

cate 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 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.

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.

22, ss. 70, 71, v. 1, p. 678.—*Locke vs. U. S.*, 7 Cr., 339; *The Luminary*, 8 Wh., 407; *Clifton vs. U. S.*, 4 How., 242; *Buckley vs. U. S.*, 4 How., 251; *Cliquot's Champagne*, 3 Wall., 143; *The John Griffin*, 15 Wall., 29; *U. S. vs. An Open Boat*, 5 Mas., 232.

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.

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22 Feb., 1849, c. 61, s. 1, v. 9, p. 346.
2 March, 1849, c. 82, v. 9, p. 350.

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8 Aug., 1846, c. 100, s. 2, v. 9, p. 76.

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2 March, 1799, c. 8 Wh., 407; *Clifton vs. U. S.*, 4 How., 251; *Cliquot's Champagne*, 3 Wall., 143.

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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 the said courts shall be provided at the expense of the United States.

Sealing and testing of writs.
 8 May, 1792, c. 36, s. 1, v. 1, p. 275.

SEC. 912. All process issued from the courts of the United States shall bear teste from the day of such issue.

Teste of process, day of.
 1 June, 1872, c. 255, s. 4, v. 17, p. 197.

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.

Mesne process, and proceedings in equity and admiralty.
 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.

Grayson vs. Virginia, 3 Dall., 320; Wayman vs. Southard, 10 Wh., 1; Bank of U. S. vs. Halstead, 10 Wh., 51; Munro vs. Almeida, 10 Wh., 488; Boyle vs. Zacharie, 6 Pet., 658; Duncan's Heirs vs. U. S., 7 Pet., 435; Beers vs. Haughton, 9 Pet., 359, 360; Harrison vs. Nixon, 9 Pet., 507; Story vs. Livingston, 13 Pet., 359; Gaines vs. Relf, 15 Pet., 9; Pennsylvania vs. Wheeling Bridge Co., 13 How., 564; McKinlay vs. Morrish, 21 How., 347.

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

Practice and proceedings in other than equity and admiralty causes.

1 June, 1872, c. 255, s. 5, v. 17, p. 197. 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 vs. Grymes, 1 Pet., 469; *U. S. vs. Robeson*, 9 Pet., 319; *Wilcox vs. Hunt*, 13 Pet., 378; *Minor vs. Tillotson*, 2 How., 392; *Gwyn vs. Barton*, 6 How., 7; *Townsend vs. Jemison*, 7 How., 706; *U. S. vs. Coxe*, 7 How., 833; *Sears vs. Eastburn*, 10 How., 187; *Fenn vs. Holme*, 21 How., 481; *Hooper vs. Scheimer*, 23 How., 249; *Sheirburn vs. Cordova*, 24 How., 423; *U. S. vs. Council of Keokuk*, 6 Wall., 514.

Attachments.

1 June, 1872, c. 255, s. 6, v. 17, p. 197.

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.

Executions in common-law causes.

1 June, 1872, c. 255, s. 6, v. 17, p. 197.

W a y m a n vs. Southard, 10 Wh., 1; *Bank U. S. vs. Halstead*, 10 Wh., 51; *Boyle vs. Zacharie et al.*, 6 Pet., 648; *Ross vs. Duval*, 13 Pet., 45; *U. S. vs. Knight*, 14 Pet., 301; *Ames vs. Smith*, 16 Pet., 303; *Massingill vs. Downs*, 7 How., 760.

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 vs. Southard, 10 Wh., 43; *Poultney vs. The City of Lafayette*, 12 Pet., 472; *The Steamer St. Lawrence*, 1 Bl., 522; *Noonan vs. Lee*, 2 Bl., 509.

Practice in the several courts to be regulated by their own rules.

2 March, 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 vs. Southard, 10 Wh., 43; *Mills vs. Bank U. S.*, 11 Wh., 431; *The Steamer St. Lawrence*, 1 Bl., 522.

Suits for duties, imposts, taxes, penalties, or forfeitures.

2 March, 1799, c. 22, s. 89, v. 1, pp. 695, 696.

4 August, 1790, c. 35, s. 67, v. 1, p. 176. 31 December, 1792, c. 1, s. 29, v. 1, p. 298. 18 Feb., 1793, c. 8, s. 35, v. 1, p. 317. 13 July, 1866, c. 184, s. 9, v. 14, pp. 111, 145. 8 June, 1872, c. 335, s. 303, v. 17, p. 323.

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.

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.

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.

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.

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.

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.

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.

