limitation.

3 Mar., 1863, c. 92, s. 10, v. 12, p. 767.

*Fulenweider's Case*, 9 C. Cls., 403;  
*Clark's Case*, 11 C. Cls., 698.

years after the disability has ceased; but no other disability than those enumerated shall prevent any claim from being barred, nor shall any of the said disabilities operate cumulatively.

Rules of practice;  
contempts.

24 Feb., 1855, c.  
122, s. 3, r. 10, p. 613.

3 Mar., 1863, c.  
92, s. 4, v. 12, p. 765.

Oaths and ac-  
knowledgments.

3 Mar., 1863, c.  
92, s. 4, v. 12, p. 765.

Petition.

24 Feb., 1855, c.  
122, s. 1, v. 10, p.  
612.

3 Mar., 1863, c.  
92, s. 12, v. 12, p.  
767.

U.S.r. Insurance  
Companies, 22  
Wall., 99.

Petition dis-  
missed, if issue  
found against  
claimant as to al-  
legiance, &c.

3 Mar., 1863, c. 92, s. 12, v. 12, p. 767.

Burden of proof,  
and evidence as to  
loyalty.

25 June, 1868, c.  
71, s. 3, v. 15, p. 75.

Commissioners  
to take testimony.

24 Feb., 1855, c.  
122, s. 3, v. 10, p.  
613.

3 Mar., 1863, c.  
92, s. 4, v. 12, p. 765.

Power to call  
upon Departments  
for information.

24 Feb., 1855, c.  
122, s. 11, v. 10, p.  
614.

When testimony  
not to be taken.

24 Feb., 1855, c.  
122, s. 4, v. 10, p.  
613.

SEC. 1070. The said court shall have power to establish rules for its government and for the regulation of practice therein, and it may punish for contempt in the manner prescribed by the common law, may appoint commissioners, and may exercise such powers as are necessary to carry into effect the powers granted to it by law.

SEC. 1071. The judges and clerks of said court may administer oaths and affirmations, take acknowledgments of instruments in writing, and give certificates of the same.

SEC. 1072. The claimant shall, in all cases, fully set forth in his petition the claim, the action thereon in Congress, or by any of the Departments, if such action has been had; what persons are owners thereof or interested therein, when and upon what consideration such persons became so interested; that no assignment or transfer of said claim, or of any part thereof or interest therein, has been made, except as stated in the petition; that said claimant is justly entitled to the amount therein claimed from the United States, after allowing all just credits and off-sets; that the claimant, and, where the claim has been assigned, the original and every prior owner thereof, if a citizen, has at all times borne true allegiance to the Government of the United States, and, whether a citizen or not, has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government, and that he believes the facts as stated in the said petition to be true. And the said petition shall be verified by the affidavit of the claimant, his agent, or attorney.

SEC. 1073. The said allegations as to true allegiance and voluntary aiding, abetting, or giving encouragement to rebellion against the Government may be traversed by the Government, and if on the trial such issues shall be decided against the claimant, his petition shall be dismissed.

SEC. 1074. Whenever it is material in any claim to ascertain whether any person did or did not give any aid or comfort to the late rebellion, the claimant asserting the loyalty of any such person to the United States during such rebellion shall be required to prove affirmatively that such person did, during said rebellion, consistently adhere to the United States, and did give no aid or comfort to persons engaged in said rebellion; and the voluntary residence of any such person in any place where, at any time during such residence, the rebel force or organization held sway, shall be prima-facie evidence that such person did give aid and comfort to said rebellion and to the persons engaged therein.

SEC. 1075. The Court of Claims shall have power to appoint commissioners to take testimony to be used in the investigation of claims which come before it; to prescribe the fees which they shall receive for their services, and to issue commissions for the taking of such testimony, whether taken at the instance of the claimant or of the United States.

SEC. 1076. The said court shall have power to call upon any of the Departments for any information or papers it may deem necessary, and shall have the use of all recorded and printed reports made by the committees of each House of Congress, when deemed necessary in the prosecution of its business. But the head of any Department may refuse and omit to comply with any call for information or papers when, in his opinion, such compliance would be injurious to the public interest.

SEC. 1077. When it appears to the court in any case that the facts set forth in the petition of the claimant do not furnish any ground for relief, it shall not be the duty of the court to authorize the taking of any testimony therein.

SEC. 1078. No witness shall be excluded in any suit in the Court of Claims on account of color. Witnesses not excluded on account of color.

2 July, 1864, c. 210, s. 3, v. 13, p. 351. 2 Mar., 1867, c. 166, s. 2, v. 14, p. 457. 25 June, 1868, c. 71, s. 4, v. 15, p. 75.—*Cornett v. Williams*, 20 Wall., 226; *Wood's Case*, 10 C. Cls., 395.

SEC. 1079. No claimant, nor any person from or through whom any such claimant derives his alleged title, claim, or right against the United States, nor any person interested in any such title, claim, or right, shall be a competent witness in the Court of Claims in supporting the same, and no testimony given by such claimant or person shall be used except as provided in the next section. Parties and persons interested excluded as witnesses.

3 Mar., 1863, c. 92, s. 8, v. 12, p. 766. 25 June, 1868, c. 71, s. 4, v. 15, p. 75; *Lawrence v. U. S.*, 8 C. Cls., 252; *Wood's Case*, 10 C. Cls., 395.

