CHAP. XCIV. — *An Act to amend an Act entitled "An Act to further promote the Efficiency of the Navy," approved December twenty-one, eighteen hundred and sixty-one, and for other Purposes.*

March 3, 1863.

1862, ch. 1. *Ante*, p. 329.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any captain in the navy retired by the act entitled "An act to further promote the efficiency of the navy," approved December twenty-one, eighteen hundred and sixty-one, duly recommended according to law, may be promoted to the grade of commodore upon the retired list.

Any captain retired, may be promoted to the grade of commodore.

SEC. 2. *And be it further enacted*, That section twelve of an act entitled "An act to establish and equalize the grades of line officers of the United States navy," approved July sixteen, eighteen hundred and sixty-two, to wit: "And be it further enacted, That the three senior rear admirals shall wear a square blue flag at the mainmast head, the next three at the foremast head, and all others at the mizen," be, and the same is hereby, repealed.

Repeal of § 12 of act of 1862, ch. 183. *Ante*, p. 585.

APPROVED, March 3, 1863.

CHAP. XCV. — *An Act to facilitate the taking of Depositions within the United States, to be used in the Courts of other Countries, and for other Purposes.*

March 3, 1863.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the testimony of any witness residing within the United States, to be used in any suit for the recovery of money or property depending in any court in any foreign country with which the United States are at peace, and in which the government of such foreign country shall be a party or shall have an interest, may be obtained, to be used in such suit. If a commission or letters rogatory to take such testimony shall have been issued from the court in which said suit is pending, on producing the same before the district judge of any district where said witness resides or shall be found, and on due proof being made to such judge that the testimony of any witness is material to the party desiring the same, such judge shall issue a summons to such witness requiring him to appear before the officer or commissioner named in such commission or letters rogatory, to testify in such suit. Such summons shall specify the time and place at which such witness is required to attend, which place shall be within one hundred miles of the place where said witness resides or shall be served with said summons.

Testimony of witnesses in the United States may be taken to be used in suits in foreign countries.

Mode of procedure.

Summons.

SEC. 2. *And be it further enacted*, That if any person shall refuse or neglect to appear at the time and place mentioned in the summons issued, in accordance with this act, or if, upon his appearance, he shall refuse to testify, he shall be liable to the same penalties as would be incurred for a like offence on the trial of a suit in the district court of the United States.

Penalty on witness for not appearing or refusing to testify.

SEC. 3. *And be it further enacted*, That every witness who shall appear and testify, in manner aforesaid, shall be allowed and shall receive from the party, at whose instance he shall have been summoned, the same fees and mileage as are allowed to witnesses in suits depending in the district courts of the United States.

Fees and mileage of witnesses.

SEC. 4. *And be it further enacted*, That whenever any commission or letters rogatory, issued to take the testimony of any witness in a foreign country, in any suit in which the United States are parties or have an interest, shall have been executed by the court or the commissioner to whom the same shall have been directed, the same shall be returned by such court or commissioner to the minister or consul of the United States nearest the place where said letters or commission shall have been executed, who, on receiving the same, shall indorse thereon a certificate, stating the time and place when and where the same was received; and

Commissions to take testimony of witnesses in foreign countries in suits in which the United States are parties, how returned.

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