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9 June, 1882.
EXTRATERRITORIALITY.

A LETTER

FROM

THE SECRETARY OF STATE

TO

THE CHAIRMAN OF THE SENATE COMMITTEE ON FOREIGN RELATIONS

CONCERNING

THE JUDICIAL EXERCISE OF EXTRATERRITORIAL RIGHTS CONFERRED UPON THE UNITED STATES.

APRIL 29, 1882.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1882.
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[Signature]

J. C. Bannister, D.D.
Washington, D.C.
LETTER

FROM

THE SECRETARY OF STATE,

ADRESSED TO HON. WM. WINDOM, CHAIRMAN COMMITTEE ON FOREIGN RELATIONS,

AND OTHER PAPERS,

Relative to the exercise of judicial extraterritorial rights conferred upon the United States.

MAY 4, 1882.—Referred to the Committee on Foreign Relations and ordered to be printed, to accompany bill S. 1898.

DEPARTMENT OF STATE,
Washington, April 29, 1882.

HON. WILLIAM WINDOM,
Chairman Committee on Foreign Relations, United States Senate:

SIR: In reply to your note of the 28th March last, I have the honor to lay before you some suggestions respecting amendments to existing laws regulating the exercise of judicial extraterritorial rights conferred upon the United States, together with a draft for legislation which it is supposed may carry out such suggestions. For convenience, I divide what I have to say into separate subjects, with distinct headings.

1.—WHAT IS EXTRATERRITORIALITY?

I can best show what extraterritoriality is by quoting the language of the British act (6 & 7 Victoria, Chap. XCIV; see Appendix IV) conferring power to exercise it. The act says—

That it is and shall be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty now hath or may at any time hereafter have within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory.

The national sovereignty and law is transferred bodily into a foreign soil, and made applicable to citizens or subjects of its own nationality dwelling there. It regulates their rights as between themselves, and as between themselves and natives, absolutely. As between them and resident foreigners of other nationalities, it would regulate their rights absolutely but for the fact that the different settlements of the Christian nationalities generally live together, and make mutual concessions to each other, sometimes by custom, and sometimes by written agreements.
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2. ITS NECESSITY.

As part of the public law of Europe, it took its rise in the conflict between Islamism and the principles of the Roman law. After the Greek Empire fell, its commerce with the West remained. The Christian traders of foreign nationalities claimed and obtained the right to be exempt from the rules of the Koran, and to be governed by their own laws derived from Rome. How far removed the Koran was and is from our own principles for the administration of justice may be gathered from the following extracts from a recent dispatch from our minister at Constantinople:

The rule of the "sacred law" making Christians incompetent as witnesses against Turks is one of the marvels of Mussulman jurisprudence. Hearing that such a rule actually existed I had Mr. —— look up the volume containing the law upon the subject, and he has it now in possession. I take the liberty of quoting from it points of plainest application. * * * Thus, in the category of the inadmissible (as witnesses), I find the following: Players of backgammon, though chess-players are admissible under certain conditions; such as that they do not spend all their time at the game, that they do not play for money, and that they fail not in their times of prayer on account of the game. So, wine-drinkers and pork-eaters, because of the prohibition in the Koran; so of those who eat bread in the streets; so of those who utter blasphemies against Mahomet and his disciples; so of those who make water standing, because in doing so the urine may spatter upon their legs and they be made unclean, so that they cannot go into a mosque for prayers; so, Jews may testify against Christians, and Christians against Jews, and foreigners against non-Mussulmans; but under this permission is couched the prohibition forbidding any of them testifying against a Mussulman. So, the testimony of a woman counts for but half; that is to say, two women are required to make one witness. You will see the full force of these canons when I remark that if objection be made to a witness the objection shall be justified. Suppose a Christian called to testify against a Turk in a Mussulman court, and his counsel put in question: If he does not play backgammon; if he does not drink wine or eat pork; if he does not eat bread in the streets; if he have not uttered blasphemy against the prophet or his disciples; still how shall he swear that he never makes water standing? Or suppose the case of an outrage upon a Christian woman, and no witness but herself.

The rights thus obtained from Turkey (originally for the French, from which fact all Europeans were termed Franks) have been extended by subsequent "capitulations" and treaties, and devolve upon citizens of the United States by a treaty which confesses it in words as we understand it. But as the English text is disputed by the Turks it comes to us also by the favored-nation clause; so that in any event, as the matter is viewed by the Department of State, there is no reasonable question of our right of extraterritorial jurisdiction in the Ottoman Dominions over Americans charged with the commission of crimes.

The same rights have been obtained in Persia, China, Japan, Siam, and other nations, and for like reasons. The civilization of the Christian countries of Europe rests upon the equitable principles of Roman law, which through all changes have permeated and influenced their institutions. In Turkey these principles were uprooted, and in China, and Japan, &c., they never took root at all. In a memorandum inclosed by Mr. George F. Seward in his dispatch No. 565, dated November 18, 1870 (see Foreign Relations, 1880, page 155), it is said:

There can be no doubt that the state of the Chinese judicial establishment, as it affects foreigners, is unsatisfactory. No code of procedure, worthy to be called such, exists. The magistrates, secretaries, and constables are often corrupt. Judgments are secured only after a great deal of exertion, and persistent efforts have to be made to secure their execution.

And again, page 159:

Scattered through the various reports are allegations that offenders who are sent to the district magistrate for trial generally appear upon the streets in a day or two, and
that those who are sentenced by the mixed court magistrate to the bamboo, the
canoe or confinement, frequently evade the punishment to which they have been
sentenced. In civil matters the payment of judgments is generally sought to be en-
forced by imprisonment, but judgment debtors are not held if they fall ill, and whether
as the result of the very bad sanitary condition of the prison, or of "mild poisons taken
for the purpose," they often fall ill and escape further difficulty.

I venture to think that the weight of testimony establishes that it is
absolutely necessary that the rights which we enjoy in this respect
should be preserved, and carefully and vigorously enforced.

3.—Legislation to Enforce It.