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 employes 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.

Consolidation of revenue seizures.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 162.

Orders to save costs, and consolidation of causes of a like nature.

22 July, 1813, c. 14, s. 3, v. 3, p. 21.

2 Sellon's Prac., 229.

When the marshal or his deputy is a party in a cause.

24 Sept., 1789, c. 20, s. 28, v. 1, p. 87.

Seizures for forfeiture in certain cases.

2 March, 1799, c. 22, ss. 70, 89, v. 1, pp. 678, 695, 696.

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.

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.

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23 Feb., 1865, c.
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23 Feb., 1865, c.
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23 Feb., 1865, c.
47, s. 4, v. 13, p. 433.

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23 Feb., 1865, c.
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23 Feb., 1865, c.
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23 Feb., 1865, c.
47, s. 7, v. 13, p. 434.

Accrued rights not
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23 Feb., 1865, c.
47, s. 9, v. 13, p. 434.

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14 March, 1848, c.
18, s. 1, v. 9, p. 213.

23 Feb., 1865, c.
47, ss. 1, 9, v. 13, pp.
432, 434.

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.

Property taken under revenue laws irrepleviable.

2 March, 1833, c. 57, s. 2, v. 4, p. 632.
13 July, 1866, c. 184, s. 67, v. 14, p. 172.

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.

Garnishees in suits by the United States, on notes, &c.

20 April, 1818, c. 83, s. 8, v. 3, p. 443.

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.

Issue tendered when garnishee denies indebtedness.

20 April, 1818, c. 83, s. 9, v. 3, p. 443.

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

Garnishee failing to appear.

20 April, 1818, c. 83, s. 10, v. 3, p. 444.

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.]

Bailing of property seized under customs laws.

2 March, 1799, c. 22, s. 89, v. 1, pp. 695, 696.

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.

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

Sale after condemnation.

2 March, 1799, c. 22, s. 90, v. 1, p. 696.

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.

In cases of seizure, bailing of property in vacation.

5 April, 1832, c. 66, v. 4, p. 503.
2 March, 1799, c. 22, s. 89, v. 1, pp. 695, 696.
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.

Delivery bond in admiralty proceedings.

3 March, 1847, c. 55, v. 9, p. 181.
2 March, 1799, c. 22, s. 89, v. 1, pp. 695, 696.
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.

Special bail required in suits for duties and penalties.

2 March, 1799, c. 22, s. 65, v. 1, p. 676.
28 Feb., 1839, c. 35,

When defendant giving bail in one district is committed in another.

2 March, 1799, c. 32, s. 1, v. 1, p. 727.

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 counsel 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.

v. 5, p. 321. 14 Jan., 1841, c. 2, v. 5, p. 410.—Conkl., 348, 349.

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.

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 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.

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.

Wilkins, 6 Wh., 143; Walton *vs.* U. S., 9 Wh., 650; Cox *vs.* U. S., 6 Pet., 202; U. S. *vs.* Refley, 7 Pet., 25; U. S. *vs.* Fillebrown, 7 Pet., 48; U. S. *vs.* Robeson, 9 Pet., 319; U. S. *vs.* Hawkins, 10 Pet., 125; U. S. *vs.* Laub, 12 Pet., 1; U. S. *vs.* Bank of Metropolis, 15 Pet., 377; Gratiot *vs.* U. S., 4 How., 112; U. S. *vs.* Buchanan, 8 How., 105; DeGroot *vs.* U. S., 5 Wall., 431; U. S. *vs.* Eckford, 6 Wall., 484; U. S. *vs.* Gilmore, 7 Wall., 491; Halliburton *vs.* U. S., 13 Wall., 63.

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. 25, s. 1, v. 2, p. 679. 1 March, 1817, c. 30, v. 3, p. 350.

Calling of bail, in Kentucky.

15 May, 1862, c. 71, s. 10, v. 12, p. 387.

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.

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 March, 1797, c. 20, s. 3, v. 1, p. 514.

U. S. *vs.* Giles, 9 Cr., 236; Thelusion *vs.* Smith, 2 Wh., 396; U. S. *vs.*

In suits under postal laws, what credits allowed.

