

CHAPTER TWELVE.

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Exclusive jurisdiction of courts of United States.

24 Sept., 1789, c. 20, ss. 9, 11, v. 1, pp. 76, 78.

Martin vs. Hunter's Lessee, 1 Wh., 329; *Houston vs. Moore*, 5 Wh., 24, 29; *Prigg vs. Pennsylvania*, 16 Pet., 658; *Ely vs. Peck*, 7 Conn., 239; *The State vs. Adams*, 4 Blackf., 146; *Haney vs. Sharp*, 1 Dana, 442; *U. S. vs. Lathrop*, 17 Johns., 4; *U. S. vs. Campbell*, Tappan's R., 29; *State vs. McBride*, 1 Rice, (So. C.), 400; *Commonwealth vs. Feely*, 1 Va. Cases, 321; *Jackson vs. Rose*, 2 Va. Cases, 34.

24 Sept., 1789, c. 20, s. 9, v. 1, p. 76.

Ketland vs. The Cassins, 2 Dall., 365; *Martin vs. Hunter's Lessee*, 1 Wh., 329; *Houston vs. Moore*, 5 Wh., 24, 29; *Prigg vs. Pennsylvania*, 16 Pet., 658; *Hall vs. Warren*, 2 McLean, 332; *Ely vs. Peck*, 7 Conn., 239; *The State vs. Adams*, 4 Blackf., 146; *Haney vs. Sharp*, 1 Dana, 442; *U. S. vs. Lathrop*, 17 Johns., 4; *U. S. vs. Campbell*, Tappan's R., 276; *State vs. McBride*, 1 Rice, (So. C.), 400; *Commonwealth vs. Feely*, 1 Va. Cases, 321; *Jackson vs. Rose*, 2 Va. Cases, 34.

24 Sept., 1789, c. 20, s. 9, v. 1, p. 76.

The Hine vs. Trevor, 4 Wall., 555, (569); *The Belfast*, 7 Wall., 625.

24 Sept., 1789, c. 20, s. 9, v. 1, p. 76.

13 July, 1866, c.

184, s. 9, v. 14, p. 111.

3 March, 1867, c. 169, s. 25, v. 14, p. 483.

6 Aug., 1861, c. 60, s. 2, v.

12, p. 319.—*Slocum vs. Mayberry*, 2 Wh., 1; *Gelston vs. Hoyt*, 3 Wh., 246, (312).

SEC. 711. The jurisdiction vested in the courts of the United States in the cases and proceedings hereinafter mentioned, shall be exclusive of the courts of the several States:

First. Of all crimes and offenses cognizable under the authority of the United States.

Second. Of all suits for penalties and forfeitures incurred under the laws of the United States.

Third. Of all civil causes of admiralty and maritime jurisdiction; saving to suitors, in all cases, the right of a common-law remedy, where the common law is competent to give it.

Fourth. Of all seizures under the laws of the United States, on land or on waters not within admiralty and maritime jurisdiction.

Fifth. Of all cases arising under the patent-right or copyright laws of the United States. Patent and copy right cases.

8 July, 1870, c. 230, ss. 55, 56, 58, 106, v. 16, pp. 206, 207, 215.

Sixth. Of all matters and proceedings in bankruptcy.

2 March, 1867, c. 176, s. 1, v. 14, p. 517.

Seventh. Of all controversies of a civil nature, where a State is a party, except between a State and its citizens, or between a State and citizens of other States, or aliens. States.

24 Sept., 1789, c. 20, s. 13, v. 1, p. 80.

Georgia *vs.* Brailsford, 2 Dall., 402; Chisholm *vs.* Georgia, 2 Dall., 419; Hollingsworth *vs.* Virginia, 3 Dall., 378; New York *vs.* Connecticut 4 Dall., 1; Governor of Georgia *vs.* Madrazo, 1 Pet., 110; New Jersey *vs.* New York, 5 Pet., 284; Rhode Island *vs.* Massachusetts, 12 Pet., 637; Florida *vs.* Georgia, 11 How., 293.

Eighth. Of all suits or proceedings against ambassadors, or other public ministers, or their domestics, or domestic servants, or against consuls or vice consuls. Foreign ministers and their servants, and consuls.

24 Sept., 1789, c. 20, ss. 9, 11, 13, v. 1, pp. 76, 78, 80.—U. S. *vs.* Ravara, 2 Dall., 297; Cohens *vs.* Virginia, 6 Wh., 407; Davis *vs.* Packard, 7 Pet., 276; St. Luke's Hospital *vs.* Barkley *et al.*, 3 Blatchf., 259.

SEC. 712. The justices of the Supreme Court, the circuit judges, and the district judges, hereafter appointed, shall take the following oath before they proceed to perform the duties of their respective offices: Oath of United States judges.