Turkey has "capitulations" with France, Great Britain, Holland,
Austria, Russia, Sweden, Denmark, Germany, Spain, Italy (Sardinia),
Belgium, Portugal, Greece, Brazil, and the United States; and China,
Japan, Persia, Siam, &c., have treaties with many or all of these pow-
ers. I have not the means in the Department for stating to the com-
mittee the character of all the legislation enacted to exercise the rights
conferred by these capitulations and treaties. If I had, it would be
manifestly undesirable to weary the committee by stating it. It will
be sufficient to compare the legislation of France, Great Britain, and
the United States with each other. An examination of this compara-
tive legislation will probably be sufficient to satisfy the committee how
far the American in these foreign colonies fails to receive from his gov-
ernment the protection which is accorded to other foreigners.

In estimating this it should also be borne in mind that these colonists,
of different nationalities and living under different laws, generally form
but one community, grouped together in one settlement, or concession,
and frequently combining together, as will be seen hereafter, for munici-
pal organization and government, but living apart so far as concerns
their persons and their property.

4.—The French System.

The civil jurisdiction of the French consuls in the Turkish Empire
and the Barbary States is still exercised in conformity with the provi-
sions of the royal edict of June, 1778. I inclose a translation of so much
of this edict as relates to civil jurisdiction. (See Appendix I.)

The fundamental principle in this edict is that French laws, then
existing or that might thereafter be enacted, were to be in force in and to
govern the consular courts. This principle has been followed in the
American statutes, in the British statutes and orders in council, and in
the Italian laws. In Great Britain, Italy, and France it operates to
extend their whole system of civil and general municipal law over the
consulate and the colonies under their protection. In the case of the
United States the act only extends to Federal legislation. This is,
however, supplemented by extending also the provisions of equity and
admiralty. Even with these provisions inserted, the American colonies
enjoy the protection of a much narrower system of laws than the colo-

nies of France and Great Britain.

The forms of pleading and of procedure are to be adapted to those used
in France, with a proviso that only the most simple and summary ways
are to be adopted. The Sardinian law goes further than the French in
providing that no nullity for mere matter of form shall be admitted,
unless it leaves absolute uncertainty as to persons or subject of the
suit.
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The subjects which are justiciable are all subjects of litigation, whatever may be their nature, arising between French merchants, sailors, and others within the limits of the consulate. Thus it was held in the appellate court at Aix, the question of competence being raised, that the management of the estate of a minor was within the jurisdiction of the tribunal; and the jurisdiction has been sustained by that court, when questioned, not only on personal matters affecting the execution of contracts, but on contentions respecting hiring of real estate, the settlement and division of estates, or of partnership, adoption of children, validity of marriages, easement on real estate, actions for specific performance of agreements to sell real estate, and the validity of seizures. These examples, selected from adjudicated and reported cases, show how wide is the jurisdiction conferred by France on the consulate.

The persons justiciable in these courts must be French citizens or persons under French protection, residing within the limits of the consulate. It is not enough that the person is there temporarily. But this applies only to the defendants. A person of a different nationality may sue in a French court, as plaintiff, if the defendant is justiciable. This seems to have been many times decided by the courts at Aix.

The court consists of the consul and two assistants, called assessors. These assessors, originally only counselors (amici curiae), have now a vote in rendering the judgment, but the judgment itself is rendered by the consul.

The edict makes provision for a "greffier," a "huissier," a "notaire," and the other usual officers of a French tribunal. It also provides generally for the conduct of trials and the entry of judgment and the mode of enforcing it. These judgments may be enforced anywhere within French jurisdiction in the same manner as judgments rendered by other tribunals. It has further been held by the French courts that the same provision of the edict empowers a consul to enforce, within his territorial jurisdiction, judgments of all French courts. All these powers extend to arrest and imprisonment when warranted by French law.

The appeal in all the French consular courts in the Mediterranean is to the court at Aix, in Provence, which takes the place of the Parliament of Aix, named in the edict of 1778. Although the edict names no period within which the appeal shall be taken, it is held by the courts that proceedings in this respect must follow the rules in the code for appeals from the courts of the first instance in France. The same rule prevails as to costs. The judgment of the appellate court may be again reviewed by the Cour de Cassation, if under like circumstances an ordinary judgment could be reviewed by it.

Vice-consuls or other inferior consular officers, in the absence of consuls, are to act for them, with full powers.

The criminal jurisdiction of French consuls is regulated by the provisions of the act of May 28, 1836. (See Appendix II.) In a circular from the ministry of foreign affairs of July 13, 1836, it is said:

This law is not confined to filling the gap which existed in our legislation. It reproduces, with some useful modifications, all the articles of the edict of 1778 which were capable of being continued. It determines the forms of procedure, and gives to the accused guarantees conformable to the general spirit of our legislation. It confers upon consuls alone the final judgment of misdemeanors (contrevenions), and upon consular tribunals the double duty of performing the functions which appertain in our courts to "Chambres de conseil," and to sit in judgment upon every kind of crime in the first instance. It provides for an appellate tribunal in France for appeals against judgments rendered in the Levant, in correctional matters and for crimes. In fine, it indicates the punishment applicable to every kind of crimes, whether felonies or misdemeanors, the mode of review or appeal, as well as the rights and duties of consuls and the ministry.
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This full official statement of the purposes and character of the law makes it unnecessary to say more on that point.

The law applies to persons under French protection, as well as to Frenchmen. The offender must be tried in the consular district in which the offense was committed. Consequently it was held that an offender taken in another district must be returned for trial to the consul of the district in which he committed the offense.

As in civil cases, so here, the consul is to be assisted by two laymen chosen by him from the “notables” who reside within his district. These “notables” are to be selected by the consul annually, to serve for a year.

By the act of July 8, 1832 (see Appendix III), it is provided that disputes in civil and commercial matters arising in China between Frenchmen shall be adjudicated in consular tribunals according to the provisions of the edict of June, 1778. A court of appeals was established at Pondicherry to exercise the appellate jurisdiction enjoyed by the court at Aix as to the consulates in the Levant and the Barbary States. The provisions of the law of 1836 as to offenses, with some exceptions, were by the same act extended to China.

The same act provided for consular jurisdiction in Muscat, the appellate court being in the French colony on the Island of Réunion and the tribunal of St. Denis.

Subsequent laws have also extended this jurisdiction to the French citizens in Persia, in Siam, in Japan, &c.

