Secretary of War to receive claims to lands, and for duplicates of warrants, suggested to have been lost.

To report the same to Congress, with his opinion.

Sec. 2. *And be it further enacted*, That it shall be the duty of the Secretary of War to receive claims to lands for military services, and claims for duplicates of warrants issued from his office, or from the land-office of Virginia, or of plats and certificates of surveys founded on such warrants, suggested to have been lost or destroyed, until the first day of January next, and no longer; and immediately thereafter, to report the same to Congress, designating the numbers of claims of each description, with his opinion thereon.

Approved, April 26, 1802.

Statute I.

April 29, 1802.

Chap. XXXI.—*An Act to amend the Judicial System of the United States.*(a)

Supreme court to be holden at Washington, by any four justices.

Sessions to commence on the first Monday of February annually.

Business to be continued over if a quorum does not attend.

One of the justices may make rules, &c.

Part of act of September 24, 1789, ch. 20, providing for a session of the Supreme Court in August, repealed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passing of this act, the Supreme Court of the United States shall be holden by the justices thereof, or any four of them, at the city of Washington, and shall have one session in each and every year, to commence on the first Monday of February annually, and that if four of the said justices shall not attend within ten days after the time hereby appointed for the commencement of the said session, the business of the said court shall be continued over till the next stated session thereof.(b) *Provided always*, that any one or more of the said justices attending as aforesaid shall have power to make all necessary orders touching any suit, action, writ of error, process, pleadings or proceedings, returned to the said court or depending therein, preparatory to the hearing, trial or decision of such action, suit, appeal, writ of error, process, pleadings or proceedings. And so much of the act, intituled "An act to establish the judicial courts of the United States," passed the twenty-fourth day of September, seventeen hundred and eighty-nine, as provides for the holding a session of the supreme court of the United States on the first Monday of August, annually, is hereby repealed.

Associate justice living in the fourth circuit, to attend at the city of Washington.

When.

For what purpose.

1839, ch. 35.

Sec. 2. *And be it further enacted*, That it shall be the duty of the associate justice resident in the fourth circuit formed by this act, to attend at the city of Washington on the first Monday of August next, and on the first Monday of August each and every year thereafter, who shall have power to make all necessary orders touching any suit, action, appeal, writ of error, process, pleadings or proceedings, returned to the said court or depending therein, preparatory to the hearing, trial or decision of such action, suit, appeal, writ of error, process, pleadings or proceedings:(c) and that all writs and process may be returnable to the said court on the said first Monday in August, in the same manner as to the session of the said court, herein before directed to be holden on the first Monday in February, and may also bear teste on the said first Monday in August, as though a session of the said court was holden on that day, and it shall be the duty of the clerk of the supreme court to attend the said justice on the said first Monday of August, in each and every year, who shall make due entry of all such matters and things as shall or may be ordered as aforesaid by the said justice, and at each and every such August session, all actions, pleas, and other proceedings relative to any cause, civil or criminal, shall be continued over to the ensuing February session.

To be attended also by the clerk.

(a) See notes to the act to establish the judicial courts of the United States, September 24, 1789, chap. 20, page 73. An act in addition to an act to amend the judicial system of the United States, March 3, 1803, chap. 40.

(b) Act of March 3, 1837, chap. 34; an act supplementary to an act to amend the judicial system of the United States.

By the act of May 4, 1826, chap. 37, the sessions of the supreme court were directed to commence on the first Monday in January annually: and by the act of June 17, 1844, the sessions are to commence on the first Monday of December annually.

(c) By the 7th section of the act of February 28, 1839, chap. 36, the provision which required the attendance of a justice of the supreme court at Washington on the first Monday in August, was repealed.

Certain proceedings made returnable to August session.

SEC. 3. *And be it further enacted*, That all actions, suits, process, pleadings and other proceedings, of what nature or kind soever, civil or criminal, which were continued from the supreme court of the United States, which was begun and holden on the first Monday of December last, to the next court to have been holden on the first Monday of June, under the act which passed on the thirteenth day of February, one thousand eight hundred and one, intituled, "An act to provide for the more convenient organization of the courts of the United States," and all writs, process and proceedings, as aforesaid, which are or may be made returnable to the same June session, shall be continued, returned to, and have day, in the session to be holden by this act, on the first Monday of August next; and such proceedings shall be had thereon, as is herein before provided.

Act of February 13, 1801, ch. 4.

Districts formed into circuits.

SEC. 4. *And be it further enacted*, That the districts of the United States (excepting the districts of Maine, Kentucky, and Tennessee) shall be formed into six circuits, in manner following:

Circuits formed.

First circuit.

The districts of New Hampshire, Massachusetts and Rhode Island, shall constitute the first circuit;

Second circuit.

The districts of Connecticut, New York and Vermont, shall constitute the second circuit;

Third circuit.

The districts of New Jersey and Pennsylvania shall constitute the third circuit;

Fourth circuit.

The districts of Maryland and Delaware shall constitute the fourth circuit;

Fifth circuit.

The districts of Virginia and North Carolina shall constitute the fifth circuit; and

Sixth circuit.

The districts of South Carolina and Georgia shall constitute the sixth circuit.(*a*)

Two circuit courts to be held in each district.

Altered by act of June 17, 1844.

First circuit, of whom the court is to consist, and the time of its session.

1812, ch. 45.

And there shall be holden annually in each district of the said circuits, two courts, which shall be called circuit courts. In the first circuit, the said circuit court shall consist of the justice of the supreme court residing within the said circuit, and the district judge of the district where such court shall be holden: and the sessions of the said court, in the district of New Hampshire, shall commence on the nineteenth day of May, and the second day of November, annually; in the district of Massachusetts, on the first day of June, and the twentieth day of October, annually; in the district of Rhode Island, on the fifteenth day of June, and the fifteenth day of November, annually.

Second circuit court, its sessions where to be held.

Act of March 3, 1803, ch. 40. Act of March 9, 1808, ch. 29, sec. 1.

In the second circuit, the said circuit court shall consist of the senior associate justice of the supreme court residing within the fifth circuit, and the district judge of the district, where such court shall be holden: and the sessions of the said court in the district of Connecticut, shall commence on the thirteenth day of April, and the seventeenth day of September, annually; in the district of New York, on the first day of April, and the first day of September, annually; in the district of Vermont, on the first day of May, and the third day of October, annually.

