

and shall never thereafter be allowed a credit for duties on any goods, wares or merchandise, imported by him or them into any of the ports of the United States; and the master or commander of such ship or vessel, as well as all other persons who shall knowingly be concerned in such prohibited foreign voyage, shall each respectively forfeit and pay a sum not exceeding twenty thousand, nor less than one thousand dollars for every such offence, whether the vessel be seized and condemned or not; and the oath or affirmation of any master or commander, knowingly offending against the provisions of this section, shall ever thereafter be inadmissible before any collector of the customs of the United States.

Sec. 4. *And be it further enacted*, That all penalties and forfeitures arising under, or incurred by virtue of, this act, may be sued for, prosecuted and recovered, with costs of suit, by action of debt, in the name of the United States of America, or by indictment or information, in any court having competent jurisdiction to try the same; and shall be distributed and accounted for in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine; and such penalties may be examined, mitigated or remitted, in like manner, and under like conditions, regulations and restrictions, as are prescribed, authorized and directed by the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties and disabilities accruing in certain cases therein mentioned," passed the third day of March, one thousand seven hundred and ninety-seven, and made perpetual by an act passed the eleventh day of February, one thousand eight hundred: *Provided*, that all penalties and forfeitures which shall have been incurred by virtue of this act, previous to the expiration thereof, may and shall thereafter be recovered and distributed in like manner, as if this act had continued in full force and virtue.

Penalties, how to be recovered, distributed, &c.

1799, ch. 22.

1797, ch. 13.

1800, ch. 6.

Proviso.

APPROVED, April 4, 1812.

STATUTE I.

CHAP. L.—*An Act for the admission of the State of Louisiana into the Union, and to extend the laws of the United States to the said state.*(a)

April 8, 1812.

WHEREAS, the representatives of the people of all that part of the territory or country ceded, under the name of "Louisiana," by the treaty

Act of Feb. 15, 1811, ch. 21.
Act of May 22, 1812, ch. 93.

(a) The decisions of the Supreme Court on the extension of the laws of the United States to Louisiana, and the practice of the courts of the United States in the district of Louisiana, have been:—

As, by the laws of Louisiana, questions of fact in civil cases are tried by the court, unless either of the parties demand a jury, in an action of debt on a judgment, the interest on the original judgment may be computed, and make part of the judgment in Louisiana, without a writ of inquiry, and the intervention of a jury. *Wayhew v. Thatcher*, 6 Wheat. 129; 5 Cond. Rep. 34.

By the treaty by which Louisiana was acquired, the United States stipulated that the inhabitants of the ceded territories should be protected in the free enjoyment of their property. The United States, as a just nation, regard this stipulation as the avowal of a principle which would have been held equally sacred, although it had not been inserted in the treaty. *Soulard et al. v. The United States*, 4 Peters, 511.

The term property, as applied to lands, comprehends every species of title, inchoate or complete. It is supposed to embrace those rights which lie in contract; those which are executory, as well as those which are executed. In this respect, the relation of the inhabitants of Louisiana to their government, is not changed. The new government takes the place of that which is passed away. *Ibid.*

By the provisions of the acts of Congress, Louisiana, when she came into the Union, had organized therein a district court of the United States, having the same jurisdiction, except as to appeals and writs of error, as the circuit courts of the United States in other states; and the modes of proceeding in that court, were required to be according to the principles, rules, and usages which belong to courts of equity, as contradistinguished from courts of common law. And whether there were or not, in the several states, courts of equity proceeding according to such principles and usages, made no difference, according to the construction uniformly given by the supreme court. *Livingston v. Story*, 9 Peters, 632.