"I, _____, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as _____, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States: So help me God." 24 Sept., 1789, c. 20, s. 8, v. 1, p. 76.

SEC. 713. It shall not be lawful for any judge appointed under the authority of the United States to exercise the profession or employment of counsel or attorney, or to be engaged in the practice of the law. And any person offending against the prohibition of this section shall be deemed guilty of a high misdemeanor. Judges prohibited from practicing law.

18 Dec., 1812, c. 5, v. 2, p. 788.

SEC. 714. When any judge of any court of the United States resigns his office, after having held his commission as such at least ten years, and having attained the age of seventy years, he shall, during the residue of his natural life, receive the same salary which was by law payable to him at the time of his resignation. Judges resigning entitled, in certain cases, to salary for life.

10 April, 1869, c. 22, s. 5, v. 16, p. 45.

SEC. 715. The circuit and district courts may appoint criers for their courts, to be allowed the sum of two dollars per day; and the marshals may appoint such a number of persons, not exceeding five, as the judges of their respective courts may determine, to attend upon the grand and other juries, and for other necessary purposes, who shall be allowed for their services the sum of two dollars per day, to be paid by and included in the accounts of the marshal, out of any money of the United States in his hands. Such compensation shall be paid only for actual attendance, and, when both courts are in session at the same time, only for attendance on one court. Criers of the courts, attendants on juries.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 165.

2 March, 1867, c. 156, s. 2, v. 14, p. 433.

SEC. 716. The Supreme Court and the circuit and district courts shall have power to issue writs of scire facias. They shall also have power to issue all writs not specifically provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the usages and principles of law. Power to issue writs.

24 Sept., 1789, c. 20, s. 14, v. 1, p. 81.

2 March, 1793, c. 22, s. 5, v. 1, p. 334.

Mandamus: McIntire *vs.* Wood, 7 Cr., 504; Kendall *vs.* U. S., 12 Pet., 524; Decatur *vs.* Paulding, 14 Pet., 497; Brashear *vs.* Mason, 6 How., 92; Commissioners of Knox County *vs.* Aspinwall, 24 How., 376; Supervisors *vs.* U. S., 4 Wall., 435; Commr. Patents *vs.* Whitely, 4 Wall., 522; Van Hoffman *vs.* City of Quincy, 4 Wall., 535; U. S. *vs.* The Commissioner, 5 Wall., 563; Riggs *vs.* Johnson County, 6 Wall., 166; Walkley *vs.* Muscatine, 6 Wall., 481; *Ex parte* De Groot, 6 Wall., 497; Benbow *vs.* Iowa City, 7 Wall., 313; *Ex parte* Bradley, 7 Wall., 364; Butz *vs.* City of Muscatine, 8 Wall., 575; The Mayor *vs.* Lord, 9 Wall., 409; Litchfield *vs.* The Register and Receiver, 9 Wall., 575; Bath County *vs.* Amy, 13 Wall., 244; Graham *vs.* Norton, 15 Wall., 427; Insurance Com. *vs.* Comstock, 16 Wall., 258; *In re* Turner, 3 Wall., jr., C. C., 258; Spraggins *vs.* County Court, Cooke, 160.

Injunctions: Georgia *vs.* Brailsford, 2 Dall., 402; New York *vs.* Connecticut, 4 Dall., 1; Diggs *vs.* Wolcott, 4 Cr., 179; Marine Insurance Co. *vs.* Hodgson, 7 Cr., 332; Osborne *vs.*

Bank of U. S., 9 Wh., 738; Parker *vs.* Judges of Circuit Court of Maryland, 12 Wh., 561; Boyle *vs.* Zacharie & Turner, 6 Pet., 658; Mississippi *vs.* Johnson, 4 Wall., 475; Gaines *vs.* Thompson, 7 Wall., 347; Litchfield *vs.* The Register and Receiver, 9 Wall., 575; Perry *vs.* Parker, 1 Wood. & M., 280; Bonaparte *vs.* Railroad, 1 Baldw., 205, (218.)

Certiorari: Fenimore *vs.* U. S., 3 Dall., 362; Stewart *vs.* Ingle, 9 Wh., 526; Clark *vs.* Hackett, 1 Bl., 77; *Ex parte* Vallandigham, 1 Wall., 243; *Ex parte* Dougan, 2 Wall., 134; Stearns *vs.* U. S., 4 Wall., 1; U. S. *vs.* Adams, 9 Wall., 661.

Supersedeas: Hogan *vs.* Ross, 11 How., 294; *Ex parte* The Milwaukee R. R. Co., 5 Wall., 188.

Executions: Bank of U. S. *vs.* Halstead, 10 Wh., 56.

