first hundred dollars, collected in one quarter, may be increased to a sum not exceeding fifty per cent. The postmaster general may allow to the deputy postmasters, respectively, a commission of fifty per cent. on the money arising from the postages of newspapers, magazines and pamphlets; and to the deputy postmasters, whose compensations shall not exceed five hundred dollars, in one quarter, two cents for every free letter delivered out of the office, excepting such as are for the deputy postmaster himself: *Provided*, that the authority given by this section to the postmaster general, to regulate the commissions to be allowed to the deputy postmasters, shall continue in force until the thirty-first day of March, one thousand seven hundred and ninety-eight, and no longer: And that it shall be his duty, to report to the said session, the respective commissions which he shall have allowed, by virtue of the authority herein given.

1798, ch. 24.

Regulations respecting newspapers.

Sec. 6. *And be it further enacted*, That no newspapers shall be received by the deputy postmasters, to be conveyed by post, unless they are sufficiently dried and enclosed in proper wrappers, on which, besides the direction, shall be noted the number of papers, which are enclosed for subscribers, and the number for printers: The deputy postmasters shall form all newspapers deposited in their offices, to be conveyed by post, into mails; and if any deputy postmaster shall open, or permit any mail of newspapers not directed to his office, to be opened, he shall, on conviction thereof, forfeit, for every such offence, a sum not exceeding twenty dollars; and any other person, who shall open such mail of newspapers, on conviction thereof, shall forfeit a sum not exceeding twenty dollars, for every such offence: *Provided*, that when mails are directed to places where no post-office is kept, they may be opened at the post-office most convenient to such place, and may also be opened, where the direction is effaced.

Sec. 7. *And be it further enacted*, That this act shall not be construed to affect any existing contracts.

Postmaster general to report to Congress concerning certain roads.

Sec. 8. *And be it further enacted*, That it shall be the duty of the postmaster general, to report annually to Congress, every post-road, which shall not, after the second year, from its establishment, have produced one third of the expense of carrying the mail on the same.

Letters to George Washington to be free.

Sec. 9. *And be it further enacted*, That all letters and packets to George Washington, now President of the United States, after the expiration of his term of office, and during his life, shall be received and conveyed by post free of postage.

Approved, March 3, 1797.

Statute II.

March 3, 1797.

Chap. XX.—*An Act to provide more effectually for the Settlement of Accounts between the United States, and Receivers of public Money.*

Act of March 3, 1817, ch. 45.

Revenue officer or other person not paying public money, to be sued, to forfeit commissions, and to pay interest.

Section 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That when any revenue officer, or other person accountable for public money, shall neglect or refuse 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 comptroller, and he is hereby required to institute suit for the recovery of the same, adding to the sum stated to be due on such account, the commissions of the delinquent, which shall be forfeited in every instance where suit is commenced, and judgment obtained thereon, and an interest of six per cent. per annum, from the time of receiving the money, until it shall be repaid into the treasury.

Sec. 2. *And be it further enacted*, That in every case of delinquency, where suit has been, or shall be instituted, a transcript from the books and proceedings of the treasury certified by the register, and authenticated under the seal of the department, shall be admitted as evidence,

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and the court trying the cause, shall be thereupon authorized to grant judgment, and award execution, accordingly. And all copies of bonds, contracts, or other papers relating to, or connected with the settlement of any account between the United States and an individual, when certified by the register to be true copies of the originals on file, and authenticated under the seal of the department, as aforesaid, may be annexed to such transcripts, and shall have equal validity, and be entitled to the same degree of credit, which would be due to the original papers, if produced and authenticated in court: *Provided*, That where suit is brought upon a bond, or other sealed instrument, and the defendant shall plead "*non est factum*," or upon motion to the court, such plea or motion being verified by the oath or affirmation of the defendant, it shall be lawful for the court to take the same into consideration, and (if it shall appear to be necessary for the attainment of justice) to require the production of the original bond, contract or other paper specified in such affidavit.(*a*)

A transcript of the books of the Treasury to be evidence.

Original contract to be produced in certain cases.