5.—THE BRITISH SYSTEM.

The act of August 24, 1843, 6 & 7 Victoria, Chap. XCIV (see Appendix IV), provides: 1st. That the power or jurisdiction acquired by the British sovereign out of British dominions shall be held in the same and as ample a manner as if the sovereign had acquired such power or jurisdiction by the cession or conquest of territory; 2d. That acts done in pursuance of such power in a country or place out of British dominions shall be deemed in all courts and elsewhere in British dominions as valid as if done according to local law in force in such country or place. The act also authorized the sending of a person charged in such country or place with crime to a British colony for trial, and made provision for the taking of material evidence by deposition in such case, and for the use of the depositions on the trial. There are other provisions of this act which it is not necessary to notice.

On the 24th October, 1843, by an order in council, it was ordered that the British ambassadors, ministers, chargés d'affaires, consuls-general, consuls, and vice-consuls, resident within the Ottoman dominions, being British subjects, should continue to exercise the power and jurisdiction which they had been in the habit of exercising, until further orders.

On the 19th June, 1844, this order was revoked and a new one issued, whereby it was provided that any act which, when done in British dominions, would render the doer subject to punishment, should be considered criminal to the same extent when done by British subjects in the Ottoman dominions, and power was conferred upon the British consular service in those dominions to hear, adjudge, and punish offenders. Light offenses, meriting a punishment of imprisonment not exceeding three months or fine not exceeding one hundred dollars, could be heard by the consul alone. For more serious offenses he was required to summon in two or four British subjects as assessors.

During the same year a series of ordinances was issued by the gov-
ernment of the British colony of Hong-Kong as "superintendent of the trade of Her Majesty's subjects in China." One of these ordinances was "to give judicial authority to Her Britannic Majesty's consuls within the dominions of the Emperor of China."

In 1817 an order in council, dated 24th April, made further provisions respecting proceedings against offenders charged with committing the crimes of arson, house-breaking, cutting or maiming, stabbing, or assault endangering life, within the Ottoman dominions.

In 1857, great changes were again made by an order in council, dated 27th August. Jurisdiction was taken away from the consul-general and conferred upon a person to be specifically commissioned and entitled "the Judge of the Supreme Consular Court of Constantinople." This court was given an original jurisdiction, and also appellate jurisdiction. As a court of original jurisdiction, it could hear and determine all criminal charges except when the offense charged was a capital one. In those cases it could send the prisoner to an English settlement for trial, binding British subjects to appear as witnesses, and taking written evidence from persons not British subjects. Misdemeanors could be examined and disposed of without a jury. All higher offenses were to be tried with the aid of a jury of six indifferent British subjects. In civil suits, full power was given to make rules of practice. Power was given to institute and prosecute proceedings in bankruptcy and insolvency. Appeals could be taken from civil judgments to the Privy Council for judgments to the amount of £1,000 and upwards.

On November 30, 1864, all previous orders were revised and put into the form in which substantially they now remain. [See Appendix V.]

This last order in council creates a court styled "Her Britannic Majesty's Supreme Consular Court for the Dominions of the Sublime Ottoman Porte," with its chief place of sitting in Constantinople. The sole judge of this court is the consul-general for the time being, with power in his absence to depute his authority. In addition there is in each consular district a court for the district styled "Her Britannic Majesty's Consular Court at ______," of which the local consul is judge. In every district a jury list is made out once a year from qualified British subjects, and in trials where juries are had the jury is to consist of five. Provisions are made, also, for summoning assessors. Within the district of the consul-general at Constantinople all jurisdiction is vested in the supreme court. In the consular districts primary jurisdiction is vested in the consular courts, with appellate jurisdiction in the supreme court. The order in the appendix indicates the lines of these powers with precision, and also when trials are to be had by jury, and when by assessors. Reference is made to it for more particular information.

Paragraph 7 and paragraphs 39 to 46, inclusive, are more especially occupied with the civil jurisdiction of these courts. Particular attention is invited to these provisions. It will be seen that they make the tribunals courts of law and equity, with all the jurisdiction legal, equitable, or other, which any British consul by custom has or may exercise in Ottoman dominion; that all are made courts of bankruptcy, courts of vice-admiralty, and courts of probate; and that the supreme court has jurisdiction over persons of unsound mind and their estates; that it is made a court for matrimonial causes, but without jurisdiction for granting divorces, and that all the jurisdiction is to be exercised in conformity with the common law, the rules of equity, the statute law, and other law for the time being in force in and for England. Power is also given to make rules for the conduct of all this business. And in order
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to know who are entitled to the privileges of the act and to assist in forming the jury lists, provision is made for the registry of British subjects residing in the Ottoman dominions.

The criminal jurisdiction of these courts, defined in paragraphs 6, 7, 8, and 9, is as broad as the criminal jurisdiction of the courts of England. They also have jurisdiction over offenses against the capitulations, against the articles of peace, against treaties between Great Britain and Turkey, and against any rules and regulations properly made for the observance thereof, or for the maintenance of order among British subjects in the Ottoman dominions. The power of imposing punishments is regulated by paragraph 62. The courts are to have regard, as far as circumstances admit, to the punishments imposed by the law of England in like cases. The detailed provisions for proceedings, what cases may be disposed of without juries, in which case the jurisdiction of the district court is final, when appeals may be taken, what steps are necessary in capital cases, &c., all will be found minutely stated in the order.

Another order in council of the 9th of March, 1865, provided "for the better government of Her Majesty's subjects in the dominions of the Emperor of China and the Tycoon of Japan." In its main features this order is so like the last, and it is so long (filling thirty-eight pages of the British and Foreign State Papers for 1864-5, vol. iv., pages 138-174) that it is not deemed necessary to send it to the committee in full.