2 July, 1836, c. 270, s. 15, v. 5, p. 82.

U. S. vs. Roberts, 9 How., 501; *U. S. vs. Hodge*, 13 How., 478; *Ware vs. 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 vs. U. S., 7 Cr., 496; *The Marianna Flora*, 11 Wh., 1; *Bank of Kentucky vs. Wistar*, 3 Pet., 431; *Jackson vs. Ashton*, 10 Pet., 480; *Woodward vs. Brown*, 13 Pet., 1; *Houseman vs. Schooner North Carolina*, 15 Pet., 40; *Matheson's Adm'r vs. Grant's Adm'r*, 2 How., 263; *Garland vs. Davis*, 4 How., 131; *Stockton vs. Bishop*, 4 How., 155; *Kennedy vs. Georgia Bank*, 8 How., 586; *Conrad vs. Griffey*, 11 How., 480; *Parks vs. Turner*, 12 How., 39; *Hudgins vs. Kemp*, 13 How., 530; *Insurance Co. vs. Mordecai*, 21 How., 195; *Porter vs. Foley*, 21 How., 393; *Railroad Co. vs. Lindsay*, 4 Wall., 650; *McVeigh vs. U. S.*, 8 Wall., 640.

Death of parties.

24 Sept., 1789, c. 20, s. 31, v. 1, p. 90.

Wilson vs. Codman's Ex'r, 3 Cr., 193; *McCoul vs. Lukamp's Adm'r*, 2 Wh., 111; *Green vs. Watkins*, 6 Wh., 260; *Macker's Heirs vs. Thomas*, 7 Wh., 530; *Clay vs. Smith*, 3 Pet., 411; *McNutt vs. Bland*, 2 How., 28; *Barribeau vs. Brant*, 17 How., 43; *Griswold vs. Hill*, 1 Paine, 483; *Hatch vs. Eustace*, 1 Gall., 160.

When one of several plaintiffs or defendants dies.

24 Sept., 1789, c. 20, s. 31, v. 1, p. 90.

Delinquents for public money; judgment at return term, unless, &c.

3 March, 1797, c. 20, s. 3, v. 1, p. 514.

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.

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.

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.

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 specified in the affidavit. And no continuance shall be granted except as herein provided.

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.

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, 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. [Sec. § 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.

Suits under postal laws; judgment at return term, unless, &c.

3 March, 1825, c. 64, s. 38, v. 4, p. 113.
2 July, 1836, c. 270, s. 15, v. 5, p. 82.

Suits on debentures; judgment at return term unless, &c.

2 March, 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 March, 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 vs. U. S., 5 Pet., 373.

Judgment for duties, &c., to state that it is to be collected in coin.

3 March, 1865, c. 80, s. 12, v. 13, p. 494.

Interest on bonds for duties.

2 March, 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.

Interests on debentures.

2 March, 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 vs. Four-niquet, 14 How., 328.

When judgments of United States courts cease to be liens.

4 July, 1840, c. 43, s. 4, v. 5, p. 393.—Massingill vs. Downs, 7 How., 760.

When plaintiff or petitioner recovers in a circuit court less than certain amounts, he recovers no costs.

24 Sept., 1789, c. 20, s. 20, v. 1, p. 83.

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

Leeds vs. Cameron, 3 Sum., 488; Kneass vs. Schuykill Bank, 4 Wash. C. C., 106; Cattle vs. Payne, 3 Day, 289; Ellis vs. Jarvis, 3 Mas., 457 Field vs. Schell, 4 Blatchf., 435.

Costs in internal-revenue suits upon information.

13 July, 1866, c. 184, s. 9, v. 14, p. 111.

Claimant not entitled to costs when reasonable cause of seizure.

24 Feb., 1807, c. 19, s. 1, v. 2, p. 422.

2 March, 1799, c. 22, s. 89, v. 1, pp. 695, 696.

Gelston vs. Hoyt, 3 Wh., 246, (314); The Apollon, 9 Wh., 362; U. S. vs. Riddle, 5 Cr., 311; Locke vs. U. S., 7 Cr., 339; Otis vs. Watkins, 9 Cr., 339; Averill vs. Smith, 17 Wall., 82, (93); Shattuck vs. Maley, 1 Wash. C. C., 249; Friendship and cargo, 1 Gallis., 111; The Friendship, 2 Gallis., 112; U. S. vs. Gay, 2 Gallis., 360; The ship Recorder, 2 Blatchf., 120; La Jeune Eugenie, 2 Mas., 436.

Double costs, when plaintiff is nonsuited in action against officer making seizure, &c.

2 March, 1799, c. 22, s. 71, v. 1, p. 678.

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 libellant, 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.

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.

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.

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.

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 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. Fees of clerk, marshal, &c.; when payable by informer; when by United States.

28 Feb., 1799, c. 19, s. 8, v. 1, p. 626.

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. 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.