(*a*) The acts of Congress which regulate the original jurisdiction of the circuit courts, are: An act to establish the judicial courts of the United States, September 24, 1789, chap. 20; an act in addition to an act to prohibit the carrying on the slave trade from the United States to any foreign place or country, May 10, 1800, sec. 4; an act to vest more effectually in the state courts, and in the district courts of the United States, jurisdiction in the cases therein mentioned, March 3, 1815. Turner *v.* The Bank of North America, 4 Dall. 8; 1 Cond. Rep. 205.

The inferior courts of the United States, are all of limited jurisdiction, but they are not on that account inferior courts, in the technical sense of those words, whose judgments taken alone, are to be disregarded. If the jurisdiction be not alleged in the proceedings, they are erroneous, but they are not nullities. M'Cormick et al. *v.* Sullivant et al., 10 Wheat. 192; 6 Cond. Rep. 71.

The justices of the supreme court have by practice and acquiescence under it, for a period of several years, commencing with the organization of the judicial system, sat as circuit judges: this practical exposition is too strong to be shaken or controlled. Stuart *v.* Laird, 1 Cranch, 299; 1 Cond. Rep. 316.

The circuit court has jurisdiction on a bill in equity, filed by the United States, against the debtor of their debtor, they claiming a priority under the fifty-fifth section of the act of March 2, 1799, notwithstanding the local law of the state allows a creditor to proceed against the debtor of his debtor by a peculiar process. The United States *v.* Howland et al., 4 Wheat. 108; 4 Cond. Rep. 404.

Third circuit court, its sessions.

In the third circuit, the said circuit court shall consist of the justice of the supreme court residing within the said circuit, and the district judge of the district where such court shall be holden: and the sessions of the said court, in the district of New Jersey, shall commence on the first day of April, and the first day of October, annually; in the district of Pennsylvania, on the eleventh day of April, and the eleventh day of October, annually.

Act of March 3, 1803, ch. 32.

Fourth circuit court, its sessions.

In the fourth circuit, the said circuit court shall consist of the justice of the supreme court residing within the said circuit, and the district judge of the district where such court shall be holden: and the sessions of the said court, in the district of Delaware, shall commence on the third day of June, and the twenty-seventh day of October, annually; in the district of Maryland, on the first day of May, and the seventh day of November, annually; to be holden hereafter at the city of Baltimore only.

Fifth circuit court, its sessions.

In the fifth circuit, the circuit court shall consist of the present chief justice of the supreme court, and the district judge of the district where such court shall be holden: and the sessions of the said court, in the district of Virginia, shall commence on the twenty-second day of May, and the twenty-second day of November, annually; in the district of North Carolina, on the fifteenth day of June, and the twenty-ninth day of December, annually.

Act of February 4, 1807, ch. 5.

Sixth circuit court, its sessions.

1807, ch. 16.

At Charleston.

Columbia.

Savannah.

Louisville.

Provisions if the judges do not attend.

One judge may adjourn the court.

In the sixth circuit, the said circuit court shall consist of the junior associate justice of the supreme court, in the fifth circuit, and the district judge of the district where such court shall be holden: and the sessions of the said court, in the district of South Carolina, shall commence at Charleston on the twentieth day of May, and at Columbia on the thirtieth day of November, annually; in the district of Georgia, on the sixth day of May at Savannah, and on the fourteenth day of December hereafter at Louisville, annually: *Provided*, that when only one of the judges hereby directed to hold the circuit courts, shall attend, such circuit court may be held by the judge so attending; and that when any of the said days shall happen on a Sunday, then the said court hereby directed to be holden on such day, shall be holden on the next day thereafter; and the circuit courts constituted by this act, shall be held at the same place or places in each district of every circuit, as by law they were respectively required to be held previous to the thirteenth day of February, one thousand eight hundred and one, excepting as is herein before directed. And none of the said courts shall be holden until after the first day of July next, and the clerk of each district court shall be also clerk of the circuit court in such district, except as is herein after excepted.

1808, ch. 29.

Clerks of district to be clerks of circuit courts.

With an exception.

Sec. 5. *And be it further enacted*, That on every appointment which shall be hereafter made of a chief justice or associate justice, the said chief justice and associate justices shall allot themselves among the aforesaid circuits as they shall think fit, and shall enter such allotment on record. And in case no such allotment shall be made by them at their session next succeeding such appointment, and also, after the appointment of any judge, as aforesaid, and before any allotment shall have been made, it shall and may be lawful for the President of the United States to make such allotment as he shall deem proper, which allotment made in either case, shall be binding until another *allotment* shall be made; and the circuit courts constituted by this act, shall have all the power, authority and jurisdiction within the several districts of their respective circuits that before the thirteenth day of February, one thousand eight hundred and one, belonged to the circuit courts of the United States, and in all cases which, by appeal or writ of error, are or shall be removed from a district to a circuit court, judgment shall be rendered in conformity to the opinion of the judge of the supreme court presiding in such circuit court

Justices of the supreme court to allot themselves among the circuits.

Allotment to be entered on record.

If they fail to do it, the President may make the allotment.

Allotment to be binding until another is made.

Powers of the circuit courts.

In writs of error and appeal, the opinion of the justice of the supreme court to prevail.

SEC. 6. *And be it further enacted*, That whenever any question shall occur before a circuit court, upon which the opinions of the judges shall be opposed, the point upon which the disagreement shall happen, shall, during the same term, upon the request of either party, or their counsel, be stated under the direction of the judges, and certified under the seal of the court, to the supreme court, at their next session to be held thereafter; and shall, by the said court, be finally decided.(a) And the decision

In case of disagreement in opinion of the judges of the circuit court, that of the supreme court upon the point stated to be conclusive.

(a) The decisions of the Supreme Court of the United States, upon the provisions of this section, are:

The law which empowers the supreme court to take cognizance of questions adjourned from a circuit court, gives jurisdiction over the single point on which the judges were divided; not over the whole cause. Wayman et al. *v.* Southard et al., 10 Wheat. 1; 6 Cond. Rep. 1.

Where the court is equally divided, the decree of the court below is of course affirmed, so far as the point of division goes. The Antelope, 10 Wheat. 66; 6 Cond. Rep. 30.

The supreme court has no jurisdiction in a case in which the judges of the circuit court have divided in opinion upon a motion for a rule to show cause why the taxation of the costs of the marshal on an execution should not be reversed and corrected. Bank of the United States *v.* Green and others, 6 Peters, 26.

Where the court is equally divided in opinion upon a writ of error the judgment of the inferior court is affirmed. Etting *v.* The Bank of the United States, 11 Wheat. 59; 6 Cond. Rep. 216.