The general jurisdiction conferred upon the courts is substantially the same as that conferred upon courts in Turkey. This is to be exercised by a supreme court to be styled "Her Britannic Majesty's Supreme Court for China and Japan," and by "Provincial Courts." The supreme court consists of one judge, an assistant judge, a law secretary, and as many officers and clerks as may be necessary. It sits at Shanghai, exercising exclusive jurisdiction within the Shanghai consulate district, and appellate jurisdiction over the judicial action of the provincial courts. The assistant judge and the law secretary seem to be authorized to hear and determine causes in the Shanghai district, within the original jurisdiction of the court, when specially empowered. The same court possesses extraordinary original jurisdiction throughout China and Japan, concurrent with the jurisdiction exercised by provincial courts. The provincial courts are held by the consuls-general, consuls, and vice-consuls within their respective consular districts. The provisions as to jurors, assessors, modes of proceeding, registration, &c., are in the main like those in the order respecting the Ottoman dominions.

Great Britain, like the United States, has rights of extraterritoriality in many other places. The jurisdiction is provided for in each case by an order in council, and is exercised through a consul. In regard to Madagascar, for instance, the order was made on the 4th of February, 1869. (See British and Foreign State Papers, 1868-9, vol. lix, page 1346.) The general provision respecting civil jurisdiction (sec. 6) is that "all suits, disputes, differences and causes of litigation, of a civil nature, arising between British subjects within the dominions of the Queen of Madagascar, shall be heard and determined by Her Majesty's consul, who shall be the sole judge and arbiter thereof respectively; subject, nevertheless to an appeal against the decision of the consul therein to the supreme court of the Mauritius, in cases where the sum or matter at issue is of the amount or value of 200 dollars or upwards"; with a further provision (sec. 7) as to assessors when the amount in dispute exceeds five hundred dollars.

The extent of the jurisdiction of crimes is regulated by the order
(sec. 22) that, except offenses against the treaty with Madagascar and the regulations for enforcing it, "no act done by a British subject within the dominions of the said Queen shall by Her Majesty's consul be deemed and taken to be a crime or misdemeanor, or offense rendering the person committing it amenable to punishment, which, if done within any part of Her Majesty's dominions, would not by a court of justice having criminal jurisdiction in Her Majesty's dominions have been deemed and taken to be a crime, a misdemeanor or offense, rendering the person committing it amenable to punishment."

In China the British minister is empowered to make "regulations" having the force of law, for the peace, order, and good government of the British colonies, and for securing the observance of the stipulations of the treaties, and for maintaining friendly relations between British and Chinese subjects. (See Appendix VI.) These regulations may be made for the whole of China or for one or more of the consular districts. They may be made alone or jointly with representatives of other powers when they concern municipal government. But such regulations must be submitted to and approved by the home government.

The recent order in council, last cited, also makes regulations for China and Japan with regard to prison regulations, to the registration or record of mortgages of real estate, to bills of sale with or without defeasance or trust, to suits by and against partners, to suits by and against foreigners (i.e., citizens or subjects of foreign countries with which Great Britain is at peace), and with reference to Chinese, Japanese, or foreign tribunals.

In China, Japan, and Turkey a British consul, on the arrest of a person charged with the commission of a crime within another consular district, may either proceed to examine, try, and punish the offender as if the crime had been committed in his own district, or may, on the requisition of the consul of the district within which the crime was committed, send him in custody to that court or require him to give security for his appearance there.

6.—The American System.

The first act conferring such judicial powers upon the consuls of the United States was enacted August 11, 1848, and was entitled "An act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to ministers and consuls of the United States in those countries." (9 Statutes at Large, 276.)

The jurisdiction in regard to civil matters conferred by this act included authority to execute the provisions of the treaty, whether in regard to persons or property, and jurisdiction over matters of contract, and over all controversies between citizens of the United States and others provided for by the treaty.

The jurisdiction over criminal offenses included the power to arraign and try in the manner provided in the law all citizens of the United States charged with offenses against law, committed in the dominions of China (including Macao) and the Ottoman dominions.

As to both classes, the jurisdiction was to be exercised in conformity with the laws of the United States, so far as applicable; and the common law, so far as necessary to supply defects, was extended over all citizens of the United States in those countries; and the diplomatic representatives of the United States were further authorized to supply by decrees and regulations any further defects.
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The Department of State, unwilling to assume an arbitrary and almost unlimited power of legislation, has construed the power thus conferred upon the diplomatic representatives as remedial; as it is said in the consular regulations (edition of 1881, paragraph 612):

The authority conferred by the statute is defined to be a judicial authority. The minister is required to execute the power in conformity with the laws of the United States, with authority to supply defects and deficiencies in two cases only: 1. Where those laws are not adapted to the exercise of the judicial authority conferred by the statute; 2. Where they are deficient in the provisions to furnish suitable remedies. In each of these contingencies the minister has authority to make regulations in order "to furnish suitable and appropriate remedies," and for no other purpose whatever.

It is manifest that the act of 1848 was far below the necessities of an American community in a country like China. The act of June 22, 1860 (see 12 Statutes at Large, page 72), undertook to remedy the defects. It extended not only the common law, but equity and admiralty, over American citizens in those countries. In other respects it improved the working of the law of 1848, as for example, in section 8, by limiting the amount of a fine for contempt; in section 9, by making a provision for rules to regulate appeals; in section 10, by providing for a permanent list of assessors, or assessants; by inserting section 18, conferring authority to settle criminal cases not of an aggravated character; in section 21, providing for the exercise in Turkey of civil jurisdiction when warranted by usages in its intercourse with other powers, and in section 22, by providing for the performance of a minister's duties in his absence by a consul-general or consul. It also extended the provisions of the act to Persia, Japan, the Barbary States, and Siam, and generally to all uncivilized countries in which we may obtain extraterritorial rights; made provision for officers for the court and prisoners, and, finally, provided a mode by which marriages of Americans in those countries might be solemnized in the presence of our consular officers and attested by them.

By the act of July 1, 1870 (see 16 Statutes at Large, page 183), appeals from final judgments of ministers in Japan or China were given in criminal cases, and in civil cases where the matter in dispute exceeded $2,500 exclusive of costs to the district court in California, and some further provisions were made as to officers of courts and as to prisoners.

