

STATUTE II.
May 26, 1790.

Act of March 27, 1804, ch. 56. Legislative acts, records and judicial proceedings of the several states how to be authenticated; and the effect thereof.

CHAP. XI.—*An Act to prescribe the mode in which the public Acts, Records, and judicial Proceedings in each State, shall be authenticated so as to take effect in every other State.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the acts of the legislatures of the several states shall be authenticated by having the seal of their respective states affixed thereto: That the records and judicial proceedings of the courts of any state, shall be proved or admitted in any other court within the United States, by the attestation of the clerk, and the seal of the court annexed, if there be a seal, together with a certificate of the judge, chief justice, or presiding magistrate, as the case may be, that the said attestation is in due form. And the said records and judicial proceedings authenticated as aforesaid, shall have such faith and credit given to them in every court within the United States, as they have by law or usage in the courts of the state from whence the said records are or shall be taken. (a)

APPROVED, May 26, 1790.

STATUTE II.
May 26, 1790.

CHAP. XII.—*An Act to provide for mitigating or remitting the forfeitures and penalties accruing under the revenue laws, in certain cases therein mentioned.*

[Expired.]
Act of March 3, 1797, ch. 13.
Act of Feb. 11, 1800, ch. 6.
Act of March 2, 1821, ch. 13, sec. 3. Act of March 1, 1823, ch. 21, sec. 8.
Mitigation or remission of penalties, &c. how to be applied for; and

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever any person who now is, or hereafter shall be liable to a fine, penalty or forfeiture, or interested in any vessel, goods, wares or merchandise, or other thing which may be subject to seizure and forfeiture, by force of the laws of the United States now existing, or which may hereafter exist, for collecting duties of impost and tonnage, and for regulating the coasting trade, shall prefer his petition to the judge of the district in which such fine, penalty or forfeiture may have accrued, truly and particularly setting forth the circumstances of his case, and shall pray that the same may be mitigated or remitted; the said judge shall inquire in a summary manner into the circumstances of the case, first causing reasonable notice to be given to the person or persons claiming such fine, penalty or forfeiture, and to the attorney of the United States for such district, that each may have an opportunity of showing cause against the mitigation or remission thereof; and shall cause the facts which shall appear upon such inquiry, to be stated and annexed to the petition, and direct their transmission to the Secretary of the Treasury

(a) Art. 4, sec. 1, Constitution of the United States.—The decisions of the courts of the United States upon this statute, and on the introduction in evidence of the "acts, records, and judicial proceedings of the States," have been:

Under the fourth article and 1st section of the constitution of the United States, and the act of 26th May, 1790, if a judgment has the effect of record evidence in the courts of the State from which it is taken, it has the same effect in the courts of every other State; and the plea of nil debet is not a good plea to an action brought upon such judgment in a court of another State. *Mills v. Duryee*, 7 Cranch, 433; 2 Cond. Rep. 578. See *Leland v. Wilkinson*, 6 Peters, 317. *United States v. Johns*, 4 Dall. 412. *Ferguson v. Harwood*, 7 Cranch, 408; 2 Cond. Rep. 548. *Drummond's adm'rs v. Magruder's trustees*, 9 Cranch, 122; 3 Cond. Rep. 303.

Under the act of May 26, 1790, prescribing the mode in which the public records in each State shall be authenticated, so as to take effect in every other State, copies of the legislative acts of the several States, authenticated by having the seal of the State affixed thereto, are conclusive evidence of such acts in every other State. No other formality is required, than the annexation of the seal, and in the absence of all contrary proof, it must be presumed to have been done by an officer having the custody thereof, and competent authority to do the act. *United States v. Amedy*, 11 Wheat. 392; 6 Cond. Rep. 362.

The record of a judgment in one State is conclusive in another, although it appears that the suit in which it was rendered was commenced by an attachment of property, the defendant having afterwards appeared and taken defence. *Mayhew v. Thatcher*, 6 Wheat. 129; 5 Cond. Rep. 34.

In an action upon a judgment, in another State, the defendant cannot plead any fact in bar which contradicts the record on which the suit is brought. *Field v. Gibbs*, Peters' C. C. R. 155. See *Green v. Sarmiento*, Peters' C. C. R. 74. *Blount v. Darrah*, 4 Wash. C. C. R. 657. *Turner v. Waddington*, 3 Wash. C. C. R. 126.

of the United States, who shall thereupon have power to mitigate or remit such fine, penalty or forfeiture, or any part thereof, if in his opinion the same was incurred without wilful negligence or any intention of fraud, and to direct the prosecution, if any shall have been instituted for the recovery thereof, to cease and be discontinued, upon such terms or conditions as he may deem reasonable and just. (a) *Provided*, That nothing herein contained shall be construed to affect the right or claim of any person, to that part of any fine, penalty or forfeiture, incurred by breach of either of the laws aforesaid, which such person may be entitled to by virtue of the said laws, in cases where a prosecution has been commenced, or information has been given before the passing of this act; the amount of which right and claim shall be assessed and valued by the judge of the district, in a summary manner.

by whom granted;

Not to affect cases of previous information.

SEC. 2. *And be it further enacted*, That this act shall continue and be in force until the end of the next session of Congress, and no longer.

Continuance of the act.

APPROVED, May 26, 1790.

STATUTE II.

CHAP. XIII.—*An Act to continue in force an act passed at the last session of Congress, entitled "An act to regulate processes in the Courts of the United States."*

May 26, 1790.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act, entitled "An act to regulate processes in the courts of the United States," passed on the twenty-ninth day of September last, shall be, and the same is hereby continued in force until the end of the next session of Congress, and no longer.

[Expired.]
Act of Sept. 29, 1789, ch. 21.

APPROVED, May 26, 1790.

STATUTE II.

CHAP. XIV.—*An Act for the Government of the Territory of the United States, south of the river Ohio.* (b)

May 26, 1790.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the territory of the United States south of the river Ohio, for the purposes of temporary government, shall be one district; the inhabitants of which shall enjoy all the privileges, benefits and advantages set forth in the ordinance of the late Congress, for the government of the territory of the United States northwest of the river Ohio. And the government of the said territory south of the Ohio, shall be similar to that which is now exercised in the territory northwest of the Ohio; except so far as is otherwise provided in the conditions expressed in an act of Congress of the present session, entitled "An act to accept a cession of the claims of the State of North Carolina, to a certain district of western territory."

Act of June 1, 1796, ch. 46.
Act of April 7, 1793, ch. 26.
Territory south of the Ohio, to be one district; its privileges and government:

Act of August 7, 1789, ch. 8.
Exceptions.

Act of April 2, 1790, ch. 6.
Salaries of the officers therein.

SEC. 2. *And be it further enacted*, That the salaries of the officers, which the President of the United States shall nominate, and with the advice and consent of the Senate appoint, by virtue of this act, shall be the same as those, by law established, of similar officers in the government northwest of the river Ohio. And the powers, duties and emoluments of a superintendent of Indian affairs for the southern department, shall be united with those of the governor.

APPROVED, May 26, 1790.

(a) The decisions of the courts of the United States upon this act, and on subsequent acts, in pari materia, have been: *McLean v. The United States*, 6 Peters, 404. *United States v. Morris*, 10 Wheat. 246; 6 Cond. Rep. 90. *Cross v. The United States*, 1 Gallis' C. C. R. 26. *The Margareta*, 2 Gallis' C. C. R. 515. *The United States v. The Hunter*, Peters' C. C. R. 10. *The United States v. Lancaster*, 4 Wash. C. C. R. 64.

(b) Ordinance for the government of the territory of the United States, northwest of the river Ohio, in note to page 51.