Where a case is certified to the supreme court upon a division of opinion of the judges of the circuit court, and the points upon which they were so divided, are too imperfectly stated to enable the supreme court to pronounce any opinion upon them, it will neither award a venire facias de novo, nor certify any opinion to the court below, but will merely certify that they are too imperfectly stated. Perkins *v.* Hart's Ex'r, &c., 11 Wheat. 237; 6 Cond. Rep. 287.

It appeared on a certificate from the circuit court of the United States of Pennsylvania, that the judges of the court were divided on a motion in arrest of judgment. Held, that judgment must be given on the verdict. United States *v.* Worrall, 2 Dall. 384.

Where a case is certified from a circuit court of the United States, the judges of the circuit court having differed in opinion upon questions of law which arose on the trial of the cause; the supreme court cannot be called upon to express an opinion on the whole facts of the case, instead of upon particular points of law, growing out of the same. Adams, Cunningham & Co. *v.* Jones, 12 Peters, 207.

The intention of Congress, in passing the act authorizing a division of opinion of the judges of the circuit courts of the United States to be certified to the supreme court was, that a division of the judges of the circuit court, upon a single and material point, in the progress of the cause, should be certified to the supreme court for its opinion; and not the whole cause. When a certificate of division brings up the whole cause, it would be, if the court should decide it, in effect, the exercise of original, rather than appellate jurisdiction. White *v.* Turk et al., 12 Peters, 238.

This case came up to the supreme court, from the circuit court, upon a division of opinion between the judges of the court. It was decided by the supreme court, that the question certified would, alone, be considered; each party being left to bring up the whole case from the circuit court, by a writ of error. Ogle *v.* Lee, 2 Cranch, 33.

The question certified from the circuit court of North Carolina, was, "whether the act of assembly, (of North Carolina,) entitled, an act concerning proving wills, and to prevent frauds in the management of intestates' estates, passed in 1715, recited in the plea of the defendants, was, under all the circumstances stated, and the various acts passed by the legislature of North Carolina, a bar to this action." The certificate stated, that the 9th section of the act had been pleaded by the defendant, in bar to the action. The certificate of the division was granted on the motion of the plaintiff, by his counsel; and at his request, a statement of the facts, "made under the direction of the judges," was certified. The certificate, thus made out, set forth all the laws of North Carolina, which operated on the question certified; and stated the questions which arose in the cause, on which the opinions of the judges were divided. The court decided in favour of the plaintiff. Ogden, Adm'r of Cornell *v.* Blackledge, Ex'r of Sater, 2 Cranch, 272; 1 Cond. Rep. 411.

The certificate of division of opinion by the judges of the circuit court of Virginia, stated, "In this cause it occurred as a question, whether Hepburn and Dundas, the plaintiffs in this cause, who are citizens and residents in the District of Columbia; and are so stated in the pleadings; can maintain an action in the supreme court against the defendant, who is a citizen and inhabitant of the district and the commonwealth of Virginia, and is also stated so to be in the pleadings: or whether, for want of jurisdiction, the said suit ought to be dismissed." It was certified that the circuit court had no jurisdiction in the case. Hepburn and Dundas *v.* Ellzey, 2 Cranch, 445; 1 Cond. Rep. 444.

This case was certified from the circuit court of Pennsylvania, the judges being divided in opinion upon the question, "whether, in the state of the pleadings, the judgment ought to be rendered for the plaintiffs." The supreme court said—Judgment, therefore, on the pleadings, must be rendered for the plaintiffs. Mr. Chief Justice Marshall, who delivered the opinion of the court, said: "By the twenty-sixth section of the judicial act, it is directed that, in cases of this description, the court shall render judgment for so much as is due according to equity. And when the sum for which judgment is to be rendered is uncertain, the same shall, if either of the parties request it, be assessed by a jury. In this case, it is the opinion of a majority of the court, that the judgment ought to be rendered for so much as remains due of the sum of one hundred and seventy thousand guilders, calculating interest thereon from the 1st of March, 1803; and if either of the parties request it, that a jury be empannelled to ascertain the value of this sum in money of the United States." United States *v.* Gurney and others, 4 Cranch, 333; 2 Cond. Rep. 132.

This case was certified on division of opinion, the question being, whether the assignee of a part of a patent right, cannot maintain an action on the case, for a violation of the patent right. The court certified that he could not. Tyler *v.* Tuel, 6 Cranch, 324.

In this case, the question certified, on which the judges of the circuit were divided in opinion, was

Decision of the supreme to be remitted to the circuit court and to be of effect.

of the supreme court, and their order in the premises, shall be remitted to the circuit court, and be there entered of record, and shall have effect according to the nature of the said judgment and order: *Provided*, that nothing herein contained shall prevent the cause from proceeding, if, in

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whether a writ of habere facias possessionem should be issued; the defendant, in the circuit court of Maryland, having obtained, in a state court, an order for the injunction of the proceedings in the circuit court. The supreme court directed that the writ be issued. M'Kim *v.* Voorhies, 7 Cranch, 279; 2 *Cond. Rep.* 492.

The defendant was indicted in the circuit court of Vermont, under embargo laws, for loading carriages with pearl ashes, with intent to export them. The jury found him guilty; and that the ashes were worth two hundred and eighty dollars. The defendant moved in arrest of judgment, for defect in the finding; and on the question presented by the motion, the judges were divided in opinion; which division was certified to the supreme court. United States *v.* John Tyler, 7 Cranch, 285; 2 Cond. Rep. 492.

The question certified to the supreme court, from the circuit court of West Tennessee, was on the construction of the act of the legislature of Tennessee, relative to possession of lands. Patton's Lessee *v.* Easton, 1 Wheat. 476; 3 Cond. Rep. 631.

The supreme court of the United States has no jurisdiction of causes brought before it, on a certificate of division of opinion of the judges of the circuit court, *for the District of Columbia*. The appellate jurisdiction extends, only, to the final judgment and decrees of that court. Ross *v.* Triplett, 3 Wheat. 600; 4 Cond. Rep. 351.

The question referred to the supreme court, by a certificate of division between the judges of the circuit court, on facts stated by the court, was, whether the circuit court of Kentucky could take jurisdiction of a case, when one of the grants for the land in controversy was issued out by the state of Virginia, the other by the state of Kentucky, both grants being founded upon warrants and locations made under the laws of Virginia. Colson *v.* Lewis, 2 Wheat. 377; 4 Cond. Rep. 168.

The facts of the case being found by a special verdict, and the judges being divided in opinion on questions arising on the verdict, the questions were certified to the supreme court. Somerville's Ex'rs *v.* Hamilton, 4 Wheat. 230; 4 Cond. Rep. 436.