(*a*) The decisions of the courts of the United States on Treasury statements, transcripts and documents, have been:

An account stated at the treasury department, which does not arise in the ordinary mode of doing business in that department, can derive no additional validity from being certified under the act of Congress. A treasury statement can only be regarded as establishing items for moneys disbursed through the ordinary channels of the department, where the transactions are shown by its books. In these cases the officers may well certify, for they must have official knowledge of the facts stated. United States *v.* Buford, 3 Peters, 29.

But when moneys come into the hands of an individual, not through the officers of the treasury, or in the regular course of official duty, the books of the treasury do not exhibit the facts, nor can they be officially known to the officers of the department. In such a case the claim of the United States for money thus in the hands of a third person must be established, not by a treasury statement, but by the evidence on which that statement was made. *Ibid.*

Action of debt on a bond executed by Alpha Kingsley, a paymaster in the army, and by John Smith, T. and another, as his sureties, to the United States. The condition of the obligation was, that Alpha Kingsley, "about to be appointed a district paymaster," &c. "and who will, from time to time, be charged with funds to execute and perform the duties of that station, for which he will be held accountable," &c. shall "well and truly execute the duties of district paymaster, and regularly account for all moneys placed in his hands to carry into effect the object of his appointment." On the trial the plaintiff gave in evidence a duly certified copy of the bond, and a "transcript from the books and proceedings of the treasury department, of the account of Alpha Kingsley, late district paymaster, in account with the United States." In this account A. K. was charged with moneys advanced to him for pay, subsistence, and forage, bounties and premiums, and contingent expenses of the army; and credited with disbursements of the same, for the purposes for which they were paid to him, and showing a large amount of items suspended and disallowed; making a balance due to the United States of forty-eight thousand four hundred and ninety-two dollars and fifty-three cents. The account was thus settled by the third auditor of the treasury, and was duly certified to the second comptroller of the treasury, and this balance was by him admitted and certified on the 23d of April, 1823. The account was further certified, "Treasury department, third auditor's office, 1st of September, 1824: pursuant to an act to provide for the prompt settlement of public accounts, approved 3d of March, 1817, I, Peter Hagner, third auditor, &c. do hereby certify that the foregoing transcripts are true copies of the originals, on file in this office." To this was annexed a certificate that Peter Hagner was the third auditor, &c. "In testimony whereof I, William H. Crawford, secretary of the treasury, have hereunto subscribed my name, and caused to be affixed the seal of this department, at the city of Washington, this 1st of September, 1824. (Signed) Edward Jones, chief clerk, for William H. Crawford, secretary of the treasury." The seal of the treasury department was affixed to the certificate. On the trial, the district court of Missouri instructed the jury, that "as by the account it appears there are in it items of debit and credit to Kingsley, as district paymaster, it furnished evidence of his having acted as district paymaster, and of his appointment as such." By the court—There are two kinds of transcript which the statute authorizes the proper officers to certify: first, a transcript from "the books and proceedings of the treasury," and secondly, "copies of bonds, contracts, and other papers, &c., which remain on file, and relate to the settlement." The certificate under the first head has been literally made in this case, and is a sufficient authentication of the transcript from "the books and proceedings of the treasury," and is a substantial compliance with the requisitions of the statute. Smith *v.* The United States, 5 Peters, 292.

Nothing done at the treasury, which did not fall within the scope of the authority of the accounting officers, in settling accounts, can be received in evidence. In the case of the United States *v.* Buford, 3 Peters, 29, it was held by the supreme court, that an account stated at the treasury department, which does not arise in the ordinary mode of doing business in that department, can derive no additional validity from being certified under the act of Congress. Such statements at the treasury can only be regarded as establishing items for moneys disbursed through the ordinary channels of the department,when the transactions are shown by its books. Cox and Dick *v.* The United States, 6 Peters, 202.

A treasury transcript, produced in evidence by the United States, in an action on a bond for the performance of a contract for the supply of rations to the troops of the United States, contained items of charge which were not objected to by the defendant. The defendant objected to the following items, as not proved by the transcript: "February 19, 1818, for warrant 1680, favour of Richard Smith, dated December 27, 1817, and February 11, 1818, twenty thousand dollars." And on the 11th of April, of the same year, another charge was made "for warrant No. 1904, for the payment of his two drafts, favour of

Judgment to be rendered at return term, except in certain cases.