Writs of *ne exeat*. SEC. 717. Writs of *ne exeat* may be granted by any justice of the Supreme Court, in cases where they might be granted by the Supreme Court; and by any circuit justice or circuit judge, in cases where they might be granted by the circuit court of which he is a judge. But no writ of *ne exeat* shall be granted unless a suit in equity is commenced, and satisfactory proof is made to the court or judge granting the same that the defendant designs quickly to depart from the United States.

2 March, 1793, c. 22, s. 5, v. 1, p. 334.
10 April, 1869, c. 22, s. 2, v. 16, p. 44.

Gurnon *vs.* Boccaline, 2 Wash. C. C., 130.

Temporary restraining orders.

1 June, 1872, c. 255, s. 7, v. 17, p. 197.

Injunctions.

2 March, 1793, c. 22, s. 5, v. 1, p. 334.
13 Feb., 1807, c. 13, v. 2, p. 418.
10 April, 1869, c. 22, s. 1, v. 16, p. 44.
1 June, 1872, c. 255, s. 7, v. 17, p. 197.

Injunction to stay proceedings in State courts.

2 March, 1793, c. 22, s. 5, v. 1, p. 334.

Diggs *vs.* Wolcott, 4 Cr., 179; Peck *vs.* Jenness, 7 How., 625; Watson *vs.* Jones, 13 Wall., 719.

Laws of the States, rules of decision.

24 Sept., 1789, c. 20, s. 34, v. 1, p. 92.

Brown *vs.* Van Braam, 3 Dall., 344; Robinson *vs.* Campbell, 3 Wh., 212; Cohens *vs.* Virginia, 6 Wh., 264; Wayman *vs.* Southard, 10 Wh., 1; Green *vs.* Neal's Lessee, 6 Pet., 291; Ross *vs.* Duvall, 13 Pet., 45; Swift *vs.* Tyson, 16 Pet., 1; Lane *vs.* Vick, 3 How., 464; Luthur *vs.* Borden, 7 How., 1; Williamson *vs.* Berry, 8 How., 495; Van Rensalaer *vs.* Kearney, 11 How., 297; U. S. *vs.* Reid, 12 How., 361; Neves *vs.* Scott, 13 How., 268; Carroll *vs.* Carroll's Lessee, 16 How., 275; Morgan *vs.* Curtaneous, 20 How., 1; Fenn *vs.* Holme, 21 How., 481; Jeter *vs.* Hewitt, 22 How., 352; Suydam *vs.* Williamson, 24 How., 327; Sheirburn *vs.* Cordova, 24 How., 423; Haussnecht *vs.* Claypool, 1 Bl., 431; Jefferson Branch Bank *vs.* Skelly, 1 Bl., 436; Conway *vs.* Taylor's Executor, 1 Bl., 603; Chicago *vs.* Robbins, 2 Bl., 418; Leffingwell *vs.* Warren, 2 Bl., 599; Bridge Proprietors *vs.* Hoboken Com., 1 Wall., 145; Gelpcke *vs.* Dubuque, 1 Wall., 175; Christie *vs.* Fridgeon, 4 Wall., 203; Mitchell *vs.* Burlington, 4 Wall., 274; Ewing *vs.* City of St. Louis, 5 Wall., 419; Nichols *vs.* Levi, 5 Wall., 433; Delmas *vs.* Insurance Com., 14 Wall., 667, 8; Boyce *vs.* Tabb, 18 Wall., 546.

Proceedings, civil and criminal, in vindication of civil rights.

9 April, 1866, c. 31, s. 3, v. 14, p. 27.

SEC. 718. Whenever notice is given of a motion for an injunction out of a circuit or district court, the court or judge thereof may, if there appears to be danger of irreparable injury from delay, grant an order restraining the act sought to be enjoined until the decision upon the motion; and such order may be granted with or without security, in the discretion of the court or judge.

SEC. 719. Writs of injunction may be granted by any justice of the Supreme Court in cases where they might be granted by the Supreme Court; and by any judge of a circuit court in cases where they might be granted by such court. But no justice of the Supreme Court shall hear or allow any application for an injunction or restraining order in any cause pending in the circuit to which he is allotted, elsewhere than within such circuit, or at such place outside of the same as the parties may stipulate in writing, except when it cannot be heard by the circuit judge of the circuit or the district judge of the district. And an injunction shall not be issued by a district judge, as one of the judges of a circuit court, in any case where a party has had a reasonable time to apply to the circuit court for the writ; nor shall any injunction so issued by a district judge continue longer than to the circuit court next ensuing, unless so ordered by the circuit court.

SEC. 720. The writ of injunction shall not be granted by any court of the United States to stay proceedings in any court of a State, except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy. [See § 5106.]