The difference of opinion of the judges of the circuit court of Delaware, was, whether certain depositions taken under a commission issued from the circuit court of Delaware, could be read in evidence. This difference was certified to the supreme court, and the question decided. Sergeant's Lessee *v.* Biddle et al., 4 Wheat. 508; 4 Cond. Rep. 522.

On an indictment for manslaughter, the defendant was found guilty, subject to the opinion of the court, whether the circuit court of Pennsylvania had jurisdiction in a case where the offence was committed on board an American ship, lying in the river Tigris, off Wampoa, in the empire of China. On the question of jurisdiction, the judges were divided in opinion, and the division was certified to the supreme court; and was decided in favour of the defendant. United States *v.* Wiltberger, 5 Wheat. 76; 4 Cond. Rep. 593.

The jury found a special verdict, in the circuit court of Virginia, on a trial of an indictment for piracy; and on a motion to arrest the judgment, the question whether the acts charged against the defendant, and found by the jury, was a piracy by the law of nations, so as to be punishable under the act *of Congress of 3d March, 1819, was presented; and the judges of the circuit court were divided in* opinion; and thereupon, the question was certified to the supreme court. United States *v.* Smith, 5 Wheat. 153; 4 Cond. Rep. 619.

The prisoners were found guilty in the circuit court of Massachusetts, for murder on the high seas, out of the jurisdiction of a particular state. The counsel of the prisoners moved the court for a new trial for the misdirection of the court on points of law which arose during the trial. The judges of the court being opposed in opinion upon questions presented with the motion; the indictment, and a statement of the evidence, were certified to the supreme court. United States *v.* Holmes et al., 5 Wheat. 412; 4 Cond. Rep. 708.

The defendant was indicted in the circuit court of South Carolina, charging him with wickedly and maliciously concealing a murder committed on the high seas, of which he had knowledge. The judge charged the jury, that the concealment, under the circumstances, was sufficient to convict the defendant, and the jury found him guilty. On a motion to arrest the judgment, and for a new trial, the judges were opposed in opinion on the motion, which was certified to the supreme court. The supreme court said, a motion for a new trial is not a part of the proceedings of the case. The question must be one which arises in a cause depending before the court, relative to a proceeding belonging to the cause. A motion for a new trial has never before been brought to this court on a division of opinion in the circuit court. United States *v.* Daniel, 6 Wheat. 542; 5 Cond. Rep. 170.

On a trial of a writ of right in the circuit court of Kentucky, the judges of the court differed in opinion on questions as to the constitutionality of certain laws of Kentucky, giving to occupying claimants of land, the value of their improvements. The questions were certified to the supreme court. Green *v.* Biddle, 8 Wheat. 1; 5 Cond. Rep. 369.

The question certified from the circuit court of Maryland, in this case, was on a motion to instruct the jury, that, on the whole evidence, the plaintiffs cannot sustain their demand. All the evidence given on the trial of the cause was before the supreme court. The supreme court certified their opinion to the circuit court. Willinks *v.* Hollingsworth, 6 Wheat. 240; 5 Cond. Rep. 79.

This was a case certified from the circuit court of New Jersey. The question on which the court was divided was, whether on the special pleadings and demurrer, an alteration in the bond of a collector of taxes, made without the knowledge of his surety, by which the collector was appointed for nine instead of eight townships, discharged the surety from liability for taxes collected after the alteration was made. Miller *v.* Stewart 9 Wheat. 680; 5 Cond. Rep. 727.

This cause was certified from the circuit court of the district of Kentucky, upon a division of opinion between the judges of that court, on several questions which occurred, on a motion made by the plaintiff, to quash the marshal's return on an execution issued on a judgment obtained in that court on a replevin bond; and also to quash the replevin bond taken on the execution, for the causes assigned in the motion. The court divided in opinion on the points stated in the motion, and the same were certified to the supreme court. Wayman et al. *v.* Southard, 10 Wheat. 1; 6 Cond. Rep. 1.

the opinion of the court, farther proceedings can be had without prejudice to the merits: and provided also, that imprisonment shall not be allowed, nor punishment in any case be inflicted, where the judges of the said court are divided in opinion upon the question touching the said imprisonment or punishment.

Imprisonment, &c. not to be inflicted when the court is divided.

The defendants, Kelly and others, were indicted in the circuit court of Pennsylvania, for feloniously endeavouring to make a revolt on the high seas, on board of a merchant vessel of the United States. They were found guilty; and their counsel moved to arrest the judgment, on the ground, "that the act of Congress does not define the offence of making a revolt, and that it was not competent to the court to give a judicial definition of a crime heretofore unknown." The opinions of the judges of the circuit court were divided on this motion, and the same was certified to the supreme court. United States *v.* Kelly et al., 11 Wheat. 417; 6 Cond. Rep. 370.

An action of general indebitatus assumpsit, was brought in the circuit court of Ohio, for work, labour and services in exploring and surveying lands, showing and selling them, investigating titles, and paying taxes, &c. The plaintiff also filed an additional bill of particulars, stating other services. The jury found a verdict for the plaintiff, "if, on points reserved, the court should be of opinion that the law is for the plaintiff; if not, for the defendant." The opinions of the judges being opposed, the cause was removed to the supreme court, upon a certificate of disagreement upon points stated, and the special verdict. The points were, that the whole evidence and certain letters, show a subsisting and open agreement at the time of action brought; that the whole evidence constitutes a special agreement, &c.; that the plaintiff cannot recover on two items of the account, &c. The supreme court held the points imperfectly stated, and refused to give a certificate of their opinion. Perkins *v.* Hart's Ex'r, 11 Wheat. 237; 6 Cond. Rep. 287.

In this case, the judges of the circuit court of West Tennessee, after a judgment rendered in the court, divided in opinion as to the amount of the surety bond to be given by the party who applied for a writ of error: whereupon the division was certified to the supreme court. The court were of opinion, that it had no jurisdiction of the question on which the opinions of the judges of the circuit court were opposed; the division of opinion having arisen after a decision of the cause, in the court below. It was certified, accordingly, to the circuit court. Devereaux *v.* Marr, 12 Wheat. 212; 6 Cond. Rep. 522.

In this case, an action of debt was brought in the circuit court of Rhode Island, on two bonds given, conditioned that N. H. should remain a true prisoner within the limits of the prison. The defendant pleaded a discharge from imprisonment by an act of the legislature of Rhode Island. The judges of the circuit court were opposed in opinion, as to the validity of the discharge; and the same was certified to the supreme court. Mason *v.* Haile, 12 Wheat. 370; 6 Cond. Rep. 535.

