

June 1, 1872.

CHAP. CCLIV. — *An Act to provide for the Issue of Bonds in Lieu of destroyed or defaced Bonds of the United States.*

Bonds of the United States may be issued in lieu of those destroyed or defaced.

Called bonds to be paid.

Owners of destroyed, &c., bonds, to give bond of indemnity with sureties.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever it shall appear to the Secretary of the Treasury, by clear and unequivocal proof, that any interest-bearing bond of the United States has, without bad faith upon the part of the owner, been destroyed, wholly or in part, or so defaced as to impair its value to the holder, and which bond shall be identified by number and description, the Secretary of the Treasury shall, under such regulations and with such restrictions as to time and retention for security or otherwise as he may prescribe, issue a duplicate of such bond, having the same time to run, bearing like interest as the bond so proved to have been destroyed or defaced, and so marked as to show the original number of the bond destroyed and the date thereof: *Provided,* That where such destroyed or defaced bonds shall appear to have been of such a class or series as has been or may, before such application, be called in for redemption, instead of issuing duplicates thereof they shall be paid, with such interest only as would have been paid if presented in accordance with such call.

SEC. 2. That the owner of such destroyed or defaced bond shall surrender the same, or so much thereof as may remain, and shall file in the treasury a bond in a penal sum double the amount of said destroyed or defaced bond, and the interest which would accrue thereon until the principal thereof is due and payable, with two good and sufficient sureties, residents of the United States, to be approved by the Secretary of the Treasury, with condition to indemnify and save harmless the United States from any claim upon the said destroyed or defaced bond.

APPROVED, June 1, 1872.

June 1, 1872.

CHAP. CCLV. — *An Act to further the Administration of Justice.*

In proceedings in circuit courts of the United States, when the judges differ, the opinion of the presiding justice or judge to prevail.

Upon certificate of difference of opinion, &c., either party may remove the case to the Supreme Court.

1802, ch. 31. Vol. ii. p. 156.

Writs of error, &c., to Supreme Court to be sued out within two years after, &c.;

to circuit court within one year, &c.

Persons under disability.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever, in any suit or proceeding in a circuit court of the United States, being held by a justice of the Supreme Court and the circuit judge or a district judge, or by the circuit judge and a district judge, there shall occur any difference of opinion between the judges as to any matter or thing to be decided, ruled, or ordered by the court, the opinion of the presiding justice or the presiding judge shall prevail, and be considered the opinion of the court for the time being; but when a final judgment, decree, or order in such suit or proceeding shall be entered, if said judges shall certify, as it shall be their duty to do if such be the fact, that they differed in opinion as to any question which, under the act of Congress of April twenty-ninth, eighteen hundred and two, might have been reviewed by the Supreme Court on certificate of difference of opinion, then either party may remove said final judgment, decree, or order to the Supreme Court, on writ of error or appeal, according to the nature of the case, and subject to the provisions of law applicable to other writs of error or appeals in regard to bail and supersedeas.

SEC. 2. That no judgment, decree, or order of a circuit or district court of the United States, in any civil action at law or in equity, rendered after this act shall take effect, shall be reviewed by the Supreme Court of the United States, on writ of error or appeal, unless the writ of error be sued out, or the appeal be taken, within two years after the entry of such judgment, decree, or order; and no judgment, decree, or order of a district court, rendered after this act shall take effect shall be reviewed by a circuit court of the United States upon like process or appeal, unless the process be sued out, or the appeal be taken, within one year after the entry of the judgment, decree, or order sought to be reviewed: *Provided,* That where a party entitled to prosecute a writ of error or to take an appeal is an infant, or non compos mentis, or imprisoned, such writ of error may be prosecuted, or

such appeal may be taken, within the periods above designated after the entry of the judgment, decree, or order, exclusive of the term of such disability. The appellate court may affirm, modify, or reverse the judgment, decree, or order brought before it for review, or may direct such judgment, decree, or order to be rendered, or such further proceedings to be had by the inferior court as the justice of the case may require.

Power of appellate court on writs of error, &c.

SEC. 3. That the Supreme Court may at any time in its discretion, and upon such terms as it may deem just, and where the defect has not injured and the amendment will not prejudice the defendant in error, 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 where the defect has not prejudiced, and the amendment will not injure, the defendant in error; and the circuit and district courts of the United States shall possess the like power of amendment of all process returnable to or before them.

Writs of error may be amended in matters of form, if, &c.

SEC. 4. That a bill of exceptions hereafter 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; and all process issued from the courts of the United States shall bear teste from the day of such issue.

Bills of exceptions, how may be authenticated.

SEC. 5. That the practice, pleadings, and forms and modes of proceeding in other than equity and admiralty causes in the circuit and district courts of the United States shall conform, as near as may be, to the practice, pleadings, and forms and modes of proceeding existing at the time in like causes in the courts of record of the State within which such circuit or district courts are held, any rule of court to the contrary notwithstanding: *Provided, however,* That nothing herein contained shall alter the rules of evidence under the laws of the United States, and as practiced in the courts thereof.

Process when to bear teste.

Practice, pleadings, &c., except in equity, &c., in United States courts to conform to those of State court.

Rules of evidence not altered.

SEC. 6. That in common-law causes in the circuit and district courts of the United States the plaintiff shall be entitled to similar remedies, by attachment or other process against the property of the defendant, which are now provided for by the laws of the State in which such court is held, applicable to the courts of such State; 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 State in relation to attachments and other process; and the party recovering judgment in such cause 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 by the laws of the State within which said circuit or district courts shall be held in like causes, or which shall be adopted by rules as aforesaid: *Provided,* That similar preliminary affidavits or proofs, and similar security as required by such laws, shall be first furnished by the party seeking such attachment or other remedy.