Sec. 3. *And be it further enacted*, That where suit shall be instituted against any person or persons indebted to the United States, as aforesaid, it shall be the duty of the court where the same may be pending, to grant judgment at the return term, upon motion, unless the de-

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Alexander M'Cormick, dated March 11, and 17, 1811, for ten thousand dollars." And on the 14th of May, of the same year, a charge was made "for warrant No. 2038, being in part for a bill of exchange in favour of Richard Smith, for twenty thousand dollars, twelve thousand eight hundred and thirty-two dollars and seventy-eight cents." And one other warrant was charged June 22d, "for a bill of exchange in favour of Richard Smith, dated June 22, 1810, four thousand dollars; and also a warrant to Richard Smith, per order, for eight thousand dollars." These items, the circuit court instructed the jury, were not sufficiently proved, by being charged in the account, and certified under the act of Congress. By the Court—The officers of the treasury may well certify facts which come under their official notice, but they cannot certify those which do not come within their own knowledge. The execution of bills of exchange and orders for money on the treasury, though they may be "connected with the settlement of an account," cannot be officially known to the accounting officers. In such cases, however, provision has been made by law, by which such instruments are made evidence, without proof of the handwriting of the drawer. The act of Congress of the 3d of March, 1797, makes all copies of papers relating to the settlement of accounts at the treasury, properly certified, when produced in court annexed to the transcript, of equal validity with the originals. Under this provision, had copies of the bills of exchange and orders, on which these items were paid to Smith and M'Cormick, been duly certified and annexed to the transcript, the same effect must have been given to them by the circuit court, as if the original had been produced and proved. And every transcript of accounts from the treasury, which contains items of payments made to others, on the authority of the person charged, should have annexed to it a duly certified copy of the instrument which authorized such payments. And so, in every case, where the government endeavours by suit, to hold an individual liable for acts of his agent. The agency, on which the act of the government was founded, should be made to appear by a duly certified copy of the power. The defendant would be at liberty to impeach the evidence thus certified; and, under peculiar circumstances of alleged fraud, a court might require the production of the original instrument. This, however, would depend upon the exercise of the discretion of the court, and could only be enforced by a continuance of the cause until the original should be produced. United States *v.* Jones, 8 Peters, 375.

The following item in the treasury transcript was not admissible in evidence: "To accounts transferred from the books of the second auditor for this sum, standing to his debit, under said contract, on the books of the second auditor, transferred to his debit on those of this officer, forty-five thousand dollars." The act of Congress, in making a "transcript from the books and proceedings of the treasury" evidence, does not mean the statement of an account in gross, but a statement of the items, both of the debits and credits, as they were acted upon by the accounting officers of the department. On the trial, the defendant shall be allowed no credit on vouchers, which have not been rejected by the treasury officers, unless it was not in his power to have produced them; and how could a proper effect be given to this provision, if the credits be charged in gross? The defendant is unquestionably entitled to a detailed statement of the items which compose his account. *Ibid.*

The defendant, in an action by the United States, where a treasury transcript is produced in evidence by the plaintiffs, is entitled to the credits given to him in the account; and in claiming those credits, he does not waive any objection to the items on the debit side of the account. He is unquestionably entitled to the evidence of the decision of the treasury officers upon his vouchers, without reference to the charges made against him. And he may avail himself of that decision, without, in any degree, restricting his right to object to any improper charge. The credits were allowed the defendant on the vouchers alone, and without reference to the particular items of demand which the government might have against him. And the debits, as well as the credits, must be established on distinct and legal evidence. *Ibid.*

The law has prescribed the mode by which treasury accounts shall be made evidence, and whilst an individual may claim the benefit of this rule, the government can set up no exemption from its operation. In the performance of their official duty, the treasury officers act under the authority of law; their acts are public, and affect the rights of individuals as well as those of the government. In the adjustment of an account, they sometimes act judicially, and their acts are all recorded on the books and files of the treasury department. So far as they act strictly within the rules prescribed for the exercise of their powers, their decisions are, in effect, final; for if an appeal be made, they will receive judicial sanction. Accounts, amounting to many millions annually, come under the action of these officers. It is, therefore, of great importance to the public, and to individuals, that the rules by which they exercise their powers, should be fixed and known. *Ibid.*