An action was instituted in the circuit court of the United States for the southern district of New York, against the drawer, upon nine several bills of exchange, and a verdict was taken for the plaintiffs, subject to the opinion of the court, on a case agreed. The judges of the circuit court being divided in opinion upon certain points, the same was certified to the supreme court. The case stated formed a part of the record sent up to the supreme court. The supreme court directed the opinion of the court to be certified on each of the points, on which the judges of the circuit court had been divided in opinion; and which were argued before it. Schimmelpennich et al. *v.* Bayard et al., 1 Peters, 264.

This case came before the court on a certificate of a division of opinion between the judges of the circuit court of the southern district of New York; the court having divided in opinion on a motion for execution, after a verdict against the sureties of a postmaster, for the plaintiff. The circuit court directed the questions which arose on the motion, and on which they had differed, to be certified to the supreme court. Dox et al. *v.* The Postmaster General, 1 Peters, 318.

An action was instituted in the circuit court of Kentucky on a promissory note, by the Bank of the United States; and the defendants filed a plea, setting forth circumstances which brought up the question of usury, in the discounting of the note. The plaintiffs demurred; and the judges of the circuit court differed in opinion on the questions raised by the pleadings: 1. Whether the facts set forth in the plea, made out a case of usury. 2. Whether, if there was usury in the case, the note is invalid, so that no recovery can be had thereon. 3. Whether, if not wholly void, a part of the note can be recovered. Bank of the United States *v.* Owens and others, 2 Peters, 527.

Action on a bill of exchange. A judgment was confessed on a case stated, subject to the opinion of the court, whether the court had jurisdiction of the suit. The judges differed in opinion, and the question on which they divided was certified to the supreme court. Buckner *v.* Finley and Van Lear, 2 Peters, 586.

A writ of right was brought in the circuit court of the southern district of New York, and the judges of the court were opposed in opinion on questions presented in the trial of the cause, on the pleadings, and on the merits. The record contained all the pleadings, and the evidence given on the trial; and the questions on which the judges were opposed were certified to the supreme court. Inglis *v.* The Trustees of the Sailor's Snug Harbor, 3 Peters, 99.

The questions on which the judges of the circuit court of North Carolina were opposed in opinion, arose in an action instituted against the defendant, to recover damages for neglecting to institute a suit against the indorser of a promissory note, until after the remedy was barred by the statute of limitations. The question certified to the supreme court, arose on the finding of the jury for the plaintiff, subject to the opinion of the court, whether the statute of limitations was not a bar to the plaintiff's action against the defendant. Wilcox et al. *v.* The Ex'rs of Plummer, 4 Peters, 172.

On inspecting the record, it was perceived that the judges of the circuit court of Rhode Island, instead of dividing on one or more points, had divided on the whole case, and had directed the whole case to be certified to the supreme court. Considering this as irregular, the supreme court directed the cause to be remanded to the circuit court, that further proceedings may be had therein according to law. Saunders *v.* Gould, 4 Peters, 392.

A bill was filed on the equity side of the circuit court of Virginia, and the judges were opposed in opinion on questions arising in the case, as to the appropriation and distribution of the assets of the

North Carolina district divided into three districts.

SEC. 7. *And be it further enacted*, That the district of North Carolina shall be divided into three districts, one to consist of all that part thereof which, by the laws of the state of North Carolina, now forms the districts of Edenton and Halifax, which district shall be called the dis-

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estate of a testator. These questions were certified to the supreme court. Backhouse *v.* Patton, 5 Peters, 160.

In an action on a bond to the United States, the judges of the circuit court of Maryland were divided in opinion as to the right of the plaintiffs to recover against the defendants as sureties for a debt due to the United States, by the Bank of Somerset. United States *v.* Robertson, 5 Peters, 641.

An action of debt was brought on a promissory note in the circuit court for the district of West Tennessee, and the judges of the court were opposed in opinion on questions which arose on the plaintiff's demurrers to the defendant's pleas; and also whether the averment of the citizenship of some of the parties to the suit was sufficient. A certificate of this division of opinion was, by the direction of the circuit court, made to the supreme court, according to law. Kirkman *v.* Hamilton, 6 Peters, 20.

The judges of the circuit court of North Carolina were opposed in opinion, on a question, whether the priority to which the United States are entitled in case of a general assignment made by a debtor, comprehends a bond for duties executed anterior to the assignment, but not payable until after the same. The question was certified to the supreme court. United States *v.* The State Bank of North Carolina, 6 Peters, 29.

In this case the defendant was indicted and convicted of robbing the United States' mail, and being pardoned by the President of the United States, a question arose in the circuit court of the United States, whether the defendant should plead the pardon. On this question the judges of the court were opposed in opinion, and the question was certified to the supreme court, for its decision. United States *v.* Wilson, 7 Peters, 150.

This case was submitted to the circuit court, on a statement of facts agreed upon by the counsel of the plaintiff, and the district attorney of the United States. The whole of the agreed facts were sent up with the record. Upon the trial and statement of facts in the cause, certain questions had occurred, on which the opinions of the judges were opposed; and the points of disagreement were certified to the supreme court for their decision. The court decided on all the questions certified, with one exception. Harris *v.* Elliott, 10 Peters, 25.

An action of assumpsit was commenced by the plaintiff against the collector of the port of New York, to recover a sum paid to him for duties on certain goods; the goods not being liable, under the law, to the duties charged by the collector. On the trial of the cause, the judges of the circuit court of the southern district of New York were opposed in opinion, as to the construction of the act of Congress, by which the duties were claimed; and being so opposed in opinion, the question as to the construction of the law was certified to the supreme court for decision. Elliott *v.* Swartwout, 10 Peters, 137.

An action of detinue was instituted in the circuit court of West Tennessee, to recover a slave. During the progress of the suit, the defendant died; and his personal representative moved to dismiss the suit, on the ground that it did not survive. On this motion, the judges of the court were divided in opinion; and the same was certified, for its decision, to the supreme court. Davis *v.* Braden, 10 Peters, 286.

A question, whether a plaintiff in ejectment shall be permitted to enlarge the term in the demise, is one within the discretion of the court, to which the motion for the purpose is submitted; and it cannot be certified to the supreme court, if the judges of the circuit court are divided in opinion. Lanning's Lessee *v.* Vaughan et al., 10 Peters, 366.

Questions respecting the practice of the circuit court in equity cases, which depend on the sound discretion of the court, in the application of the rules which regulate the course of equity proceedings, to the circumstances of such particular case; are not questions which can be certified, on a division of opinion of the circuit court. Packer *v.* Nixon, 10 Peters, 408.

