

Jan. 23, 1798.

CHAP. VIII.—*An Act to prescribe the mode of taking Evidence in cases of contested Elections for Members of the House of Representatives of the United States, and to compel the attendance of Witnesses.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That where any person, from and after the passing of this act, shall intend to contest an election for any member or members of the House of Representatives of the United States, or to support any such election so intended to be contested, and shall be desirous of obtaining testimony respecting such election, it shall be lawful for such person to make application to any judge of the courts of the United States, or to any chancellor, justice, or judge of a superior or county court, or court of common pleas of any state, or to any mayor, recorder or intendant of a town or city, who shall, thereupon, issue his warrant of summons, directed to all such witnesses as shall be named to him by such applicant, or his agent duly authorized for that purpose, and requiring the attendance of such witnesses, before him, at some convenient time and place, to be expressed in the warrant, in order to be then and there examined, in the manner herein after provided, touching the subject matter of the aforesaid application.

Chancellor, justice or judge of Superior or County Court, &c. to issue summons to witnesses.

Act of April 22, 1800, ch. 28.

SEC. 2. *And be it further enacted,* That every such witness, as is above-mentioned, shall be duly served with such warrant, by a copy thereof being delivered to him or her, or left at his or her usual place of abode; and that such service shall be made a convenient time before the day on which the attendance of such witness is required, which time the magistrate issuing the warrant is hereby authorized and required to fix, for each witness, at the time of issuing it, having respect to the circumstances of such witness, and the distance of his or her residence from the place of attendance.

Manner of serving summons on witnesses.

SEC. 3. *And be it further enacted,* That any person, being summoned in the manner above directed, and refusing or neglecting to attend, pursuant to such summons, unless in case of sickness, or other unavoidable accident, shall forfeit and pay the sum of twenty dollars, to be recovered with costs of suit, by the party at whose instance the warrant of summons was issued, and for his use, by action of debt in any court, or before any other tribunal of the United States, or any state, having jurisdiction to the amount of such penalty.

Penalty on not attending in pursuance of summons.

SEC. 4. *And be it further enacted,* That the magistrate issuing the aforesaid warrant of summons, shall, at the time of issuing it, cause to be made out, under his hand, and delivered to the said applicant, or his agent authorized as aforesaid, a notification directed to the opposite party, and stating the time and object of the aforesaid application, the name of the applicant, and the time and place fixed for the examination

Notification to the opposite party.

Manner of serving notification.

Proof of service thereof.

Witnesses to be examined on oath or affirmation.

Testimony to be reduced to writing,

and transmitted to the clerk of the House of Representatives, with a copy of the summons, &c.

What proceedings are to be had in case of inability of the Chancellor, &c. to attend the examination.

Two justices of the peace empowered to act in certain cases.

Allowance to witnesses.

of the witnesses; which notification the said applicant, or his agent as aforesaid, shall cause to be served on the said opposite party, by delivering to him or leaving at his usual place of abode, a copy thereof, a convenient time before the day fixed for the aforesaid examination; which time the magistrate granting the said notification shall fix, at the time of granting it, having respect to the distance of the said party's place of residence from that appointed for the examination; which examination shall not be proceeded in, unless proof be made by affidavit in writing, of the due service of such notification, or unless the party on whom such service is hereby directed to be made, shall attend at the time and place aforesaid, by himself or his agent duly authorized; and consent to the said examination; which consent shall be certified by the magistrate.

SEC. 5. *And be it further enacted*, That all witnesses who shall attend, pursuant to the said summons, and all other witnesses who shall be produced at the time and place aforesaid, by either of the parties, or their or either of their agents duly authorized, shall then and there be examined on oath or affirmation, by the magistrate, who issued the warrant of summons aforesaid, or, in case of his absence, by any other such magistrate as is authorized by this act to issue such warrant, touching all such matters and things respecting the election about to be contested, as shall be proposed by either of the parties aforesaid, or by their, or either of their agents duly authorized; the testimony given on which examination, together with the questions proposed by the parties aforesaid, or their agents, or either of them, to the witnesses, respectively, the said magistrate is hereby authorized and required to cause to be reduced to writing, in his presence, and in the presence of the parties or their agents, if attending, and to be duly attested by the witnesses, respectively: after which he shall transmit the said testimony, duly certified under his hand, covered and sealed up, to the clerk of the House of Representatives of the United States, for the time being, together with a copy of the warrant of summons and notification issued in that behalf, and the original affidavit proving the service of such notification.