SEC. 721. The laws of the several States, except where the Constitution, treaties, or statutes of the United States otherwise require or provide, shall be regarded as rules of decision in trials at common law, in the courts of the United States, in cases where they apply.

SEC. 722. The jurisdiction in civil and criminal matters conferred on the district and circuit courts by the provisions of this Title, and of Title "CIVIL RIGHTS," and of Title "CRIMES," for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United

States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty.

SEC. 723. Suits in equity shall not be sustained in either of the courts of the United States in any case where a plain, adequate, and complete remedy may be had at law.

31 May, 1870, c. 114, s. 18, v. 16, p. 144.

When suits of equity may be maintained.

24 Sept., 1789, c. 20, s. 16, v. 1, p. 82.—*Robinson vs. Campbell*, 3 Wh., 212; *Boyce's Executors vs. Grundy*, 3 Pet., 210; *Ex parte Tillinghast*, 4 Pet., 108; *Clark vs. Smith*, 13 Pet., 195; *U. S. vs. Price*, 9 How., 83; *Bennett vs. Butterworth*, 11 How., 669; *Ex parte Secombe*, 19 How., 9; *Hipp vs. Babin*, 19 How., 271; *Hungerford vs. Sigerson*, 20 How., 156; *Parker vs. Winnepiscogee Co.*, 2 Bl., 545; *Watts vs. Sutherland*, 5 Wall., 74; *Thompson vs. Railroad Cos.*, 6 Wall., 134.

SEC. 724. In the trial of actions at law, the courts of the United States may, on motion and due notice thereof, require the parties to produce books or writings in their possession or power, which contain evidence pertinent to the issue, in cases and under circumstances where they might be compelled to produce the same by the ordinary rules of proceeding in chancery. If a plaintiff fails to comply with such order, the court may, on motion, give the like judgment for the defendant as in cases of nonsuit; and if a defendant fails to comply with such order, the court may, on motion, give judgment against him by default.

Power to order production of books and writings in actions at law.

24 Sept., 1789, c. 20, s. 15, v. 1, p. 82.

Thompson vs. Selden, 20 How., 194; *Geyger's Lessee vs. Geyger*, 2 Dall. C. C., 332; *Maye vs.*

Carberry, 2 Cr. C. C., 336; *Bank U. S. vs. Kurtz*, 2 Cr. C. C., 342; *Hilton's Lessee vs. Brown*, 1 Wash. C. C., 298; *Bas vs. Steele*, 3 Wash. C. C., 381; *Durham vs. Riley*, 4 Wash. C. C., 126; *Vasse vs. Mifflin*, 4 Wash. C. C., 519; *Jacques vs. Collins*, 2 Blatchf., 23; *Iasigi vs. Brown*, 1 Cur. C. C., 301.

SEC. 725. The said courts shall have power to impose and administer all necessary oaths, and to punish, by fine or imprisonment, at the discretion of the court, contempts of their authority: *Provided*, That such power to punish contempts shall not be construed to extend to any cases except the misbehavior of any person in their presence, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of said courts in their official transactions, and the disobedience or resistance by any such officer, or by any party, juror, witness, or other person, to any lawful writ, process, order, rule, decree, or command of the said courts.

Power to impose oaths and punish contempts.

24 Sept., 1789, c. 20, s. 17, v. 1, p. 83.
2 March, 1831, c. 99, s. 1, v. 4, p. 487.

Ex parte Garland, 4 Wall., 378.

SEC. 726. All of the said courts shall have power to grant new trials, in cases where there has been a trial by jury, for reasons for which new trials have usually been granted in the courts of law.

New trials.

24 Sept., 1789, c. 20, s. 17, v. 1, p. 83.

Warner vs. Norton, 20 How., 448; *Zantlinger vs. Waitman*, 2 Cr. C. C., 478; *Lloyd vs. Scott*, 4 Cr. C. C., 206; *U. S. vs. White*, 5 Cr. C. C., 38; *U. S. vs. Keene*, 1 McLean, 429; *U. S. vs. Connor*, 3 McLean, 573; *U. S. vs. Macomb*, 5 McLean, 286; *U. S. vs. Wanson*, 1 Gall., 5; *U. S. vs. Gilbert*, 2 Sumn., 19; *Cunningham vs. Bell*, 5 Mas., 161; *U. S. vs. Halberstadt, Gilp.*, 262; *Rochelle vs. Phillips, Hemp.*, 22; *Parker vs. Lewis, Hemp.*, 72; *U. S. vs. Beaty, Hemp.*, 487; *U. S. vs. Harding*, 1 Wall., jr., 127; *Clark vs. Manufacturers' Ins. Co.*, 2 Wood. & M., 472.