The questions certified to the supreme court were, whether, on certain facts which were in evidence in the cause, the deed was admissible in evidence, under the acts of the legislatures of North Carolina and Tennessee; and whether certain evidence, which was given on the trial, did or did not conduce to prove that the defendants purchased under a particular person. On these questions, the judges of the circuit court of Tennessee were opposed in opinion; and the same were certified, and answered by the supreme court. Denn, Lessee of Scott *v.* Reid et al., 10 Peters, 524.

An action of debt was instituted on an act of the legislature of New York, to recover certain penalties, for bringing into the state of New York certain paupers, in violation of the provisions of the act. The declaration set out the law of New York, and the breach of its provisions, by the defendant. The defendant demurred to the declaration, and the plaintiff joined in the demurrer. The judges of the circuit court of the southern district of New York were opposed in opinion on the question; whether the act of the legislature of New York, mentioned in the declaration, assumes to regulate commerce between the port of New York and foreign ports. This was certified to the supreme court. City of New York *v.* Milne, 11 Peters, 102.

The defendant was indicted for forging a bill of the Bank of the United States; and the judges of the circuit court of the United States for the Pennsylvania district, being opposed in opinion, whether the same was a bill of the Bank of the United States, according to the eighteenth section of the act, granting a charter to the bank; the same, with the indictment, was certified to the supreme court for its decision. United States *v.* Brewster, 7 Peters, 164.

The opinions of the judges of the circuit court of Pennsylvania were opposed in opinion, on a question arising on a demurrer, by the United States, to a plea of autre fois acquit, to an indictment for passing a counterfeit bank note of the Bank of the United States; and the same was certified to the supreme court. United States *v.* Randenbush, 8 Peters, 288.

The judges of the circuit court of Massachusetts were opposed in opinion on five points which arose on the trial, before a jury, of the cause; and they were, with all the evidence, certified to the supreme court for its decision. Carrington et al. *v.* The Merchants' Ins. Co., 8 Peters, 495.

trict of Albemarle, and a district court in and for the same shall be holden at Edenton by the district judge of North Carolina, on the third Tuesday in April, on the third Tuesday in August, and on the third Tuesday in December, in each and every year; one other to be called the district of Pamptico, and to consist of all that part of North Carolina which by the laws of the said state now forms the districts of Newbern and Hillsborough, together with all that part of the district of Wilmington which lies to the northward and eastward of New river; for which district of Pamptico, a district court shall be holden at Newbern by the district judge last aforesaid on the second Tuesday in April, on the second Tuesday in August, and on the second Tuesday in December in each and every year; and one other to consist of the remaining part of the said district of North Carolina, and to be called the district of Cape Fear, in and for which a district court shall be holden at Wilmington by the district judge last aforesaid, on the first Tuesday in April, on the first Tuesday in August, and on the first Tuesday in December, in each and every year; which said district courts hereby directed to be holden shall respectively have and exercise within their several districts, the same powers, authority and jurisdiction, which are vested by law in the district courts of the United States.

Names of the districts.
Act of February 4, 1807, ch. 5, sec. 2.
Vol. i. p. 217, 253, 518.

District of Cape Fear court to be holden at Wilmington.
Act of February 4, 1807, ch. 5, sec. 2.

Sec. 8. *And be it further enacted*, That the circuit court and district courts for the district of North Carolina shall appoint clerks for the said courts respectively, which clerks shall reside and keep the records of the said courts at the places of holding the courts whereto they shall respectively belong, and shall perform the same duties and be entitled to and receive the same emoluments and fees, respectively, which are by law established for the clerks of the circuit and district courts of the United States respectively.

Circuit and district courts for North Carolina to appoint their clerks.
Where they shall reside and keep their records.
Their duties, fees and emoluments.

Sec. 9. *And be it further enacted*, That all actions, causes, pleas, process and other proceedings relative to any cause, civil or criminal, which shall be returnable to, or depending in the several circuit or district courts of the United States on the first day of July next, shall be and are hereby declared to be respectively transferred, returned and continued to the several circuit and district courts constituted by this act, at the times herein before and herein after appointed for the holding of each of the said courts, and shall be heard, tried and determined therein in the same manner and with the same effect, as if no change had been made in the said courts. And it shall be the duty of the clerk of each and every court hereby constituted, to receive and to take into his safe keeping the writs, process, pleas, proceedings and papers of all those causes and actions which by this act shall be transferred, returned or continued to such court, and also all the records and office papers of every kind respectively belonging to the courts abolished by the repeal of the act, intituled "An act to provide for the more convenient organization of the courts of the United States," and from which the said causes shall have been transferred as aforesaid.

Continuance of suits depending in the circuit courts on the first day of July, 1802.

The clerks to take charge of all writs, &c.

1801, ch. 4.

Sec. 10. *And be it further enacted*, That all suits, process, pleadings and other proceedings, of what nature or kind soever, depending in the circuit court in the district of Ohio, and which shall have been, or may hereafter be commenced within the territory of the United States northwest of the river Ohio, in the said court, shall, from and after the first day of July next, be continued over, returned, and made cognizable, in the superior court of the said territory next thereafter to be holden, and all actions, suits, process, pleadings, and other proceedings as aforesaid depending in the circuit court of the said district, and which shall have been or may hereafter be commenced within the Indiana territory in said court, shall, from and after the first day of July next, be continued over, returned and made cognizable in the superior court of the said Indiana territory, next thereafter to be holden.

Suits depending in the circuit court in the district of Ohio, and in the territory of Indiana to be continued over.

Vol. i. 624.

Cognizance of proceedings under commissions of bankruptcy in certain cases.
Act of February 13, 1801, ch. 4.

SEC. 11. *And be it further enacted*, That in all cases in which proceedings shall, on the said first day of July next, be pending under a commission of bankruptcy issued in pursuance of the aforesaid act, intituled "An act to provide for the more convenient organization of the courts of the United States," the cognizance of the same shall be, and hereby is transferred to, and vested in, the district judge of the district within which such commission shall have issued, who is hereby empowered to proceed therein in the same manner and to the same effect, as if such commission of bankruptcy had been issued by his order.

Salaries of the district judges of Kentucky and Tennessee.
Vol. i. p. 496.
Act of September 24, 1789, ch. 20. Act of January 31, 1797, ch. 2.

SEC. 12. *And be it further enacted*, That from and after the first day of July next, the district judges of Kentucky and Tennessee shall be and hereby are severally entitled to a salary of fifteen hundred dollars, annually, to be paid quarter-yearly at the treasury of the United States.

Certain marshals and attornies may be continued.
Act of February 13, 1801, ch. 4.
President to discontinue others.

