Powers, &c. of the commissioners, when to cease.

section of this act; and the powers and duties of the said commissioners shall cease at the expiration of two years from the time of the first organization of the board; and their proceedings may be terminated by the President at any time previous to the expiration of the said two years.

Commissioners to determine claims under the supplement to the treaty.

Sec. 5. *And be it further enacted*, That the commissioners to be appointed under this act shall also ascertain and determine the quantity of land to which any Choctaw or other person named in the supplement to the said treaty of Dancing Rabbit creek was entitled by virtue thereof, and which such person has by any means been prevented from receiving.

Upon approval by the Presid't, &c., certificates shall be delivered to claimant, if a Choctaw.

Sec. 6. *And be it further enacted*, That if the President of the United States shall approve and confirm the determination of the commissioners heretofore appointed to investigate the claims existing under the fourteenth article of the said treaty of Dancing Rabbit creek, in any case, he shall cause to be delivered to the claimant, if he be a Choctaw Indian, his legal representatives or heirs, certificates, as provided by the fourth section of this act, for the quantity of land to which such claimant shall appear, by such determination, to have been entitled, in full satisfaction and discharge of such claim: *Provided*, Such determination was made by adhering, in every instance, to the requisites contained in the fourth section of this act: *And provided, also*, That said claims, nor either of them, cannot now be located, according to the provisions of the fourth section of this act.

Proviso.

Proviso.

Accounts to be kept of the certificates, &c. and amount retained from distribution to the States.

Sec. 7. *And be it further enacted*, That distinct accounts shall be kept of the certificates issued in satisfaction of the claims provided for by this act, and of all expenses attending the execution of the same; and the amount thereof shall be retained and withheld from any distribution to the States.

Claims of white men with Indian families. Patents to be issued, how.

Sec. 8. *And be it further enacted*, That nothing in this act contained shall be so construed as to authorize the said commissioners to adjudicate any claim which may be presented by a white man who may have had, or now has, an Indian wife or family; and any patent to land, which shall issue on any Indian claim, under the provisions of the treaty aforesaid, shall be issued to the Indian to whom the claim was allowed, if living, and if dead, to his or her heirs and legal representatives, any act of Congress, or usage, or custom, to the contrary notwithstanding.

No claim to be allowed, if assigned previous to the expiration of the five years from its ratification.

Sec. 9. *And be it further enacted*, That no claim shall be allowed, under the fourteenth article of said treaty, if the said commissioners shall be satisfied, by such proof as they may prescribe, that said claim had been, previous to the expiration of five years from the ratification of said treaty, assigned, either in whole or in part; and in case of a partial assignment, or agreement for an assignment thereof, the same shall be allowed so far only as the original Indian claimant was, at that date, the bona fide proprietor thereof.

Claims not presented within one year, for ever barred.

Sec. 10. *And be it further enacted*, That all claims under either of the articles of said treaty mentioned above, or the supplemental articles thereof, which shall not be duly presented to said commissioners for allowance within one year after the final passage of this act, shall be thereafter for ever barred.

Approved, August 23, 1842.

Statute II.

Aug. 23, 1842.

Act of Sept. 24, 1789, ch. 20.

Chap. CLXXXVIII.—*An Act further supplementary to an act entitled, "An act to establish the judicial courts of the United States," passed the twenty-fourth of September, seventeen hundred and eighty-nine.*

Commissioners appointed by the circ't courts

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the commissioners who now are, or hereafter may be, appointed by the circuit courts of the

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United States to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes, shall and may exercise all the powers that any justice of the peace, or other magistrate, of any of the United States may now exercise in respect to offenders for any crime or offence against the United States, by arresting, imprisoning, or bailing the same, under and by virtue of the thirty-third section of the act of the twenty-fourth of September, Anno Domini seventeen hundred and eighty-nine, entitled, "An act to establish the judicial courts of the United States;" and who shall and may exercise all the powers that any judge or justice of the peace may exercise under and in virtue of the sixth section of the act passed the twentieth of July, Anno Domini seventeen hundred and ninety, entitled "An act for the government and regulation of seamen in the merchant service."

to take bail, &c. may exercise the powers of a justice of the peace in certain cases.

1789, ch. 20.

Act of July 20, 1790, ch. 29.

Sec. 2. *And be it further enacted*, That in all hearings before any justice or judge of the United States, or any commissioner appointed as aforesaid, under and in virtue of the said thirty-third section of the act entitled "An act to establish the judicial courts of the United States," it shall be lawful for such justice, judge, or commissioner, where the crime or offence is charged to have been committed on the high seas or elsewhere within the admiralty and maritime jurisdiction of the United States, in his discretion to require a recognizance of any witness produced in behalf of the accused, with such surety or sureties as he may judge necessary, as well as in behalf of the United States, for their appearing and giving testimony, at the trial of the cause, whose testimony, in his opinion, is important for the purposes of justice at the trial of the cause, and is in danger of being otherwise lost; and such witnesses shall be entitled to receive from the United States the usual compensation allowed to Government witnesses for their detention and attendance, if they shall appear and be ready to give testimony at the trial.

Justice, &c. may require defendants' witnesses to give recognizance for their appearance to testify.