SEC. 727. The judges of the Supreme Court and of the circuit and district courts, the commissioners of the circuit courts, and the judges and other magistrates of the several States who are or may be authorized by law to make arrests for offenses against the United States, shall have the like authority to hold to security of the peace, and for good behavior, in cases arising under the Constitution and laws of the United States, as may be lawfully exercised by any judge or justice of the peace of the respective States, in cases cognizable before them.

Power to hold to security for the peace and good behavior.

16 July, 1798, c. 83, v. 1, p. 609.

24 Sept., 1789, c. 20, s. 33, v. 1, p. 91.
2 March, 1793, c.

22, s. 4, v. 1, p. 334. 23 August, 1842, c. 188, s. 1, v. 5, p. 516. 15 May, 1862, c. 71, s. 8, v. 12, p. 387. 10 April, 1869, c. 22, s. 2, v. 16, p. 44.

Power to enforce awards of foreign consuls, &c., in certain cases.

8 August, 1846, c. 105, v. 9, p. 78.

SEC. 728. The district and circuit courts, and the commissioners of the circuit courts, shall have power to carry into effect, according to the true intent and meaning thereof, the award, or arbitration, or decree of any consul, vice-consul, or commercial agent of any foreign nation, made or rendered by virtue of authority conferred on him as such consul, vice-consul, or commercial agent, to sit as judge or arbitrator in such differences as may arise between the captains and crews of the vessels belonging to the nation whose interests are committed to his charge; application for the exercise of such power being first made to such court or commissioner by petition of such consul, vice-consul, or commercial agent. And said courts and commissioners may issue all proper remedial process, mesne and final, to carry into full effect such award, arbitration, or decree, and to enforce obedience thereto, by imprisonment in the jail or other place of confinement in the district in which the United States may lawfully imprison any person arrested under the authority of the United States, until such award, arbitration, or decree is complied with, or the parties are otherwise discharged therefrom, by the consent in writing of such consul, vice-consul, or commercial agent, or his successor in office, or by the authority of the foreign government appointing such consul, vice-consul, or commercial agent: *Provided, however,* That the expenses of the said imprisonment, and maintenance of the prisoners, and the cost of the proceedings, shall be borne by such foreign government, or by its consul, vice-consul, or commercial agent requiring such imprisonment. The marshals of the United States shall serve all such process, and do all other acts necessary and proper to carry into effect the premises, under the authority of the said courts and commissioners.

Offenses punishable with death, where tried.

24 September, 1789, c. 20, s. 29, v. 1, p. 88. 16 July, 1862, c. 189, s. 2, v. 12, p. 589.

Offenses on the high seas, &c., where triable.

30 April, 1790, c. 9, s. 8, v. 1, p. 113.

20 April, 1818, c. 88, s. 4, v. 3, p. 448. 15 May, 1820, c. 113, ss. 3, 4, 5, v. 3, p. 600. 3 March, 1825, c. 65, ss. 5, 14, v. 4, pp. 115, 118. 3 March, 1847, c. 51, v. 9, p. 175. —U. S. vs. Jackalow, 1 Bl., 484; U. S. vs. Baker, 5 Blatch., C. C., 6.

Offenses begun in one district and completed in another.

2 March, 1867, c. 169, s. 30, v. 14, p. 484.

Suits for pecuniary penalties and forfeitures, where to be brought.

28 February, 1839, c. 36, s. 3, v. 5, p. 322. 13 July, 1866, c. 184, s. 9, v. 14, pp. 111, 145. 30 June, 1864, c. 173, ss. 41, 179, v. 13, pp. 239, 305.

Suits for internal-revenue taxes, where to be brought.

13 July, 1866, c. 184, s. 9, v. 14, p. 111.

Seizures, where cognizable.

24 Sept., 1789, c. 20, s. 9, v. 1, p. 76.

SEC. 729. The trial of offenses punishable with death shall be had in the county where the offense was committed, where that can be done without great inconvenience.

SEC. 730. The trial of all offenses committed upon the high seas or elsewhere, out of the jurisdiction of any particular State or district, shall be in the district where the offender is found, or into which he is first brought.

SEC. 731. When any offense against the United States is begun in one judicial district and completed in another, it shall be deemed to have been committed in either, and may be dealt with, inquired of, tried, determined, and punished in either district, in the same manner as if it had been actually and wholly committed therein.

SEC. 732. All pecuniary penalties and forfeitures may be sued for and recovered either in the district where they accrue or in the district where the offender is found.

SEC. 733. Taxes accruing under any law providing internal revenue may be sued for and recovered either in the district where the liability for such tax occurs or in the district where the delinquent resides.

SEC. 734. Proceedings on seizures, for forfeiture under any law of the United States, made on the high seas may be prosecuted in any district into which the property so seized is brought and proceedings instituted. Proceedings on such seizures made within any district shall be prose-

ented in the district where the seizure is made, except in cases where it is otherwise provided.