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. Allowance of costs in libels against vessel and cargo.

22 July, 1813, c. 14, s. 2, v. 3, p. 20.

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. 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 vexatiously increased by him.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 162. 22 July, 1813,

Bill of costs, how taxed.

26 Feb., 1853, c. 80, s. 3, v. 10, p. 168.

The Liverpool Packet, 2 Spr., 37; Lyell vs. 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.

Executions to run in all the districts of a State.

20 May, 1826, c. 124, v. 4, p. 184.

Executions in favor of United States to run in every State and Territory.

3 March, 1797, c. 20, s. 6, v. 1, p. 515.

Execution stayed on conditions.

24 Sept., 1789, c. 20, s. 18, v. 1, p. 83.

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

When judgment-debtor entitled to a continuance of one term.

19 May, 1828, c. 68, s. 2, v. 4, p. 281.

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.

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.

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.

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.

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.

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.

Randolph *vs.* Donaldson, 9 Cr., 76; Marshall *vs.* Bazin, 7 N. Y. Leg. Obs., 342; Hodge *vs.* Bemis, 12 Law Rep., 470, S. C., 2 Am. L. J., 337; Gardner *vs.* Isaacson, 1 Ab., 141; Gaines *vs.* Travis, 1 Ab., 422

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.

19, 20.—King *vs.* Riddle, 7 Cr., 168; Duncan *vs.* Durst, 1 How., 301; How., 9; Snead *vs.* McCoull, 12 How., 407.

SEC. 992. Persons imprisoned on process issuing from any court of the United States in civil actions, as well as at the suit of the United States as 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.

109, v. 5, p. 499.—*Ex parte* Wilson, 6 Cr., 52; U. S. *vs.* Knight, 14 Pet., 314.

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 appraisement. 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

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.

Imprisonment for debt.

28 Feb., 1839, c. 35, v. 5, p. 321.

14 Jan., 1841, c. 2, v. 5, p. 410.

2 March, 1867, c. 180, v. 14, p. 543.

Randolph *vs.* Donaldson, 9 Cr., 76; Marshall *vs.* Bazin, 7 N. Y. Leg. Obs., 342; Hodge *vs.* Bemis, 12 Law Rep., 470, S. C., 2 Am. L. J., 337; Gardner *vs.* Isaacson, 1 Ab., 141; Gaines *vs.* Travis, 1 Ab., 422

Discharge from arrest or imprisonment on mesne or final process.

2 March, 1867, c. 180, v. 14, p. 543.

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.

McNutt *vs.* Bland, 2

Privileges of jail limits.

6 Jan., 1800, c. 4, s. 1, v. 2, p. 4.

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. *vs.* Knight, 14 Pet., 314.

Goods taken on a fieri facias, how appraised.

2 March, 1793, c. 22, s. 8, v. 1, p. 335.

Bronson *vs.* Kinzie, 1 How., 323.

Death of marshal after levy or after sale.

7 May, 1800, c. 45, s. 3, v. 2, p. 61.

Doolittle *vs.* Bryan, 14 How., 563.

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.

Moneys paid into court, where and how deposited.

24 March, 1871, c. 2, s. 1, v. 17, p. 1.

How moneys deposited to be withdrawn.

24 March, 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 vs. Lyde*, 4 Cr., 180; *U. S. vs. Hodge*, 3 How., 534; *U. S. vs. Villabolas*, 6 How., 81; *U. S. vs. Curry*, 6 How., 112; *Brooks vs. Norris*, 11 How., 204; *Steamer Virginia vs. West*, 19 How., 182; *Insurance Com. vs. Mordecai*, 21 How., 200; *Overton vs. Cheek*, 22 How., 46; *Castro vs. U. S.*, 3 Wall., 46; *Mussina vs. Cavazos*, 6 Wall., 355; *Bartemeyer vs. Iowa*, 14 Wall., 26.

Transcript: *Owens vs. Hanney*, 9 Cr., 180; *Williams vs. Norris*, 12 Wh., 117; *Stockton vs. Bishop*, 4 How., 155; *Innerarity vs. Byrne*, 5 How., 295; *Villabolas vs. U. S.*, 6 How., 81; *Steamer Virginia vs. West*, 19 How., 182; *U. S. vs. Gomez*, 1 Wall., 690; *Sparrow vs. Strong*, 3 Wall., 103; *Stearns vs. U. S.*, 4 Wall., 1; *Edmonson vs. Bloomshire*, 7 Wall., 306; *Blitz vs. Brown*, 7 Wall., 693; *Avendano vs. Gay*, 8 Wall., 376; *The Lucy*, 8 Wall., 307; *Hoe vs. Wilson*, 9 Wall., 501; *U. S. vs. Vigil*, 10 Wall., 423.