The provisions of the act of Congress of 1824, relative to the practice of the courts of the United States in Louisiana, contain the descriptive term civil actions, which embrace cases at law and in equity; and may be fairly construed as used in contradistinction to criminal causes. They apply equally to cases in equity; and if there are any laws in Louisiana directing the mode of proceeding in equity causes, they are adopted by that act, and will govern the practice in the courts of the United States. *Ibid.*

Under the law of Louisiana, there are two kinds of pledges, the pawn and the antichresis. A thing is said to be pawned, when a movable is given as a security; the antichresis consists of immovables. *Livingston v. Story*, 11 Peters, 351.

L. conveyed, in 1822, in fee simple, to F. and S., certain real estate in New Orleans, by deed, for

Preamble. made at Paris, on the thirtieth day of April, one thousand eight hundred and three, between the United States and France, contained within the following limits, that is to say: beginning at the mouth of the river Sabine; thence, by a line to be drawn along the middle of said river, including all islands to the thirty-second degree of latitude; thence, due north, to the northernmost part of the thirty-third degree of north latitude; thence, along the said parallel of latitude, to the river Mississippi; thence, down the said river, to the river Iberville; and from thence, along the middle of the said river, and lakes Maurepas and Ponchartrain, to the gulf of Mexico; thence, bounded by the said gulf, to the place of beginning, including all islands within three leagues of the coast; did, on the twenty-second day of January, one thousand eight hundred and twelve, form for themselves a constitution and state government, and give to the said state the name of the state of Louisiana, in pursuance of an act of Congress, entitled "An act to enable the people of the territory of Orleans to form a constitution and state government, and for the admission of the said state into the Union, on an equal footing with the original states, and for other purposes:" And the

1812, ch. 57.

Act of Feb. 20,
1811, ch. 21.

a sum of money paid to him, and took from them a counter-letter, signed by them; by which it was agreed, that on the payment of a sum stated in it, on a day stated, the property should be reconveyed by them to L.; and if not so paid, the property should be sold by an auctioneer; and, after repaying, out of the proceeds, the sum mentioned in the counter-letter, the balance should be paid to L. The money was not paid on the day appointed, and a further time was given for its payment, with additional interest and charges; and if not paid at the expiration of the time, it should be sold by an auctioneer. An agreement was at the same time made by L., that the counter-letter should be delivered up to F. and S., and cancelled. The money not being paid, it was again agreed between the parties, that if on a subsequent day fixed upon, it should not, with an additional amount for interest, &c., be paid, the property should belong absolutely to F. and S. The money was not paid, and F. and S. afterwards held the property as their own. The supreme court held this transaction to be an antichresis, according to the civil code of Louisiana; and on a bill filed in the district court of the United States, for the eastern district of Louisiana, in 1832, decreed that the rents and profits of the estate should be accounted for by S., who had become the sole owner of the property by purchase of F.'s moiety, and that the property should be sold by an auctioneer, unless the balance due S., after charging the sum due at the time last agreed upon for the payment of the money, and legal interest, with all the expenses of the estate, deducting the rents and profits, should be paid to S.; and on payment of the balance due S., the residue should be paid to the legal representative of L. *Ibid.*

The antichresis must be reduced to writing. The creditor acquires by this contract, the right of reaping the fruits, or other rewards of the immovables given to him in pledge, on condition of deducting, annually, their proceeds from the interest, if any be due to him, and afterwards from the principal of his debt. The creditor is bound, unless the contrary is agreed on, to pay the taxes, as well as the annual charges of the property given to him in pledge. He is likewise bound, under the penalty of damages, to provide for the keeping and necessary repairs of the pledged estate; and may lay out, from the revenues of the estate, sufficient for such expenses. *Ibid.*

The creditor does not become proprietor of the pledged immovables, by the failure of payment at the stated time; any clause to the contrary is null: and in that case, it is only lawful for him to sue his debtor before the court, in order to obtain a sentence against him, and to cause the objects which have been put into his hands, to be seized and sold. *Ibid.*