SEC. 13. *And be it further enacted*, That the marshals and attornies of the United States, for the districts which were not divided, or within the limits of which, new districts were not erected, by the act intituled "An act to provide for the more convenient organization of the courts of the United States," passed the thirteenth day of February, one thousand eight hundred and one, shall continue to be marshals and attornies for such districts respectively, unless removed by the President of the United States, and in all other districts which were divided or within the limits of which new districts were erected by the last recited act, the President of the United States be and hereby is empowered from and after the first day of July next to discontinue all such supernumerary marshals and district attornies of the United States in such districts respectively as he shall deem expedient, so that there shall be but one marshal and district attorney to each district; and every marshal and district attorney who shall be continued in office, or appointed by the President of the United States in such districts, shall have and exercise the same powers, perform the same duties, give the same bond with sureties, take the same oath, be subject to the same penalties and regulations as are, or may be prescribed by law, in respect to the marshals and district attornies of the United States. And every marshal and district attorney who shall be so discontinued as aforesaid shall be holden to deliver over all papers, matters and things in relation to their respective offices, to such marshals and district attornies respectively who shall be so continued or appointed as aforesaid in such district, in the same manner as is required by law in cases of resignation or removal from office.

Act of February 13, 1801, ch. 4.

Marshal's powers and duties.
Marshals and attornies discontinued, to deliver over papers, &c.

General commissioners of bankruptcy.
Proceedings upon a petition for a commission of bankruptcy.
Act of April 4, 1800, ch. 19. sec. 2.
Allowance to the commissioners and clerk.
To be apportioned out of the bankrupt's property.
Who may be, or are commissioners already appointed.
In certain cases to finish the business of their appointments.

SEC. 14. *And be it further enacted*, That there shall be appointed by the President of the United States, from time to time, as many general commissioners of bankruptcy, in each district of the United States, as he may deem necessary: and upon petition to the judge of a district court for a commission of bankruptcy he shall proceed as is provided in and by an act, intituled "An act to establish an uniform system of bankruptcy throughout the United States," and appoint, not exceeding three of the said general commissioners as commissioners of the particular bankrupt petitioned against; and the said commissioners, together with the clerk, shall each be allowed as a full compensation for their services, when sitting and acting under their commissions, at the rate of six dollars per day for every day which they may be employed in the same business, to be apportioned among the several causes on which they may act on the same day, and to be paid out of the respective bankrupt's estates: *Provided*, that the commissioners, who may have been, or may be appointed in any district before notice shall be given of the appointment of commissioners for such district by the President in pursuance of this act, and who shall not then have completed their business, shall be authorized to proceed and finish the same, upon the terms of their original appointment.

SEC. 15. *And be it further enacted*, That the stated session of the district court, for the district of Virginia, heretofore directed to be holden in the city of Williamsburg shall be holden in the town of Norfolk from and after the first day of July next, and the stated sessions of the district court for the district of Maryland, shall hereafter be holden in the city of Baltimore only, and in the district of Georgia, the stated sessions of the district court shall be held in the city of Savannah only.

District court of Virginia to be held at Norfolk.

For Maryland, at Baltimore.

For Georgia, at Savannah.

SEC. 16. *And be it further enacted*, That for the better establishment of the courts of the United States within the state of Tennessee, the said state shall be divided in two districts, one to consist of that part of said state, which lies on the east side of Cumberland mountain, and to be called the district of East Tennessee, the other to consist of the remaining part of said state, and to be called the district of West Tennessee.

State of Tennessee divided into two districts.

SEC. 17. *And be it further enacted*, That the district judge of the United States, who shall hereafter perform the duties of district judge, within the state of Tennessee, shall annually hold four sessions, two at Knoxville, on the fourth Monday of April, and the fourth Monday of October, in and for the district of East Tennessee, and two at Nashville, on the fourth Monday of May, and the fourth Monday of November, in and for the district of West Tennessee.

District judge of Tennessee to hold four annual sessions.

Where.

Act of February 24, 1807, ch. 16, sec. 4.

SEC. 18. *And be it further enacted*, That there shall be a clerk for each of the said districts of East and West Tennessee, to be appointed by the judge thereof, who shall reside and keep the records of the said courts, at the places of holding the courts, whereto they respectively shall belong, and shall perform the same duties, and be entitled to, and receive the same emoluments and fees, which are established by law for the clerks of the district courts of the United States, respectively.

Clerks to be appointed for East and West Tennessee.

Where to reside—their duties and emoluments.

SEC. 19. *And be it further enacted*, That there shall be appointed, in and for each of the districts of East and West Tennessee, a marshal, whose duty it shall be to attend the district courts hereby established, and who shall have and exercise within such district, the same powers, perform the same duties, be subject to the same penalties, give the same bond with sureties, take the same oath, be entitled to the same allowance, as a full compensation for all extra services, as hath heretofore been allowed to the marshal of the district of Tennessee, by a law, passed the twenty-eighth day of February, one thousand seven hundred and ninety-nine, and shall receive the same compensation and emoluments, and in all respects be subject to the same regulations as are now prescribed by law, in respect to the marshals of the United States, heretofore appointed: *Provided*, that the marshals of the districts of East and West Tennessee, now in office, shall, during the periods for which they have been appointed, unless sooner removed by the President of the United States, be and continue marshals for the several districts hereby established, within which they respectively reside.

Marshals for East and West Tennessee—their powers, duties, and emoluments.

Act of February 28, 1799, ch. 19, sec. 4.

The present marshals to continue in office, unless removed by the President.

SEC. 20. *And be it further enacted*, That there shall be appointed for each of the districts of East and West Tennessee, a person learned in the law, to act as attorney for the United States within such district; which attorney shall take an oath or affirmation for the faithful performance of the duties of his office, and shall prosecute in such district, all delinquencies, for crimes and offences, cognizable under the authority of the United States, and all civil actions or suits, in which the United States shall be concerned; and shall be entitled to the same allowance, as a full compensation for all extra services, as hath heretofore been allowed to attornies of the district of Tennessee, by a law passed the twenty-eighth day of February, one thousand seven hundred and ninety-nine, and shall receive such compensation, emoluments and fees, as by law are or shall be allowed to the district attornies of the United States, respectively: *Provided*, that the district attornies of East and West

Attornies for East and West Tennessee.

Their duties and emoluments.

The present district attornies to continue in office, unless removed by the President.

Tennessee, now in office, shall severally and respectively be attornies for those districts within which they reside, until removed by the President of the United States.

Proceedings, &c., depending in the sixth circuit in certain courts continued over to others.