Citation: *Lloyd vs. Alexander*, 1 Cr., 365; *Yeaton vs. Lenox*, 7 Pet., 220; *U. S. vs. Hodge*, 3 How., 534; *McDonogh vs. Millandon*, 3 How., 693; *Sheppard vs. Wilson*, 5 How., 210; *Innerarity vs. Byrne*, 5 How., 295; *Villabolas vs. U. S.*, 6 How., 81; *U. S. vs. Curry*, 6 How., 106; *Peale vs. Phipps*, 8 How., 256; *Buckingham vs. McLean*, 13 How., 150; *Davenport vs. Fletcher*, 16 How., 142; *Poydras de la Lande vs. Treasurer of Louisiana*, 17 How., 1; *Carrol vs. Dorsey*, 20 How., 207; *Bacon vs. Hart*, 1 Bl., 38; *U. S. vs. Gomez*, 1 Wall., 690; *Castro vs. U. S.*, 3 Wall., 46; *Sparrow vs. Strong*, 3 Wall., 103; *McClane vs. Boon*, 6 Wall., 244; *Alviso vs. U. S.*, 6 Wall., 457; *City of Washington vs. Jennison*, 6 Wall., 495; *Pierce vs. Cox*, 9 Wall., 787; *Bigler vs. Waller*, 12 Wall., 142; *Bartemeyer vs. Iowa*, 14 Wall., 26.

Citation.

24 Sept., 1789, c. 20, s. 22, v. 1, p. 84.
5 Feb., 1867, c. 28, s. 2, v. 14, p. 386.

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.

U. S. vs. Hodge, 3 How., 534; *Sheppard vs. Wilson*, 5 How., 210; *Villabolas vs. U. S.*, 6 How., 81; *Davidson vs. Lanier*, 4 Wall., 453; *Palmer vs. Downer*, 7 Wall., 541; *Bartemeyer vs. Iowa*, 14 Wall., 26.

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.

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.

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.

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 vs. Brockett, 2 How., 238; *Davenport vs. Fletcher*, 16 How., 142; *Hudgins vs. Kemp*, 18 How., 530; *Roberts vs. Cooper*, 19 How., 373; *Anson vs. Blue Ridge R. R.*, 23 How., 1; *Orchard vs. Hughes*, 1 Wall., 76; *Brobst vs. Brobst*, 2 Wall., 96; *Davidson vs. Lanier*, 4 Wall., 447; *Ex parte The Milwaukee R. R.*, 5 Wall., 188; *Seymour vs. Freer*, 5 Wall., 822; *Rubber Co. vs. Goodyear*, 6 Wall., 153; *Silver vs. Ladd*, 6 Wall., 440; *Edmonson vs. Bloomshire*, 7 Wall., 306; *French vs. Shoemaker*, 12 Wall., 86; *Bigler vs. Waller*, 12 Wall., 142.

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. 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 March, 1851, c. 24, s. 3, v. 9, p. 595. Ga., 11 Aug., 1848, c. 151, s. 9, v. 9, p. 281. Miss., 16 Feb., 1839, c. 27, s. 3, v. 5, p. 317. W. Va., 4 Feb., 1819, c. 12, s. 2, v. 3, p. 479; 3 March, 1837, c. 34, s. 3, v. 5, p. 177; 28 March, 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 or decree complained of had been rendered or passed in a court of the United States.

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 vs. Hoyt*, 3 Wh., 246; *Buell vs. Van Ness*, 8 Wh., 312; *McGuire vs. The Commonwealth*, 3 Wall., 382; *Aldrich vs. Aetna Co.*, 8 Wall., 495; *Gleason vs. Florida*, 9 Wall., 779; *Bartemeyer vs. Iowa*, 14 Wall., 26.

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.

Writs of error returnable to the Supreme Court, how issued.

8 May, 1792, c. 36, s. 9, v. 1, p. 278.

Buell vs. Van Ness, 8 Wh., 312; *Cavazos vs. Cavazos*, 6 Wall., 355.

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.

Amendment of writ of error.

1 June, 1872, c. 255, s. 3, v. 17, p. 196.

Carroll vs. Dorsey, 20 How., 206; *Mussina vs. Cavazos*, 6 Wall., 355; *Hampton vs. Rouse*, 15 Wall., 684.