SEC. 6. *And be it further enacted*, That in case any judge, justice, chancellor, mayor, recorder or intendant as is aforesaid, to whom the application herein mentioned shall be made, shall, by reason of sickness, necessary absence, or unavoidable accident, be rendered unable to attend at the time and place fixed for the examination aforesaid, it shall be lawful for him to certify the matter, and the proceedings had by him in that behalf, to any other magistrate of any of the descriptions aforesaid, which said magistrate thereupon, shall be, and hereby is authorized to attend at such time and place, and to proceed touching the said examinations, in all respects, as the magistrate issuing the warrant of summons, might have done, by virtue of this act.

SEC. 7. *And be it further enacted*, That where no such magistrate as is herein authorized to receive applications as aforesaid, and proceed upon them, shall reside within any district for which an election about to be contested shall have been held, it shall be lawful to make such application to any two justices of the peace residing within the said district, who are hereby authorized in such case, to receive such application, and jointly to proceed upon it in the manner herein before directed.

SEC. 8. *And be it further enacted*, That every witness attending by virtue of such warrant of summons as is herein directed to be issued, shall be allowed the sum of seventy-five cents for each day's attendance, and the further sum of five cents, for every mile necessarily travelled in going and returning, which allowance shall be ascertained and certified by the magistrate taking the examination, and shall be paid by the party at whose instance such witness was summoned: And such witness shall have an action for the recovery of the said allowance, before any court or magistrate having competent jurisdiction, according to the laws of the

United States, or of any state, in which action the certificate of the magistrate taking the said examinations shall be evidence.

SEC. 9. *And be it further enacted*, That each judge, justice, chancellor, mayor, recorder, intendant and justice of the peace, who shall be necessarily employed, pursuant to the directions of this act, and all sheriffs, constables, or other officers who may be employed to serve any of the warrants of summons or notifications herein provided for, shall have and receive from the party at whose instance such service shall have been performed, such fee or fees, as are or may be allowed for similar services in the states wherein such service shall be rendered, respectively.

Fees to the officers employed.

SEC. 10. *And be it further enacted*, That this act shall continue and be in force until the end of the first session of the sixth Congress, and no longer.

Limitation.

APPROVED, January 23, 1798.

STATUTE II.

CHAP. X.—*An Act to amend the several acts for laying duties on Spirits distilled within the United States, and on Stills.*

Jan. 29, 1798.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passing of this act, it shall be lawful for all owners of stills within the United States, which shall have been duly entered according to law, to make their election, at any time of the year, both as to the rate of duty which they may choose to pay for the employment of their said stills, whether for a year, or for such other shorter period, as may be allowed by law; and also, as to the time of commencing such employment.

[Obsolete.]
Owners of stills to elect as to the time they will pay duties.

Repealed April 6, 1802.

APPROVED, January 29, 1798.

STATUTE II.

CHAP. XI.—*An Act supplementary to the act intituled "An act regulating Foreign Coins, and for other purposes."*

Feb. 1, 1798.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second section of an act, intituled "An act regulating foreign coins, and for other purposes," be, and the same is hereby suspended, for and during the space of three years from and after the first day of January, one thousand seven hundred and ninety-eight, and until the end of the next session of Congress thereafter, during which time the said gold and silver coins shall be and continue a legal tender, as is provided in and by the first section of the act aforesaid; and that the same coins shall thereafter cease to be such tender.

[Obsolete.]
Act of Feb. 9, 1793, ch. 5.
Act of Feb. 9, 1793, suspended.
1802, ch. 38.

APPROVED, February 1, 1798.

STATUTE II.

CHAP. XIV.—*An Act appropriating a certain sum of Money to defray the expense of holding a Treaty or Treaties with the Indians.*

Feb. 27, 1798.

SECTION I. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That a sum not exceeding twenty-five thousand eight hundred and eighty dollars, be appropriated to defray the expense of such treaty or treaties, as the President of the United States shall deem expedient to hold with the Indians: *Provided*, nothing in this act contained shall be construed to admit an obligation on the part of the United States to extinguish, for the benefit of any state or individual citizen, Indian claims to any lands lying within the limits of the United States, and that the compensations to be allowed to any of the commissioners appointed, or who may be

[Obsolete.]
\$25,880 appropriated.

Proviso.