The debtor cannot, before the full payment of his debt, claim the enjoyment of the immovables which he has given in pledge; but the creditor, who wishes to free himself from the obligations under the antichresis, may always, unless he has renounced this right, compel the debtor to retake the enjoyment of his immovables. *Ibid.*

The doctrine of prescription, under the civil law, does not apply to this case, which is one of pledge; and if it does, the time before the institution of this suit had not elapsed, in which, by the law of Louisiana, a person may sue for immovable property. *Ibid.*

By the contract of antichresis, the possession of the property is transferred to the person advancing the money. In case of failure to pay, the property is to be sold by judicial process: and the sum which it may bring, over the amount for which it was pledged, is to be paid to the person making the pledge. *Ibid.*

If any rule has been made by the district court of Louisiana, abolishing chancery practice in that court, it is a violation of those rules which the supreme court of the United States has passed to regulate the courts of equity of the United States. Those rules are as obligatory on the courts of the United States in Louisiana, as they are upon all other courts of the United States; and the only modifications or additions which can be made by the circuit or district courts, are such as shall not be inconsistent with the rules prescribed. When the rules prescribed by the supreme court do not apply, the practice of the circuit and district courts shall be regulated by the practice of the high court of chancery in England. *Story v. Livingston*, 13 Peters, 359.

The supreme court has said, upon more than one occasion, after mature deliberation upon able arguments of distinguished counsel against it, that the courts of the United States in Louisiana, possess equity powers under the constitution and laws of the United States. That if there are any laws in Louisiana, directing the mode of procedure in equity causes, they are adopted by the act of 26th May, 1829; and will govern the practice in the courts of the United States. But if there are no laws regulating the practice in any equity causes, the rules of chancery practice in Louisiana, mean the rules prescribed by the supreme court, for the government of the courts of the United States, under the act of Congress of May 8, 1792, chap. 36, sec. 2. *Ibid.*

said constitution having been transmitted to Congress, and by them being hereby approved; therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said state shall be one, and is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original states, in all respects whatever, by the name and title of the state of Louisiana: *Provided,* that it shall be taken as a condition upon which the said state is incorporated in the Union, that the river Mississippi, and the navigable rivers and waters leading into the same, and into the gulf of Mexico, shall be common highways, and for ever free, as well to the inhabitants of the said state as to the inhabitants of other states and the territories of the United States, without any tax, duty, impost or toll therefor, imposed by the said state; and that the above condition, and also all other the conditions and terms contained in the third section of the act, the title whereof is herein before recited, shall be considered, deemed and taken, fundamental conditions and terms, upon which the said state is incorporated in the Union.

Sec. 2. And be it further enacted, That until the next general census and apportionment of representatives, the said state shall be entitled to one representative in the House of Representatives of the United States; and that all the laws of the United States, not locally inapplicable, shall be extended to the said state, and shall have the same force and effect within the same, as elsewhere within the United States.

Sec. 3. And be it further enacted, That the said state, together with the residue of that portion of country which was comprehended within the territory of Orleans, as constituted by the act, entitled "An act erecting Louisiana into two territories, and providing for the temporary government thereof," shall be one district, and be called the Louisiana district; and there shall be established in the said district, a district court, to consist of one judge, who shall reside therein, and be called the district judge; and there shall be, annually, four stated sessions of the said court held at the city of Orleans; the first to commence on the third Monday in July next, and the three other sessions progressively, on the third Monday of every third calendar month thereafter. The said judge shall, in all things, have and exercise the same jurisdiction and powers which, by the act, the title whereof is in this section recited, were given to the district judge of the territory of Orleans; and he shall be allowed an annual compensation of three thousand dollars, to be paid quarter yearly at the treasury of the United States. The said judge shall appoint a clerk of the said court, who shall reside, and keep the records of the court, in the city of Orleans, and shall receive for the services performed by him, the same fees heretofore allowed to the clerk of the Orleans territory.