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.]

Amendments in prize appeals.

3 March, 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.

Hogan vs. Ross, 11 How., 294; Stafford vs. Union Bank, 16 How., 135; Adams vs. Law, 16 How., 144; Green vs. Van Buskirk, 3 Wall., 448; City of Washington vs. Dennison, 6 Wall., 495; Railroad vs. Harris, 7 Wall., 574.

Writs of error and appeals to Supreme Court, time for taking.

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

Thomas vs. Brockenbrough, 10 Wh., 146; Brooks vs. Norris, 11 How., 204; Hanger vs. Abbott, 6 Wall., 532;

Appeals in prize causes, within what time.

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

3 March, 1873, c. 230, s. 2, v. 17, p. 556.

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. 85. 2 March, 1803, c. 40, s. 2, v. 2, p. 244. 5 Feb., 1867, c. 28, s. 2, v. 14, p. 386.—Rules 23, 24, 30, Supreme Court. Winchester vs. Jackson, 3 Cr., 514; Himley vs. Rose, 5 Cr., 313; McIver vs. Wattles, 9 Wh., 650; Boyce's Ex'rs vs. Grundy, 9 Pet., 275; Kilbourne vs. Savings Institution, 22 How., 503; Hennessy vs. Sheldon, 12 Wall., 440.

Reversal on error limited.

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

2 March, 1803, c. 40, s. 2, v. 2, p. 244.—

Appeals from circuit courts to Supreme Court.

3 March, 1803, c. 40, s. 2, v. 2, p. 244. 220; Villabolas vs. U. S., 6 How., 81; U. S. vs. Curry, 6 How., 106; Stafford vs. Union Bank, 16 How., 139; Steamer Virginia vs. West, 19 How., 182; U. S. vs. Gomez, 3 Wall., 763; The Protector, 11 Wall., 82.

Where both parties appeal to the Supreme Court, one record sufficient.

6 Aug., 1861, c. 61, s. 1, v. 12, p. 319.

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 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.]

The Protector, 9 Wall., 687.

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 §§ 605, 4636.]

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.

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^(a) plea in abatement, other than a plea to the jurisdiction of the court, or for any error in fact.

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.

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.

(^a) Error in the Roll. The word "and" should be "any."

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. [Sec § 879.]

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.

20, s. 33, v. 1, p. 91. 2 March, 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.

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. [Sec § 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.

Offenders against the United States, how arrested and removed for trial.

24 Sept., 1789, c. 20, s. 33, v. 1, p. 91.
2 March, 1793, c. 22, s. 4, v. 1, p. 334.
22 Aug., 1842, c. 188, s. 1, v. 5, p. 516.

Bail shall be admitted in cases not capital, by whom.

24 Sept., 1789, c. 20, s. 33, v. 1, p. 91.

Bail may be admitted in capital cases; by whom.

24 Sept., 1789, c. 20, s. 33, v. 1, p. 91.
2 March, 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.

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.

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 March, 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.

Indictments, defects of form.

1 June, 1872, c. 255, s. 8, v. 17, p. 198.

Judgment on demurrer to an indictment.

23 May, 1872, c. 202, v. 17, p. 158.

When several indictments against the same person, one writ sufficient.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 162.

Copy of writ to be jailer's authority; original returned.

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

Writ for removal of a prisoner from one district to another.

26 Feb., 1853, c. 80, s. 1, v. 10, pp. 162, 163.

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.

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.

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.

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.

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.

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. [Sec § 819.]

When peremptory challenges exceed the number allowed by law.

3 March, 1835, c. 40, s. 4, v. 4, p. 777.

3 March, 1865, c. 86, 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.

3 March, 1835, c. 40, s. 4, v. 4, p. 777.

30 April, 1790, c. 9, s. 30, v. 1, p. 119.

3 March, 1825, c. 65, s. 14, v. 4, p. 118.

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.

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 reasonable 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 an attempt to commit the offense so charged: *Provided*, That such attempt be itself a separate offense.

Verdict of less offense than charged.

1 June, 1872, c. 255, s. 9, v. 17, p. 198.

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.

Verdict against part of several joint defendants.

1 June, 1872, c. 255, s. 10, v. 17, p. 198.

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.

Indictments remitted by circuit and district courts to each other.

8 Aug., 1846, c. 98, s. 2, v. 9, p. 72.

U. S. vs. Murphy, 3 Wall., 649; U. S. vs. 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 March, 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.

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 my 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, 5296.]