These several provisions are substantially embodied in the Revised Statutes, sections 4083 to 4130, inclusive. The power conferred upon diplomatic representatives to make regulations has been exercised as follows: In the case of China, by Commissioner Davis, communicated to Congress by President Fillmore September 9, 1850 (see Senate Executive Document No. 72, first session Thirty-first Congress); by Chargé d'Affaires Parker, communicated to Congress by President Fillmore March 1, 1852 (see Senate Executive Document No. 43, first session Thirty-second Congress); by Commissioner McLane, communicated to Congress by President Pierce February 25, 1856 (see House Executive Document No. 32, first session Thirty-fourth Congress); by the same commissioner, communicated to Congress by President Pierce July 15, 1856 (see House Executive Document No. 125, first session Thirty-fourth Congress); by Commissioner Parker, communicated to Congress by President Pierce December 12, 1856 (see House Executive Document No. 11, third session Thirty-fourth Congress); by the same commissioner, communicated to Congress by President Buchanan December 10, 1857 (see House Executive Document No. 9, first session Thirty-fifth Congress); by Minister Reed, communicated to Congress by President Buchanan December 27, 1858 (see House Executive Docu-
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ment No. 11, second session Thirty-fifth Congress); by Chargé d'Affaires Williams, communicated to Congress by President Buchanan February 6, 1860 (see Senate Executive Document No. 7, first session Thirty-sixth Congress); by Minister Burlingame, communicated to Congress by President Johnson, with his annual message, December, 1865 (see Diplomatic Correspondence 1865, vol. 2, page 413); by Chargé d'Affaires Williams, communicated to Congress by President Johnson January 26, 1869 (see Senate Executive Document No. 34, third session Fortieth Congress). I inclose a copy of the regulations as they now exist (see Appendix VII).

In the case of Turkey, by Minister Morris, communicated to Congress by President Lincoln January 22, 1863. (See Appendix VIII.)

In the case of Japan, by Minister De Long, communicated to Congress by President Grant January 27, 1871. (See Appendix IX.)

If the lawyers of the committee or the Senate will look at the several documents I have referred to respecting regulations for China, they will see how uncertain it is what are and what are not in force. If they will compare the Turkish, the Chinese, and the Japanese regulations (all of which form part of this paper), they will become aware of the want of uniformity or rather the great divergency in practice caused by permitting these regulations to be shaped from time to time by lawyers trained in different schools. All this may have been well enough when our interests were small and the number of persons to be affected much less than now. But the time has come when, with our interests in these countries magnified by the natural growth of our own country, and the American colonies there increased from those causes, and by the enormous increase in facilities of travel, we need more uniform and more complete and comprehensive laws than can be had under the present system.

7.—MUNICIPAL REGULATIONS.

Before explaining the changes in existing legislation, which the kindness of the committee permits me to suggest, it is necessary to take note of some cases in which the general jurisdiction conferred upon our consuls by treaty and legislation has been and is affected by common consent of all the treaty powers. Foremost among these are what are known as the municipal regulations.

In many of the settlements the foreigners of all nationalities reside in a portion of the town set apart for them. As population increased it became necessary to lay out and pave streets, to light them, to construct sewers, to organize a police, and in general to make the municipal regulations which are necessary for the government of such bodies. The manner in which this has been done can be illustrated by the history of the present foreign municipality in Shanghai.

After the opening of this port, the Chinese authorities set off to Great Britain a tract of about a mile square outside the walls for foreign occupation. As it was by far the most desirable point for settlement, this was soon occupied by settlers of all nationalities. At first it was maintained that British jurisdiction must be recognized; but this was resisted, and, finally, the British consul gave way. In 1854 a set of land regulations was agreed upon, which received the sanction of the consuls of Great Britain, the United States, and France. (See Senate Executive Document No. 22, second session, Thirty-fifth Congress, page 159.) The settlement continued to prosper, and need was developed for further municipal powers. In 1866 new regulations were made, which were communicated to Congress by the President, with his annual message,
in 1867. A copy of these regulations is annexed. (See Appendix X.) Particular attention is invited to the subjects regulated by the by-laws, and to the forty-first by-law conferring upon "the proper consular representative" jurisdiction to enforce them.

Regulations of a like character have been established, and are in force in other places in China and Japan. Their legality and the propriety of enforcing them upon citizens of the United States have been formally recognized by this Department. (Mr. Fish's instructions to Mr. Bingham, January 20, 1876, Appendix XL.)

In the Samoan Islands a similar jurisdiction is reposed in the American, German, and British consular representatives, jointly, by an agreement which has been recognized by the Department of State, although not formally regarded by either power as a treaty. (See Appendix XII.)

8.—Mixed Courts.

The fourth article of the treaty with Turkey provides that "if litigations and disputes should arise between the subjects of the Sublime Porte and citizens of the United States, the parties shall not be heard, nor shall judgment be pronounced unless the American dragoman be present." In practice a different course has been adopted. By an arrangement concluded by note between the Porte and the four ambassadors, mixed tribunals are held at the seat of every consulate in the empire in which each nationality may be represented where its citizens are concerned, and in them suits between foreigners or foreigners and natives are justiciable. The consuls make out lists of leading residents, or "notables," of their several nationalities, from which from time to time the selections are made. The French court of appeals at Aix has seemed disposed to regard the tribunals as having no legal basis. It is said that Great Britain, on the contrary, has recognized them in the orders in councils, but I have not been able to find the order.

In Egypt a mixed tribunal of more permanent and dignified character has been established by decree of the Khedive, and with the diplomatic consent of the leading powers. The United States are represented on this tribunal by three judges, commissioned by the Khedive on the nomination of the President and paid by the Egyptian Government.

The twenty-fourth article of the treaty of 1858 with China provides that—

Where there are debts due by subjects of China to citizens of the United States, the latter may seek redress in law; and, on suitable representations being made to the local authorities, through the consul, they will cause the examination in the premises, and take proper steps to compel satisfaction.

The twenty-eighth article of the same treaty provides that—

* * * if controversies arise between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations, acting in conjunction.