Sec. 21. *And be it further enacted*, That all actions, suits, process, pleadings and proceedings, of what nature or kind soever, which shall be depending or existing in the sixth circuit of the United States within the circuit courts of the districts of East and West Tennessee, shall be and hereby are continued over to the district courts established by this act in manner following, that is to say: All such as shall on the first day of July next, be depending and undetermined, or shall then have been commenced, and made returnable before the circuit court of East Tennessee, to the next district court hereby directed to be holden, within and for the district of East Tennessee; all such as shall be depending and undetermined, or shall have been commenced and made returnable before the circuit court of West Tennessee, to the next district court, hereby directed to be holden, within and for the district of West Tennessee, and all the said suits shall then be equally regular and effectual, and shall be proceeded in, in the same manner as they could have been if the law, authorizing the establishment of the sixth circuit of the United States, had not been repealed.

Terms of the district court of Maine.

Annual session to be holden on the last Tuesday in May.

Sec. 22. *And be it further enacted*, That the next session of the district court for the district of Maine, shall be holden on the last Tuesday in May next; and that the session of the said court heretofore holden on the third Tuesday of June annually, shall thereafter be holden, annually, on the last Tuesday in May.

To what time proceedings therein are returnable.

Sec. 23. *And be it further enacted*, That all writs and process which shall have been issued, and all recognizances returnable, and all suits and other proceedings which have been continued to the said district court on the third Tuesday in June next, shall be returned and held continued to the said last Tuesday of May next.

District court of the U. States to be held in the district of Columbia.

Act of February 27, 1801, ch. 15.

Sec. 24. *And be it further enacted*, That the chief judge of the district of Columbia shall hold a district court of the United States, in and for the said district, on the first Tuesday of April, and on the first Tuesday of October in every year; which court shall have and exercise, within the said district, the same powers and jurisdiction which are by law vested in the district courts of the United States.(*a*)

Testimony of witnesses in chancery suits may be taken in writing.

Sec. 25. *And be it further enacted*, That in all suits in equity, it shall be in the discretion of the court, upon the request of either party, to order the testimony of the witnesses therein to be taken by depositions; which depositions shall be taken in conformity to the regulations prescribed by law for the courts of the highest original jurisdiction in equity, in cases of a similar nature, in that state in which the court of the United States may be holden: *Provided however*, that nothing herein contained shall extend to the circuit courts which may be holden in those states, in which testimony in chancery is not taken by deposition.(*b*)

Cases in which it shall not be taken in writing.

Clerk for the district court of Norfolk.

His place of residence, duties and emoluments.

Sec. 26. *And be it further enacted*, That there shall be a clerk for the district court of Norfolk, to be appointed by the judge thereof, which clerk shall reside and keep the records of the said court at Norfolk aforesaid, and shall perform the same duties, and be entitled to, and receive the same fees and emoluments which are established by law for the clerks of the district courts of the United States.

Terms of the district court of Vermont.

Sec. 27. *And be it further enacted*, That from and after the first day of July next, there shall be holden, annually, in the district of Vermont, two stated sessions of the district court, which shall commence

(*a*) See note to act of February 27, 1801, chap. 15.

(*b*) In appeals to the supreme court from the circuit courts in chancery cases, the parol testimony which is heard in the court below ought to appear on the record. Conn *v.* Penn, 5 Wheat. 424; 4 Cond. Rep. 716.

on the tenth day of October, at Rutland, and on the seventh day of May, at Windsor, in each year; and when either of the said days shall happen on a Sunday, the said court, hereby directed to be holden on such day, shall be holden on the day next thereafter.

Repealing clause concerning the former sessions of this court.

Act of March 22, 1816, ch. 31.

See vol. i. p. 197, and 627.

Sec. 28. *And be it further enacted*, That the act, intituled "An act altering the time of holding the district court in Vermont," and so much of the second section of the act, intituled "An act giving effect to the laws of the United States within the state of Vermont," as provides for the holding four sessions, annually, of the said district court, in said district, from and after the first day of July next, be and hereby are repealed.

When a grand jury for the district court of Vermont is to be summoned.

And a petit jury.

Sec. 29. *And be it further enacted*, That the clerk of the said district court shall not issue a process to summon, or cause to be returned, to any session of the said district court, a grand jury, unless by special order of the district judge, and at the request of the district attorney; nor shall he cause to be summoned or returned, a petit jury to such sessions of the said district court, in which there shall appear to be no issue proper for the trial by jury, unless by special order of the judge as aforesaid. And it shall be the duty of the circuit court in the district of Vermont, at their stated sessions, to give in charge to the grand juries, all crimes, offences and misdemeanors, as are cognizable, as well in the said district court, as the said circuit court, and such bills of indictment as shall be found in the circuit court, and cognizable in the said district court, shall, at the discretion of the said circuit court, be transmitted by the clerk of the said court, pursuant to the order of the said circuit court, with all matters and things relating thereto, to the district court next thereafter to be holden, in said district, and the same proceedings shall be had thereon in said district court, as though said bill of indictment had originated and been found in the said district court. And all recognizances of witnesses, taken by any magistrate in said district, for their appearance to testify in any case cognizable in either of the said courts, shall be to the circuit court next thereafter to be holden in said district.

Circuit court of the district of Vermont to give certain things in charge to the grand juries.

Special juries to be no longer returned by the clerks.

Marshals to do it in certain cases.

Sec. 30. *And be it further enacted*, That from and after the passing of this act, no special juries shall be returned by the clerks of any of the said circuit courts; but that in all cases in which it was the duty of the said clerks to return special juries before the passing of this act, it shall be the duty of the marshal for the district where such circuit court may be held, to return special juries, in the same manner and form, as, by the laws of the respective states, the said clerks were required to return the same.

Approved, April 29, 1802.

Statute I.

April 29, 1802.

[Obsolete.]

Appropriations for the extinguishment of the public debt.

See vol. i. p. 138, 218, 279, 338, 370, 410, 433, 488, 512, 562. Debts to individual states, vol. i. p. 49, 178, 616.

Chap. XXXII.—*An Act making provision for the redemption of the whole of the Public Debt of the United States.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the duties on merchandise and tonnage as, together with the monies, other than surpluses of revenue, which now constitute the sinking fund, or shall accrue to it by virtue of any provisions heretofore made, and together with the sums annually required to discharge the annual interest and charges accruing on the present debt of the United States, including temporary loans heretofore obtained, and also future loans which may be made for reimbursing, or redeeming, any instalments, or parts of the principal of the said debt, will amount to an annual sum of seven millions three hundred thousand dollars, be, and the same hereby is yearly appropriated to the said fund; and the said sums are hereby declared