13 July, 1866, c. 184, s. 9, v. 14, p. 111.
 30 June, 1864, c. 173, s. 48, v. 13, p. 240. 2 March, 1867, c. 169, s. 25, v. 14, p. 483. 13 July, 1861, c. 3, ss. 4, 5, 9, v. 12, pp. 256, 257, 258. 6 August, 1861, c. 60, s. 2, v. 12, p. 319.—*Jennings vs. Carson*, 4 Cr., 2; *Ship Richmond vs. U. S.*, 9 Cr., 102; *Sloop Abby*, 1 Mas., 360; *Schooner Bolena and cargo*, 1 Gallis., 75; *The Washington*, 4 Blatchf., 101; *Brig Little Ann*, 1 Paine, 40.

SEC. 735. Proceedings for the condemnation of any property captured as prize, whether on the high seas or elsewhere out of the limits of any judicial district, or within any district, on account of its being purchased or acquired, sold or given, with intent to use or employ the same, or to suffer it to be used or employed, in aiding, abetting, or promoting any insurrection against the Government of the United States, or knowingly so used or employed by the owner thereof, or with his consent, may be prosecuted in any district where the same may be seized, or into which it may be taken and proceedings first instituted.

Captures of insurrectionary property, where cognizable.

6 August, 1861, c. 60, s. 2, v. 12, p. 319.

Insurance Co. vs. U. S., 6 Wall., 759.

SEC. 736. All proceedings by any national banking association to enjoin the Comptroller of the Currency, under the provisions of any law relating to national banking associations, shall be had in the district where such association is located.

Proceedings to enjoin Comptroller of the Currency.

3 June, 1864, c. 106, ss. 50, 57, v. 13, pp. 115, 116.

SEC. 737. When there are several defendants in any suit at law or in equity, and one or more of them are neither inhabitants of nor found within the district in which the suit is brought, and do not voluntarily appear, the court may entertain jurisdiction, and proceed to the trial and adjudication of the suit between the parties who are properly before it; but the judgment or decree rendered therein shall not conclude or prejudice other parties not regularly served with process nor voluntarily appearing to answer; and non-joinder of parties who are not inhabitants of nor found within the district, as aforesaid, shall not constitute matter of abatement or objection to the suit.

When a part of several defendants cannot be served.

28 Feb., 1839, c. 36, s. 1, v. 5, p. 321.

Bank of Vicksburgh vs. Slocomb, 14 Pet., 60; *Louisville R. R. Co. vs. Letson*, 2 How., 556; *Union Bank vs. Stafford*, 12

How., 327; *Hagan vs. Walker*, 14 How., 36; *Rundel vs. Delaware and Nor. Indiana R. R. vs. Michigan Central R. R.*, 15 How., 233; *Shields vs. Barrow*, 17 How., 130; *Coiron et al. vs. Millandon et al.*, 19 How., 115; *Clearwater vs. Meredith*; 21 How., 489; *Barney vs. Baltimore City*, 6 Wall., 285; *Taylor vs. Cook*, 2 McLean, 516; *Cooper vs. Gordon*, 4 McLean, 6.

SEC. 738. When any defendant in a suit in equity to enforce any legal or equitable lien or claim against real or personal property within the district where the suit is brought is not an inhabitant of nor found within the said district, and does not voluntarily appear thereto, it shall be lawful for the court to make an order directing such absent defendant to appear, plead, answer, or demur to the complainant's bill at a certain day, therein to be designated; and the said order shall be served on such absent defendant, if practicable, wherever found, or, where such personal service is not practicable, shall be published in such manner as the court shall direct. If such absent defendant does not appear, plead, answer, or demur within the time so limited, or within some further time to be allowed by the court in its discretion, it shall be lawful for the court, upon proof of the service or publication of the said order, and of the performance of the directions contained therein, to entertain jurisdiction, and proceed to the hearing and adjudication of such suit, in the same manner as if such absent defendant had been served with process within the said district. But the said adjudication shall, as regards such absent defendant without appearance, affect his property within such district only.

Suits in equity against absent defendants, to subject property in the district.

1 June, 1872, c. 255, s. 13, v. 17, p. 198.

SEC. 739. Except in the cases provided in the next three sections, no person shall be arrested in one district for trial in another, in any civil action before a circuit or district court; and except in the said cases and the cases provided by the preceding section, no civil suit shall be brought before either of said courts against an inhabitant of the United States,

Suits against inhabitants of United States to be brought where they reside or are found.