The practical construction given to these provisions is not the same in all parts of the empire. Thus, at Canton, it has been the custom to follow the direction of article 24 as to notice to the local authorities, and they have exercised the jurisdiction, giving the consul the right to be present. (Mr. Lincoln to Mr. Seward, Foreign Relations for 1879, page 221.) In Chin-Kiang such cases are tried before the consul, the Chinese having a right to have a native official sit with the consul. (Mr. Scruggs to same, ib. 222.) In Foochow they are tried by the consul and the local district magistrate. (Mr. De Lano to same, ib. 223.)
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In Hankow they are tried by the consul alone. (Mr. Shepard to same, \textit{Ib.} 224.) In Ningpo there is no mixed court. The nationality of the defendant determines the court, the American consul having the right to be present in the Chinese court. (Mr. Lord to same, \textit{Ib.} 226.) "The Chinese government has established a mixed tribunal, so-called, at Shanghai, in which suits against Chinese defendants brought by foreigners may be tried. This court is so constituted that the native magistrate decides all matters coming before him, and the foreign officer present acts only in the capacity of an assessor or assistant, for the purpose of securing a clear exposition of the facts and considerations upon which the foreign complainant relies." (Mr. George F. Seward to Mr. Evarts, Foreign Relations for 1880, page 150.)

As this class of tribunals is outside of treaties, it is not worth while to attempt to legislate about them, any farther than to give assent through the statute to the presence of an official representative of the United States. The want of uniformity is to be regretted; but this can be cured by harmonious executive action between the ministers of the United States and the native authorities. It cannot be reached by legislation.

9.—THE PROPOSED AMENDMENTS.

This résumé of the French and English legislation and of the subjects which require legislation leads up to the brief explanation of the accompanying bill (see Appendix XIV), to which, in closing this already too long note, I invite the attention of the committee.

The title adopts in principle the British definition of the places to which the legislation is to apply as "places out of the territory and dominion of the United States," and it also describes one of the objects of the legislation to be to amend the Revised Statutes from sections 4062 to 4130, inclusive.

The first section provides that the jurisdiction, so far as it is judicial, is to be exercised through courts which are to be courts of record.

The second, third, fourth, fifth, and sixth sections provide for courts in China and Japan.

The consuls are to hold consular courts as heretofore. In criminal matters these courts are to have the power of arresting offenders as heretofore, and summarily to try all offenders when the punishment is imprisonment not more than six (6) months, or fine not more than $300. With the exception of capital offenses, more aggravated offenses are to be tried in these courts with the help of a jury. In civil cases the original jurisdiction of these courts remains as at present, except that when more than $200 is involved either party may demand a jury, and that all causes in equity and admiralty are to be heard in a district court.

A district judge is to be appointed for China and for Japan. China is divided into three districts and Japan constitutes one. These courts have exclusive original jurisdiction in equity and admiralty, and original jurisdiction concurrently with consular courts in civil causes in which more than $500 is involved, and appellate jurisdiction for the consular courts in certain civil and criminal cases. The district courts, also, have exclusive jurisdiction in capital cases which are to be tried with juries, and sole power to issue writs of \textit{habeas corpus}.

The two judges sitting together with the consul-general for Yokohama form the supreme court for Japan, and with the consul-general for Shanghai the supreme court for China, each with appellate jurisdiction only.

Section 7 provides for proceedings in case of voluntary and involun-
tary insolvency in China and Japan. These proceedings relate solely to these countries. It is not supposed that the colonies or the business in other countries call for them.

Section 8 amends the Revised Statutes so as to make them conform to the principles of this bill. All judicial power is taken away from the ministers and left with the consuls. The only countries in which a minister of the United States now has judicial functions are China, Japan, and Turkey. In China and Japan the bill proposes to replace the minister with regularly organized courts. In Turkey, where the capitulations give us only criminal jurisdiction, it is believed that the system will work better by providing juries for capital and aggravated offenses, leaving the trial in all cases to the local consul. The principal change made in the present system of trials in all countries outside of China and Japan is the abolition of the system of assessors and the introduction of a jury system. The bill, as presented to the committee, and as the printer will be asked to print it, will show the statutes as they now are and the changes which are proposed, so that the committee may have before it the form and scope of every proposed amendment.

Section 9 relates to the limitations of real and personal actions in all the courts; section 10 to the right of aliens to sue in the courts established by the act; section 11 abolishes imprisonment for debt, and exempts from seizure or execution a limited amount of household furniture and other property.

Section 12 confers authority on consuls to take part in making municipal regulations, and to enforce them for the benefit of the municipality. Section 13 relates to mixed courts, authorizing consuls to participate in them. Section 14 authorizes consuls to issue process, and compel attendance of witnesses, whose evidence is needed in consular courts of other powers; and section 15 relates to depositions to be used in the courts of the United States, consular and otherwise.

Section 16 enacts a short statute of frauds with provisions validating chattel mortgages. The want of these laws is represented as one of the greatest evils under which the American colonies are suffering. Section 17 relates to marriages and divorces, and the rights of married women. Divorces a vinculo are allowed only for adultery committed in the country in which the court is situated. Marriages are allowed when not incestuous.

Section 18 relates to wills and their probate, and to the settlement of the estates of deceased persons, estates of minors, and the succession to personal property. As the permanent American colonies in these countries have enlarged, some provisions of this sort are essential. The same may be said of section 19, which provides for successions to real estate, and of section 20, which relates to partnerships, general and limited.

Section 21 is a jury law. It provides for a registry of persons qualified to be jurors and for the summoning of jurors. In these small communities it would be inconvenient, if not impossible, to have juries of twelve. The English system is followed, making juries of five, and requiring them to be unanimous.

Section 22 is a code of crimes and punishments.

Section 23 relates to the fees of clerks, marshals, interpreters, and others. Such of these as are general and do not belong to the officers are, with the fines and penalties, to remain in the clerk's hands, as a fund for payment of the judicial expenses, to be accounted for to the Secretary of State.

Section 24 makes it the duty of the Secretary of State and the Attor-
ney-General to prepare a code of practice and regulations to carry the act into effect. When approved by the President, this is to have the force of law, but may, from time to time, be, in like manner, changed and amended. This is substantially the English system, substituting the two Cabinet officers and the President for the Sovereign and the privy council.

Section 25 guards against a construction that the act may take away some consular powers not intended to be interfered with, and section 26 provides that the main provisions of the act are not to go into effect until six months after the President's approval of the code, but that the sections directing the code to be made and the sections relating to purchase of buildings for courts and prisons may take effect at once.

10—CONSTITUTIONALITY OF THIS MEASURE.