In every treasury account on which suit is brought, the law requires the credits to be stated as well as the debits. These credits the officers of the government cannot properly either suppress or withhold. They are made evidence in the case, and were designed by the law for the benefit of the defendant. *Ibid.*

O. made a contract with the government to supply the troops of the United States with rations within a certain district, and executed a bond and contract agreeably to the usages of the war department. The United States brought an action against O. on the bond, and gave in evidence the contract annexed to the bond, and a treasury statement, which showed a balance against O. The United States also gave in evidence another transcript to prove that O., under a previous account, had been paid a balance of nineteen thousand one hundred and forty-nine dollars and one cent, stated to be due to him, which was paid to his agent, under power of attorney, and the receipt for the same endorsed on the back of the account. The circuit court instructed the jury, that the second transcript was not evidence, per se, to establish the items charged to O. Held, that there was no error in this instruction. United States *v.* Jones, 8 Peters, 387.

The circuit court, on the prayer of the defendant, instructed the jury, that the transcript from the books and proceedings of the treasury, can only be regarded as establishing such of the items of debit, in the account stated in the said transcript, as are for moneys disbursed through the ordinary channels of the treasury department, where the transactions are shown by its books, and where the officers of the department must have had official knowledge of the facts stated: but that the transcript is evidence for the

fendant shall, in open court, (the United States attorney being present) make oath or affirmation, that he is equitably entitled to credits which had been, previous to the commencement of the suit, submitted to the consideration of the accounting officers of the treasury, and rejected; specifying each particular claim, so rejected in the affidavit; and that he cannot then come safely to trial. Oath or affirmation to this effect being made, subscribed and filed, if the court be thereupon satisfied, a continuance, until the next succeeding term, may be granted; but not otherwise, unless as provided in the preceding section.

No credit to be admitted unless presented to the Treasury or out of the power of the party to do it.

Sec. 4. *And be it further enacted*, That in suits between the United States and individuals, no claim for a credit shall be admitted, upon trial, but such as shall appear to have been presented to the accounting officers of the treasury, for their examination, and by them disallowed, in whole or in part, unless it should be 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 a claim for such credit, at the treasury, by absence from the United States, or some unavoidable accident.

In all cases of insolvency, the debt due to the United States shall be first paid.

Sec. 5. *And be it further enacted*, That where any revenue officer, or other person hereafter becoming indebted to the United States, by bond or otherwise, shall become insolvent, or where the estate of any deceased debtor, in the hands of executors or administrators, shall be insufficient to pay all the debts due from the deceased, the debt due to the United States shall be first satisfied; and the priority hereby established shall be deemed to extend, as well to cases in which a debtor, not having sufficient property to pay all his debts, shall make a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed, or absent debtor, shall be attached by process of law, as to cases in which an act of legal bankruptcy shall be committed.(*a*)

Sec. 6. *And be it further enacted*, That all writs of execution upon any judgment obtained for the use of the United States, in any of the courts of the United States in one state, may run and be executed in any other state, or in any of the territories of the United States, but shall be issued from, and made returnable to the court where the judgment was obtained, any law to the contrary notwithstanding.

Prior legal remedies not to be impaired.

Sec. 7. *And be it further enacted*, That nothing in this act shall be construed to repeal, take away, or impair any legal remedy or remedies

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defendant of the full amount of the credits therein stated; and that, by relying on the said transcript, as evidence of such credits, the defendant does not admit the correctness of any of the debits in the said account, of which the transcript is not, per se, evidence; and that the said transcript is not, per se, evidence of any of the items of debit therein stated, except the first. By the Court—The correctness of the principle laid down by the circuit court in this instruction, has been recognized by the supreme court, in a case between the same parties, at the present term. *Ibid.*

The auditor's report of a balance due from a person accountable for public money, is a guide to the comptroller as to the amount to be sued for, but not evidence for the court of the debt. United States *v.* Patterson, Gilpin's D. C. R. 47.