In common-law causes plaintiffs to have the remedies by attachment, &c., provided by State laws in like cases.

Such laws to be adopted as rules. Preliminary proofs, &c.

SEC. 7. That whenever notice is given of a motion for an injunction out of a circuit or district court of the United States, the court or judge thereof may, if there appear to be danger of irreparable injury from delay, grant an order restraining the act sought to be enjoined until the decision upon the motion. Such order may be granted with or without security, in the discretion of the court or judge: *Provided,* That no justice of the Supreme Court shall hear or allow any application for an injunction or restraining order, except within the circuit to which he is allotted, and in causes pending in the circuit to which he is allotted, or in such causes at such place outside of the circuit as the parties may in writing stipulate, except in causes

Injunctions.

Justices of the Supreme Court not to grant injunctions, except, &c.

where such application cannot be heard by the circuit judge of the circuit, or the district judge of the district.

Indictments, &c., not to be affected by defects in matters of form only.

In criminal causes defendants may be found guilty of what offences.

Where there are several defendants the jury may agree upon a verdict as to some, &c.

Another trial for the others. Security on writs of error, &c., to be given within sixty days, or afterward by permission.

In criminal, &c., cases, judgments for fines, &c., may be enforced by execution as in civil cases.

Proviso.

In equity suits to enforce claims upon property in the district, if there is any absent defendant court may order him to appear, &c.

Order, how served.

Court to have jurisdiction if, &c.

Property within the district only affected.

Poor convicts sentenced to pay fine and costs, and imprisoned for thirty days for non-payment may be discharged.

SEC. 8. That 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. 9. That in all criminal causes the defendant may be found guilty of any offence 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 offence so charged: *Provided*, That such attempt be itself a separate offence.

SEC. 10. That on an indictment against several, if the jury cannot agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment shall be entered accordingly; and the cause as to the other defendants may be tried by another jury.

SEC. 11. That any party or person desiring to have any judgment, decree, or order of any district or circuit court reviewed on writ of error or appeal, and to stay proceedings thereon during the pendency of such writ of error or appeal, may give the security required by law therefor within sixty days after the rendition of such judgment, decree, or order, or afterward with the permission of a justice or judge of the said appellate court.

SEC. 12. That 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. 13. That when in any suit in equity, commenced in any court of the United States, to enforce any legal or equitable lien or claim against real or personal property within the district where such suit is brought, one or more of the defendants therein shall not be an inhabitant of or found within the said district, or shall not voluntarily appear thereto, it shall be lawful for the court to make an order directing such absent defendant to appear, plead, answer, or demur to the complainant's bill at a certain day therein to be designated, which order shall be served on such absent defendant, if practicable, wherever found, or where such personal service is not practicable, such order shall be published in such manner as the court shall direct; and in case such absent defendant shall not appear, plead, answer, or demur within the time so limited, or within some further time, to be allowed by the court in its discretion, and upon proof of the service of publication of said order, and of the performance of the directions contained in the same, it shall be lawful for the court to entertain jurisdiction, and proceed to the hearing and adjudication of such suit in the same manner as if such absent defendant had been served with process within the said district, but said adjudication shall, as regards such absent defendant without appearance, affect his property within such district only.

SEC. 14. That when a poor convict, sentenced by any court of the United States to be imprisoned and pay a fine, or fine and cost, or to pay a fine, or fine and cost, has been confined in prison thirty days, solely for the non-payment of such fine, or fine and cost, such convict 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.

Discharge of poor convicts.

Proceedings.

SEC. 15. That if at any time after such discharge of such convict it shall be made to appear that in taking the aforesaid oath he swore falsely, he may be indicted, convicted, and punished for perjury, and be liable to the penalties prescribed in section thirteen of an act entitled "An act more effectually to provide for the punishment of certain crimes against the United States, and for other purposes," approved March third, A. D. eighteen hundred and twenty-five.

If the convict swears falsely, he may be punished for perjury. 1825, ch. 65, § 13. Vol. iv. p. 118.

SEC. 16. That the fees of the commissioner for the examination and certificate provided for in this act shall be five dollars per day for every day that he shall be engaged in such examination.

Fees of commissioners.

APPROVED, June 1, 1872.

CHAP. CCLVI. — *An Act making Appropriations for the Service of the Post-office Department for the Year ending June thirty, eighteen hundred and seventy-three.* June 1, 1872.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated for the service of the Post-office Department for the year ending June thirtieth, eighteen hundred and seventy-three, out of any moneys in the treasury arising from the revenues of said Department, in conformity to the act of July second, eighteen hundred and thirty-six, as follows:

Appropriation for post-office department.

1836, ch. 270. Vol. v. p. 80.

For inland mail transportation, thirteen million twenty-four thousand seven hundred and sixty-three dollars. Inland mails.

For pay of mail-messengers, six hundred and three thousand six hundred and seventy-four dollars. Messengers.

For pay of route-agents, nine hundred and thirty-eight thousand and five dollars. Route agents.

For pay of mail-route messengers, seventy thousand eight hundred and forty-one dollars. Mail-route messengers.

For pay of local agents, fifty-eight thousand four hundred and eighty-six dollars. Local agents.

For pay of railway post-office clerks, nine hundred and fifty thousand dollars. Clerks.

For pay of baggage-masters in charge of through-mails, six thousand two hundred dollars. Baggage-masters.

For foreign mail transportation, three hundred thousand dollars. Foreign mails.

For ship, steamboat, and way letters, ten thousand seven hundred and fifty dollars. Ship, &c., letters.

For compensation to postmasters, five million five hundred and twenty-five thousand dollars. Postmasters, clerks, and letter-carriers.

For pay of clerks for post-offices, two million eight hundred thousand dollars.

For pay of letter-carriers, one million four hundred and twenty-five thousand dollars.