It has been suggested in some quarters that the present laws infringe upon the Constitution. I beg to trespass on the time of the committee a little more, while I notice this doctrine, which I cannot but regard as erroneous.

The Constitution, by its terms, is ordained and established "for the United States of America." The places in which laws of this class are in force are out of the United States and form no part of our domain.

The Constitution and the laws of the United States, made in pursuance of it and treaties made under its authority, are to be the supreme law of the land; but not of any other land, nor for American citizens living in any other land.

That the framers of the Constitution so understood it we may gather from contemporaneous evidence. Two treaties granting extraterritorial rights were concluded nearly simultaneously with the adoption of the Constitution. The first (the treaty with Morocco of January, 1787) provides that if citizens of the United States in Morocco have disputes with each other the consul shall decide between the parties. The second (the treaty with France of November 14, 1788, negotiated by Jefferson) contained a provision that all differences and suits between citizens of the United States in France should be determined by the consul and vice-consul, either by a reference to arbitrators or by summary judgment without costs. This treaty was submitted to the Senate by President Washington on the 11th of June, 1789, and was unanimously accepted by that body on the 29th of the following July.

In the sixty years which intervened prior to the passage of the act of 1848, treaties conferring extraterritorial rights were concluded with Algiers, with China, with Morocco (extending the treaty of 1787), with Muscat, with Tripoli, with Tunis, and with Turkey; but no attempt was made to carry the jury system of the United States into any of those countries, and no law of any kind was enacted on this subject until the law of August, 1848, was passed.

When this law was enacted Congress had for its guide the French system of assessors and the British laws, which had copied that system. Great Britain seemed to have arrived at the conclusion that juries were therein practicable. Congress apparently accepted that conclusion, and copied in principle the French and English systems. The statesmen of those days, in a Senate of which Mr. Webster, Mr. Calhoun, Mr. Badger, Mr. John Davis, Mr. Jefferson Davis, Mr. Clayton, Mr. Benton, and Mr. Reverdy Johnson were members, and a House containing men like Mr. Charles Ingersoll, Mr. Jos. Ingersoll, Mr. McLane, Mr. Ashmun, General Schenck, Mr. Alexander Stephens, and Mr. Robert C. Winthrop
passed this act unanimously, without a question as to the constitutional right to do so. In 1860 another Congress re-enacted it, with some amendments and other provisions added to it, as has already been shown. In 1870 it was again the subject of consideration, when appeals were granted to the district court for California. Finally, in 1873, the provisions were again re-enacted in the Revised Statutes.

Still further, the constitutionality of these laws has been the subject of a judicial decision in the circuit court of the United States for the ninth circuit, and has been fully sustained by Mr. Justice Field in an elaborate and exhaustive opinion.

Thus we find a harmony of sentiment between the early executive action contemporaneous with the forming of the Constitution, the later executive action by those who were familiar with or took part in forming it, the legislative action by successive Congresses for more than a generation, and the judicial action of an eminent member of the Supreme Court. This justifies us in thinking that the treaties in question, instead of extending the provisions of the Constitution over the territories of the powers with which they were negotiated, operated to take out of the jurisdiction of the local courts either the civil disputes of citizens of the United States or the criminal offenses committed by them, or both. It would work great injustice to hold that they operated to put those civil disputes beyond the reach of process or those offenses beyond the reach of punishment, until juries could be organized under authority of law.

Yet no one will question that, even admitting the power of Congress to decline to confer the right of trial by jury in such cases, the spirit of our institutions calls for laws conferring those rights when it becomes practicable to grant them. The British system of laws, which we copied in 1848, has widely departed from its then model, and has been more and more adapted to the English jury system. The accompanying draft is intended to incorporate into our laws those changes and ameliorations which British subjects have long enjoyed. It proposes to do this by general legislation, supplemented largely by executive regulations. This seems to be wiser than to adopt the legislation of any particular State, as suggested by some of the correspondents of the committee. The bill was drawn by Mr. Davis, the Assistant Secretary of State, Mr. O'Connor, the Examiner of Claims, furnishing the sections relating to the punishment of crimes and offenses, and to the fees of officers. That it may be found, when printed, defective in detail is more than probable. But I feel no doubt that it is substantially correct in principle; and that in the valuable papers which Mr. Davis has collected, and which I transmit herewith, the committee will find ample material to correct all errors in the accompanying draft, or for framing a new bill if they prefer to do so.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

[Inclosures.]

APPENDIX I.—Translation of the royal French edict of June, 1778.

II.—Translation of the French law of May 28, 1836.

III.—Translation of the French law of July 8, 1832.

IV.—Statute of Great Britain, 6 and 7 Victoria, chap. XCIV.

V.—British order in council, November 30, 1864.

VI.—British order in council, October 25, 1881.
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APPENDIX VII.—Regulations in force in the consular courts of the United States in China.

VIII.—Regulations in force in the consular courts of the United States in the Ottoman dominions.

IX.—Regulations in force in the consular courts of the United States in Japan.

X.—Land municipal regulations at Shanghai.

XI.—Mr. Fish to Mr. Bingham, January 20, 1876.

XII.—Convention relating to the government of Apia.

XIII.—Provisions in various treaties and conventions conferring rights of extraterritoriality upon the United States.

XIV.—Draft for an act concerning the exercise of the jurisdiction conferred upon the United States in places out of their territory and dominion, and to amend the Revised Statutes from section 4082 to 4130, inclusive.

APPENDIX I.

ROYAL FRENCH EDICT OF JUNE, 1778, REGULATING THE JUDICIAL FUNCTIONS OF FRENCH CONSULS IN THE LEVANT AND THE BARBARY STATES.

[Translation.]

LOUIS, ETC.:

Among the duties which our consuls perform in foreign countries, and particularly in the seaport towns of the Levant and of the Barbary States, to protect in those places the commerce of our subjects, we have turned our attention to the administration of justice; we have recognized that, conformably with the ordinances passed on this subject, actions should be conducted before our consuls by the simplest and most summary procedure, and that nevertheless the same ordinances do not expressly free them (the consuls) from the formalities observed in our kingdom, which are for the most part impracticable under a foreign power. Wishing to leave nothing to be desired in a matter so important to maritime commerce, we have judged it proper to establish for the jurisdiction which our consuls exercise in foreign countries, and for the civil and criminal proceedings which they conduct, rules easy to observe, and in accordance with which they shall administer justice in the different consulates, in a uniform manner and with all necessary expedition.