Sec. 3. *And be it further enacted*, That the district courts of the United States shall have concurrent jurisdiction with the circuit courts of all crimes and offences against the United States, the punishment of which is not capital. And in such of the districts where the business of the court may require it to be done for the purposes of justice, and to prevent undue expenses and delays in the trial of criminal causes, the said district courts shall hold monthly adjournments of the regular terms thereof for the trial and hearing of such causes.

District courts to have concurrent jurisdiction with the circuit courts of all offences not capital.

Adjournments.

Sec. 4. *And be it further enacted*, That, in lieu of the punishment now prescribed by the sixteenth section of the act of Congress, entitled, "An act for the punishment of certain crimes against the United States," passed on the thirtieth day of April, Anno Domini one thousand seven hundred and ninety, for the offences in the said section mentioned, the punishment of the offender, upon conviction thereof, shall be by fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or by both, according to the nature and aggravation of the offence.

Punishment prescribed by 16th section of act of April 30, 1790, ch. 9, changed.

Sec. 5. *And be it further enacted*, That the district courts as courts of admiralty, and the circuit courts as courts of equity, shall be deemed always open for the purpose of filing libels, bills, petitions, answers, pleas, and other pleadings, for issuing and returning mesne and final process and commissions, and for making and directing all interlocutory motions, orders, rules, and other proceedings whatever, preparatory to the hearing of all causes pending therein upon their merits. And it shall be competent for any judge of the court, upon reasonable notice to the parties, in the clerk's office or at chambers, and in vacation as well as in term, to make and direct, and award all such process, commissions and interlocutory orders, rules, and other proceedings, when-

District and circuit courts to be always open for the purpose of filing libels, bills, &c.

Any judge may direct and award such processes.

ever the same are not grantable of course according to the rules and practice of the court.

Supreme court to have power to prescribe the forms of bills, writs, &c.

Sec. 6. *And be it further enacted*, That the Supreme Court shall have full power and authority, from time to time, to prescribe, and regulate, and alter, the forms of writs and other process to be used and issued in the district and circuit courts of the United States, and the forms and modes of framing and filing libels, bills, answers, and other proceedings and pleadings, in suits at common law or in admiralty and in equity pending in the said courts, and also the forms and modes of taking and obtaining evidence, and of obtaining discovery, and generally the forms and modes of proceeding to obtain relief, and the forms and modes of drawing up, entering, and enrolling decrees, and the forms and modes of proceeding before trustees appointed by the court, and generally to regulate the whole practice of the said courts, so as to prevent delays, and to promote brevity and succinctness in all pleadings and proceedings therein, and to abolish all unnecessary costs and expenses in any suit therein.

Supreme court to have power to regulate the costs in the district or circuit courts.

Sec. 7. *And be it further enacted*, That, for the purpose of further diminishing the costs and expenses in suits and proceedings in the said courts, the Supreme Court shall have full power and authority, from time to time, to make and prescribe regulations to the said district and circuit courts, as to the taxation and payment of costs in all suits and proceedings therein; and to make and prescribe a table of the various items of costs which shall be taxable and allowed in all suits, to the parties, their attorneys, solicitors, and proctors, to the clerk of the court, to the marshal of the district, and his deputies, and other officers serving process, to witnesses, and to all other persons whose services are usually taxable in bills of costs. And the items so stated in the said table, and none others, shall be taxable or allowed in bills of costs; and they shall be fixed as low as they reasonably can be, with a due regard to the nature of the duties and services which shall be performed by the various officers and persons aforesaid, and shall in no case exceed the costs and expenses now authorized, where the same are provided for by existing laws.

Interest shall be allowed and levied by the marshal under execution upon all judgments, &c.

Sec. 8. *And be it further enacted*, That on all judgments in civil cases, hereafter recovered in the circuit or district courts of the United States, interest shall be allowed, 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 circuit or district court shall be held, interest may be levied under process of execution on judgments recovered in the courts of such State, to be calculated from the date of the judgment, and at such rate per annum, as is allowed by law, on judgments recovered in the courts of such State. (*a*)

Approved, August 23, 1842.

(*a*) The decisions of the courts of the United States on the subject of interest have been:

The decree on bottomry is to consider the sum loaned and the premium as a principal, and to allow common interest on that sum for the delay of payment after it is due. The Ship Packet, 3 Mason's C. C. R. 255.

An administrator is not liable to pay interest upon assets in his hands, unless under special circumstances. Neither is a partner, on partnership accounts before settlement, and a balance struck. Dexter *v.* Arnold, 3 Mason's C. C. R. 284.

Interest will not be allowed against a trustee holding a fund where he had made no interest, if there be no laches or neglect or use of the money on his part. Cassels *v.* Vernon, 5 Mason's C. C. R. 332.

Interest on money in the hands of the administrator, is not chargeable where the same is retained in his hands until a suit shall determine the right of the claimant thereto. Wade *v.* The Administrators of Wade, 1 Wash. C. C. R. 477.

The court allowed the customary interest paid at Canton, on a note executed there. Cowqua *v.* Lauderbrun, 1 Wash. C. C. R. 521.

The correct general rule is to calculate interest up to the period when a payment is made, to satisfy which the payment should be first applied; and if it exceed the interest due, the balance is to be applied towards the payment of the principal; but if the payment is not sufficient to discharge the interest, the principal is not to be increased by adding to it the balance of interest due at the time, so as to produce interest on interest. Smith *v.* The Administrators of Shaw, 2 Wash. C. C. R. 167.