Sec. 4. And be it further enacted, That there shall be appointed in the said district, a person learned in the law, to act as attorney for the United States, who shall, in addition to his stated fees, be paid six hundred dollars, annually, as a full compensation for all extra services. There shall also be appointed a marshal for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees to which marshals in other districts are entitled for similar services; and shall, moreover, be paid two hundred dollars, annually, as a compensation for all extra services.

Sec. 5. And be it further enacted, That nothing in this act shall be construed to repeal the fourth section of an act, entitled "An act for laying and collecting duties on imports and tonnage within the territories ceded to the United States, by the treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and

Louisiana to be admitted into the Union, as an independent state.

Proviso.

Act of April 14, 1812, ch. 57.

To have one representative in the House of Representatives till otherwise provided.

Laws of the United States to be in force there.

Louisiana made a judicial district.

Act of March 26, 1804, ch. 38.

Terms of the court.

Salary of the judges, &c. &c.

Attorney to be appointed.

Marshal also.

Salary of the marshal.

This act not to produce the repeal of a former one. 1804, ch. 13.

the French republic; and for other purposes;" and that the collection district shall be and remain as thereby established.

SEC. 6. *And be it further enacted*, That this act shall commence and be in force from and after the thirtieth day of April, eighteen hundred and twelve.

APPROVED, April 8, 1812.

STATUTE I.

April 8, 1812.

CHAP. LIII.—*An Act in addition to the act entitled "An act to raise an additional military force," passed January the eleventh, one thousand eight hundred and twelve.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he hereby is empowered to cause to be enlisted for the term of eighteen months, unless sooner discharged, such part of the light dragoons, artillery and infantry, authorized by the act, entitled "An act to raise an additional military force," as he may deem expedient: *Provided*, the whole number, so to be enlisted for eighteen months, shall not exceed fifteen thousand, any thing in the said recited act to the contrary notwithstanding.

Act of Jan. 11, 1812, ch. 14.

SEC. 2. *And be it further enacted*, That the non-commissioned officers, musicians and privates, so to be enlisted, shall be entitled to the bounty of sixteen dollars, and the same pay, clothing and rations, the same provisions for wounds or disabilities, and to all other allowances (the bounty in land excepted) provided by the said before recited act, for the non-commissioned officers, musicians and privates, who may be raised under the same, and shall be held to perform the same duties, and be subject to the same rules and regulations.

APPROVED, April 8, 1812.

STATUTE I.

April 10, 1812.

CHAP. LIV.—*An Act for the relief of the officers and soldiers who served in the late campaign on the Wabash.*

Officers and soldiers to receive compensation as allowed to militia called into actual service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the officers, according to the rank assigned them by Governor Harrison, and which they held on the seventh day of November, one thousand eight hundred and eleven, the non-commissioned officers and soldiers of the volunteers and militia, and the legal representatives of those who were killed or died of their wounds, composing the army that served in the late campaign on the Wabash against the hostile Indians, shall receive the same compensation which is allowed by law to the militia of the United States when called into the actual service of the United States.

Pensions to wounded officers and soldiers and to the families of such as were killed.

SEC. 2. *And be it further enacted*, That the officers, according to the rank which they held as aforesaid, the non-commissioned officers and soldiers, of the volunteers or militia, who served in the said campaign, and who were killed or died of wounds received in said service, leaving a widow, or if no widow, shall have left a child or children, under the age of sixteen years, such widow, or if no widow, such child or children, shall be entitled to, and receive the half of the monthly pay to which the deceased was entitled at the time of his death, or receiving the wound of which he died, for and during the term of five years; and in case of the death or intermarriage of such widow, before the expiration of the term of five years, the half pay, for the remainder of the term, shall go to the child or children of such deceased officer or soldier, whilst under the age of sixteen years; and in like manner the allowance to the child or children of such deceased, where there is no widow shall be paid no longer than while there is a child or children under the

In case of death or marriage of widow, half pension to go to children under sixteen years.