24 Sept., 1789, c. 20, s. 11, v. 1, p. 79.

4 May, 1858, c. 27, ss. 1, 2, v. 11, p. 272.

1 June, 1872, c. 255, s. 13, v. 17, p. 198.—Pollard & Pickett *vs.* Dwight, 4 Cr., 421; Logan *vs.* Patrick, 5 Cr., 288; Gracie *vs.* Palmer, 8 Wh., 699; Toland *vs.* Sprague, 12 Pet., 300; Levy *vs.* Fitzpatrick, 15 Pet., 167; Herndon *vs.* Ridgway, 17 How., 424; Harrison *vs.* Rowan, 1 Pet. C. C., 489; Segee *vs.* Thomas, 3 Blatch., 11; Moffat *vs.* Soley, 2 Paine, 103; Flanders *vs.* Insurance Co., 3 Mas., 158; Picquet *vs.* Swan, 5 Mas., 35.

Suits not of a local nature in States containing several districts.

4 May, 1858, c. 27, s. 1, v. 11, p. 272.

24 Feb., 1863, c. 54, s. 9, v. 12, p. 662.

Suits of a local nature in States containing several districts.

4 May, 1858, c. 27, s. 1, v. 11, p. 272.

When land lies in different districts of same State.

4 May, 1858, c. 27, s. 2, v. 11, p. 272.

In Indiana; where actions may be commenced.

3 March, 1871, c. 108, s. 1, v. 16, p. 473.

Iowa; where suits are to be brought.

3 March, 1849, c. 124, ss. 1, 3, v. 9, pp. 410, 411.

30 June, 1870, c. 178, ss. 1, 3, v. 16, p. 174.

Kentucky; where suits to be returned and tried.

15 May, 1862, c. 71, s. 9, v. 12, p. 387.

by any original process, in any other district than that of which he is an inhabitant or in which he is found at the time of serving the writ.

SEC. 740. When a State contains more than one district, every suit not of a local nature, in the circuit or district courts thereof, against a single defendant, inhabitant of such State, must be brought in the district where he resides; but if there are two or more defendants, residing in different districts of the State, it may be brought in either district, and a duplicate writ may be issued against the defendants, directed to the marshal of any other district in which any defendant resides. The clerk issuing the duplicate writ shall indorse thereon that it is a true copy of a writ sued out of the court of the proper district; and such original and duplicate writs, when executed and returned into the office from which they issue, shall constitute and be proceeded on as one suit; and upon any judgment or decree rendered therein, execution may be issued, directed to the marshal of any district in the same State.

SEC. 741. In suits of a local nature, where the defendant resides in a different district, in the same State, from that in which the suit is brought, the plaintiff may have original and final process against him, directed to the marshal of the district in which he resides.

SEC. 742. Any suit of a local nature, at law or in equity, where the land or other subject-matter of a fixed character lies partly in one district and partly in another, within the same State, may be brought in the circuit or district court of either district; and the court in which it is brought shall have jurisdiction to hear and decide it, and to cause mesne or final process to be issued and executed, as fully as if the said subject-matter were wholly within the district for which such court is constituted.

SEC. 743. In the district of Indiana all actions of which the circuit and district courts have jurisdiction may be instituted in said courts, respectively, held at New Albany and Evansville, in the first instance, by filing the proper pleadings or other papers in the offices of the deputy clerks performing the duties of clerks of said courts respectively; and all proper and lawful process shall issue therefrom in the same manner as from other circuit and district courts in like cases.

SEC. 744. In the district of Iowa all suits not of a local nature in the district court against a single defendant, inhabitant of such State, must be brought in the division of the district where he resides; but if there are two or more defendants, residing in different divisions of the district, such suits may be brought in either division, and duplicate writs may be sent to the other defendants. The clerk issuing the duplicate writ shall indorse thereon that it is a true copy of a writ sued out of the court in the proper division of the district; and the original and duplicate writs, when executed and returned into the office from which they issue, shall constitute and be proceeded in as one suit. All issues of fact in such suits shall be tried at a term of the court held in the division where the suit is so brought.

SEC. 745. In the district of Kentucky the clerks of the circuit and district courts, respectively, upon issuing original process in a civil action, shall make it returnable to the court nearest to the county of the residence of the defendant, or of that defendant whose county is nearest a court, if he have information sufficient, and shall immediately, upon payment by the plaintiff of his fees accrued, send the papers filed to the clerk of the court to which the process is made returnable; and whenever the process is not thus made returnable, any defendant may, upon motion, on or before the calling of the cause, have it transferred

to the court to which it should have been sent had the clerk known the residence of the defendant when the action was brought.

SEC. 746. When the trial or hearing of any cause, civil or criminal, in a circuit or district court, has been commenced and is in progress before a jury or the court, it shall not be stayed or discontinued by the arrival of the time fixed by law for another session of said court; and the court may proceed therein and bring it to a conclusion, in the same manner and with the same effect as if another stated term of the court had not intervened.