SEC. 1080. The court may, at the instance of the attorney or solicitor appearing in behalf of the United States, make an order in any case pending therein, directing any claimant in such case to appear, upon reasonable notice, before any commissioner of the court, and be examined on oath touching any or all matters pertaining to said claim. Such examination shall be reduced to writing by the said commissioner, and be returned to and filed in the court, and may, at the discretion of the attorney or solicitor of the United States appearing in the case, be read and used as evidence on the trial thereof. And if any claimant, after such order is made, and due and reasonable notice thereof is given to him, fails to appear, or refuses to testify or answer fully as to all matters within his knowledge material to the issue, the court may, in its discretion, order that the said cause shall not be brought forward for trial until he shall have fully complied with the order of the court in the premises. Examination of claimant.

SEC. 1081. The testimony in cases pending before the Court of Claims shall be taken in the county where the witness resides, when the same can be conveniently done. Testimony taken where deponent resides.

24 Feb., 1855, c. 122, s. 3, v. 10, p. 613.

SEC. 1082. The Court of Claims may issue subpoenas to require the attendance of witnesses in order to be examined before any person commissioned to take testimony therein, and such subpoenas shall have the same force as if issued from a district court, and compliance therewith shall be compelled under such rules and orders as the court shall establish. Witnesses, how compelled to attend before commissioners.

24 Feb., 1855, c. 122, s. 3, v. 10, p. 613.

SEC. 1083. In taking testimony to be used in support of any claim, opportunity shall be given to the United States to file interrogatories, or by attorney to examine witnesses, under such regulations as said court shall prescribe; and like opportunity shall be afforded the claimant, in cases where testimony is taken on behalf of the United States, under like regulations. Cross-examination.

24 Feb., 1855, c. 122, s. 5, v. 10, p. 613.

SEC. 1084. The commissioner taking testimony to be used in the Court of Claims shall administer an oath or affirmation to the witnesses brought before him for examination. Witnesses, how sworn.

24 Feb., 1855, c. 122, s. 3, v. 10, p. 613.

SEC. 1085. When testimony is taken for the claimant, the fees of the commissioner before whom it is taken, and the cost of the commission and notice, shall be paid by such claimant; and when it is taken at the instance of the Government, such fees, together with all postage incurred by the Assistant Attorney-General, shall be paid out of the contingent fund provided for the Court of Claims, or other appropriation made by Congress for that purpose. Fees of commissioner, by whom paid.

24 Feb., 1855, c. 122, s. 3, v. 10, p. 613.

SEC. 1086. Any person who corruptly practices or attempts to practice any fraud against the United States in the proof, statement, establishment, or allowance of any claim, or of any part of any claim against the United States, shall ipso facto forfeit the same to the Government; and it shall be the duty of the Court of Claims, in such cases, to find specifically that such fraud was practiced or attempted to be practiced, and thereupon to give judgment that such claim is forfeited to the Government, and that the claimant be forever barred from prosecuting the same. Claims forfeited for fraud.

3 Mar., 1863, c. 92, s. 11, v. 12, p. 767.

New trial on motion of claimant.

24 Feb., 1855, c. 122, s. 9, v. 10, p. 614.

New trial on motion of United States.

25 June, 1868, c. 71, s. 2, v. 15, p. 75.

*Ex parte* Russell, 13 Wall., 664; *Ex parte*, in matter of U.S., 16 Wall., 699; U. S. v. Young, 94

Payment of judgments.

3 Mar., 1863, c. 92, s. 7, v. 12, p. 766.

3 Mar., 1875, c. 149, v. 18, p. 481.

Interest.

3 Mar., 1863, c. 92, s. 7, v. 12, p. 766.

Interest on claims.

3 Mar., 1863, c. 92, s. 7, v. 12, p. 706.

Payment of judgment a full discharge, &c.

3 Mar., 1863, c. 92, s. 7, v. 12, p. 766.

Final judgments a bar.

3 Mar., 1863, c. 92, s. 7, v. 12, p. 766.

SEC. 1087. When judgment is rendered against any claimant, the court may grant a new trial for any reason which, by the rules of common law or chancery in suits between individuals, would furnish sufficient ground for granting a new trial.

SEC. 1088. The Court of Claims, at any time while any claim is pending before it, or on appeal from it, or within two years next after the final disposition of such claim, may, on motion on behalf of the United States, grant a new trial and stay the payment of any judgment therein, upon such evidence, cumulative or otherwise, as shall satisfy the court that any fraud, wrong, or injustice in the premises has been done to the United States; but until an order is made staying the payment of a judgment, the same shall be payable and paid as now provided by law.

U. S., 258; Douglas's Case, 11 C. Cls., 655.

SEC. 1089. In all cases of final judgments by the Court of Claims, or, on appeal, by the Supreme Court, where the same are affirmed in favor of the claimant, the sum due thereby shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims, on presentation to the Secretary of the Treasury of a copy of said judgment, certified by the clerk of the Court of Claims, and signed by the chief justice, or, in his absence, by the presiding judge of said court.

SEC. 1090. In cases where the judgment appealed from is in favor of the claimant, and the same is affirmed by the Supreme Court, interest thereon at the rate of five per centum shall be allowed from the date of its presentation to the Secretary of the Treasury for payment as aforesaid, but no interest shall be allowed subsequent to the affirmance, unless presented for payment to the Secretary of the Treasury as aforesaid.

SEC. 1091. No interest shall be allowed on any claim up to the time of the rendition of judgment thereon by the Court of Claims, unless upon a contract expressly stipulating for the payment of interest.

SEC. 1092. The payment of the amount due by any judgment of the Court of Claims and of any interest thereon allowed by law, as hereinbefore provided, shall be a full discharge to the United States of all claim and demand touching any of the matters involved in the controversy.

SEC. 1093. Any final judgment against the claimant on any claim prosecuted as provided in this chapter shall forever bar any further claim or demand against the United States arising out of the matters involved in the controversy.