Where the public officers are authorized by law to certify to certain facts, their certificates to these facts are competent evidence thereof. Gass *v.* Stinson, 2 Sumner's C. C. R. 605.

A certified statement of a balance due, and the report thereof to the comptroller, is not such a transcript from the books and proceedings of the treasury as may be given in evidence under the 2d section of the act of March 3, 1797. United States *v.* Patterson, Gilpin's D. C. R. 47.

The letters and transactions between the officers of the government, and a debtor to the United States, relative to his account, may be given in evidence under a plea of payment. United States *v.* Beattie, Gilpin's D. C. R. 97.

The certificate of the register of the treasury department, under his hand, that certain receipts, of which copies are annexed, are on file in his office, with a certificate of the secretary of the treasury, under the seal of the department, that he is register; is not evidence. It must appear not only that the officer who gives the certificate, has the custody of the papers, but that he is authorized by law to certify them, and the register is not so authorized; a sworn copy should have been produced. Bleecker *v.* Bond, 3 Wash. C. C. R. 529.

At the treasury department, a general account had been kept with the collector or the customs from the time of his appointment; during which, different bonds had been given to the United States for each term of office. Afterwards, a statement of the account of the collector for one term of office was made out, and a transcript of their accounts was offered in evidence. The evidence was legal. The United States *v.* Eckford's Ex'rs, 17 Peters' Rep. 251.

(*a*) See notes as to the priority of the United States, to act of May 8, 1792, chap. 23, page 263.

for the recovery of debts now due, or hereafter to be due to the United States, in law or equity, from any person or persons whatsoever, which remedy or remedies might be used if this act was not in force.

Approved, March 3, 1797.

Statute II.

March 3, 1797.

Chap. XXIII.—*An Act authorizing an expenditure and making an appropriation for the Prosecution of the Claims of certain Citizens of the United States, for Property captured by the belligerent Powers.*

[Obsolete.]

Fifty thousand dollars appropriated to prosecute claims of American citizens, in England in prize causes.

Section 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby authorized to advance, on account of the several prize causes before the court of admiralty and court of appeals in England, a sum sufficient to defray the costs thereof, so far as the agents of the United States may have become sureties for the same. And that for defraying, during the year one thousand seven hundred and ninety-seven, that expense, and that which may be incurred in procuring from the admiralty courts of any of the belligerent powers, copies of papers relative to the property of American citizens, captured by any of the said powers, a sum not exceeding fifty thousand dollars, shall be, and hereby is appropriated, in addition to the sums which, from the appropriations for intercourse with foreign nations, have been expended under the direction of the President of the United States, in the prosecution of those claims; which sum shall be paid from any monies which may be in the treasury, not otherwise appropriated.

Costs incurred by the United States to be deducted from the sums recovered.

Sec. 2. *And be it further enacted,* That from the money which has been, or which shall be received on any claim, as aforesaid, all costs in the prosecution therefor, which have been, or which shall be incurred by the United States, shall be taken and deducted, or otherwise refunded, and shall be accounted for by the agent or agents employed therein, under the direction of the President; which account, as far as may be then had, shall be submitted to Congress at their next session.

Approved, March 3, 1797.

Statute II.

March 3, 1797.

Chap. XXIV.—*An Act providing for certain Buoys, to be placed in and near the Harbor of Boston.*

Buoys to be placed in the harbor of Boston.

Section 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be authorized and directed, to cause to be placed in and near the harbor of Boston, in the state of Massachusetts, upon such rocks, ledges, or shoals, as the security of navigation there most requires to be distinguished, not exceeding six larger, and ten smaller buoys, whereof the whole expense shall not exceed one thousand six hundred dollars.

Appropriation.

Sec. 2. *And be it further enacted,* That a sum not exceeding one thousand six hundred dollars, shall be, and hereby is appropriated to defray the necessary expense of the said buoys, to be paid from the duties on imports and tonnage.

Approved, March 3, 1797.

Statute II.

March 3, 1797.

Chap. XXV.—*An Act extending the time for receiving on Loan the Domestic Debt of the United States.*

[Obsolete.]

Time extended to loan domestic debt.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the several provisions of the act, intituled "An act further extending the time for receiving