Causes in progress of trial not discontinued by arrival of new term.

2 March, 1855, c. 140, s. 1, v. 10, p. 620.

SEC. 747. In all the courts of the United States the parties may plead and manage their own causes personally, or by the assistance of such counsel or attorneys at law as, by the rules of the said courts, respectively, are permitted to manage and conduct causes therein.

Parties may manage their causes personally or by counsel.

24 Sept., 1789, c. 20, s. 35, v. 1, p. 92.

SEC. 748. No clerk, assistant or deputy clerk, of any territorial, district, or circuit court, or of the Court of Claims, or the Supreme Court of the United States, or marshal or deputy marshal of the United States within the district for which he is appointed, shall act as a solicitor, proctor, attorney, or counsel in any cause depending in either of said courts, or in any district for which he is acting as such officer.

Certain officers forbidden to practice as attorneys, &c.

16 Jan., 1873, c. 36, s. 1, v. 17, p. 411.

SEC. 749. Whosoever violates the preceding section shall be stricken from the roll of attorneys by the court upon complaint, upon which the respondent shall have due notice, and be heard in his defense; and in the case of a marshal or deputy marshal so acting, he shall be recommended by the court for dismissal from office.

Penalty for violating preceding section.

16 Jan., 1873, c. 36, s. 2, v. 17, p. 411.

SEC. 750. In equity and admiralty causes, only the process, pleadings, and decree, and such orders and memorandums as may be necessary to show the jurisdiction of the court and regularity of the proceedings, shall be entered upon the final record. [Sec § 698.]

Final record, how made in equity and admiralty causes.

26 Feb., 1853, c. 80, s. 1, v. 10, p. 163.

CHAPTER THIRTEEN.

HABEAS CORPUS.

Sec.		Sec.	
751.	Power of courts to issue writs of <i>habeas corpus</i> .	760.	Denial of return, counter-allegations, amendments.
752.	Power of judges to grant writs of <i>habeas corpus</i> .	761.	Summary hearing; disposition of party.
753.	Writs of <i>habeas corpus</i> when prisoner is in jail.	762.	In cases involving the law of nations, notice to be served on State attorney-general.
754.	Application for the writ of <i>habeas corpus</i> .	763.	Appeals in cases of <i>habeas corpus</i> to circuit court.
755.	Allowance and direction of the writ.	764.	Appeal to Supreme Court.
756.	Time of return.	765.	Appeals, how taken.
757.	Form of return.	766.	Pending proceedings in certain cases, action by State authority void.
758.	Body of the party to be produced.		
759.	Day for hearing.		

SEC. 751. The Supreme Court and the circuit and district courts shall have power to issue writs of *habeas corpus*.

Power of courts to issue writs of *habeas corpus*.

24 Sept., 1789, c. 20, s. 14, v. 1, p. 81. 10 April, 1869, c. 22, s. 2, v. 16, p. 44. 2 March, 1833, c. 57, s. 7, v. 4, p. 634. 5 Feb., 1867, c. 28, s. 1, v. 14, p. 385. 29 Aug., 1842, c. 257, s. 1, v. 5, p. 539.—U. S. *vs.* Hamilton, 3 Dall., 17; *Ex parte* Burford, 3 Cr., 448; *Ex parte* Bollman, 4 Cr., 75; *Ex parte* Wilson, 6 Cr., 52; *Ex parte* Kearney, 7 Wh., 38; *Ex parte* Watkins, 3 Pet., 193; *Ex parte* Watkins, 7 Pet., 568; *Ex parte* Milburn, 9 Pet., 704; *Holmes vs. Jennison*, 14 Pet., 540; *Ex parte* Barry, 2 How., 65; *Ex parte* Dorr, 3 How., 103; *Barry vs. Mercein*, 5 How., 103; *In re Metzger*, 5 How., 176; *In re Kaine*, 14 How., 103; *Ex parte* Wells, 18 How., 507; *Ex parte* Milligan, 4 Wall., 2; *Ex parte* McCardle, 6 Wall., 318; *Ex parte* McCardle, 7 Wall., 506; *Ex parte* Yerger, 8 Wall., 85; *Ex parte* Lange, 18 Wall., 163; *In re* Heinrich, 5 Blatchf., 414; *Ex parte* Keeler, Hemps., 306; U. S. *vs.* Williamson, 3 Am. Law Rep., 729; *Bennet vs. Bennet*, 1 Deady, 299; *Ex parte* Everts, 7 Am. Law Rep., 79; *Norris vs. Newton*, 5 McLean, 22; U. S. *vs.* Rector, 5 McLean, 174; *Veremaitre's Case*, 13 Law Rep., 608; *Ex parte* Sifford, 5 Am. Law R., 659; *Ex parte* Mc-