For these causes and others, etc.:

ARTICLE I. Our consuls shall have cognizance in the first instance of actions, of whatever nature they may be, arising between our subjects—merchants, seamen, and others—in their consular districts; our said consuls shall provide, each in his district, for the maintenance of a good and strict police over our said subjects, of whatever rank and condition they may be, both on land, in the ports, and in the different anchorages and roadsteads where ships of commerce receive and discharge their cargoes; we order our said consuls to administer justice faithfully; and in consideration of the remoteness of the places where they are most frequently attached to the consular service, after their nomination we free them from taking oath.

2. We expressly forbid and prohibit our subjects journeying, either
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by land or sea, or engaging in commerce in a foreign country, from
summoning, for any cause whatever, our other subjects before judges or
other officers of foreign powers, under penalty of 1,500 livres fine, to
the payment of which the offenders may be condemned, and may be im-
prisoned until payment is made, at the suit of the public prosecutors of
our courts of highest resort, which have appellate jurisdiction of the de-
cisions of the consuls before whom the said offenders should have made
their demand or preferred their complaints; and in case execution is
had against a French subject in virtue of judgments or ordinances eman-
ating from a foreign authority, those of our subjects who shall have
obtained them shall, furthermore, be also held by imprisonment to
costs, damages, and interest for the benefit of the parties who shall
have therein suffered in any manner whatever.

3. We order our consuls to set forth the proofs of the offenses men-
tioned in the preceding articles, by records of the cases (procès ver-
baux) or formal presentments, which shall be proceeded with in the
presence of the offenders or of those duly summoned, and we order
them to forward the said records and presentments to the secretary of
state having charge of the department of the navy (now of foreign
affairs), who shall pass them over to our public prosecutors, each in his
district.

4. The fines which shall be imposed by reason of the said offenses
shall be payable, to wit, for the seaports of the Levant and of the Bar-
baric States to the "chambre de commerce" of Marseilles, and for other
consulates to the "chambres de commerce" nearest the places where the
offenses shall have been committed.

5. Independently of the penalties imposed by the three preceding ar-
ticles, a statement shall be made through the secretary of state having
charge of the department of the navy (foreign affairs) of acts of insub-
ordination and disobedience, which shall be committed against the
authority that we have confided to our consuls, and which may trouble
the peace and trade of our subjects in foreign countries, to the end
that the same may be provided for by us with all possible expedition.

6. In order to make all decisions in civil matters definitive, our con-
smals shall be assisted by two of our subjects, who shall be chosen from
among the people of most respectability (notables) in the consular dis-
{tict, and on whom we confer a deliberative voice; for this purpose the
said persons (notables) shall first take before the consuls the oath in
such case required; they will not, however, be obliged to repeat the
oath once taken when the same persons continue to be associated with
the consuls for the purpose of administering justice.

7. The consul, or the officer representing him, shall, nevertheless, alone
pronounce judgment in the seaports where it shall be impossible to
procure such persons of respectability (notables); and this impossibility
shall always be set forth in the decisions.

8. That one of the officers of the consulate intrusted with the chan-
cery of the consulate shall perform, under the oath of office which he
shall have taken, the duties of clerk of the court, in matters both civil
and criminal, as well as the duties of notary public; he shall make out,
furthermore, all summons, and shall serve in person all writs in order
to supply the want of a bailiff.

9. When a petition is made or an action brought before the consul,
the party shall himself present his complaint; and in case he cannot do
this, it shall be lawful for him to supply his place by an attorney legally
appointed, or by making at the chancery of the consulate, on the subject-
matter in question, a circumstantial declaration, a certified copy of which

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shall be delivered to him, which (copy) shall be presented to the consul to take the place of the said complaint.

10. Upon the said complaint or declaration in a civil action, the consul shall order the parties to appear in person, at the place, day and hour which he shall deem proper to fix, taking into consideration the places and circumstances; he is also authorized to order the parties to appear from hour to hour, in cases which appear to him to demand much expedition; what he orders shall be executed in all cases in spite of any opposition or appeal.

11. The said complaint or declaration shall be served by the officer who performs the duties of chancellor, with the documents sustaining the demand; and if they are too long the party can deposit them at the chancery, where they shall be shown to the defendant without being removed.

12. This legal notice shall be served verbally on the person of the defendant or at his residence, if it shall be known at the consulate, and upon those who shall not have a domicile, who shall have absented themselves or cannot be found, by notices posted in the chancery of the consulate; mention shall be made, in the original and in the copy, of the name of the defendant, of the person with whom the legal notice shall have been left, or of the notice which shall have been posted; summons shall be served on the defendant to appear before the consul on the day, place, and hour indicated by his order; the original and the copy shall be signed by the officer performing the duties of chancellor; all this on penalty of becoming void, and without the necessity of observing any other formalities.

13. Seamen and passengers who have no other residence than on shipboard shall be there summoned, in the form prescribed by the preceding article.

14. Parties must appear before the consul on the place, day, and hour indited by his order.

15. The parties can, however, in case of sickness, absence, or other disabilities, transmit to the consul written statements subscribed by them, which shall contain their prayers and defenses, and to which they shall annex their documents respectively, if the said parties do not prefer to be represented by attorneys in fact, or affidavits ad hoc and in writing, which memorials or powers of attorney and affidavits shall be deposited at the chancery.

16. A final decision upon the said appearance of the parties, or on the memorials, documents, or affidavits transmitted, shall be rendered at once by the consul, assisted by two persons of respectability, if the suit shall appear to them sufficiently at issue.

17. When it shall be deemed necessary to hear by word of mouth one of the parties having some legitimate disability to presenting himself in person, the consul shall appoint one of the officers of his consulate or a French person of respectability (notable) to examine the said party on the facts which require explanation; the said commissioner shall be assisted by the officer performing the duties of chancellor in drawing up the examination in writing.

18. When it shall be necessary to make search at any place, or on board a ship, the consul may order that he shall go there in person, or may name a commissioner for that purpose, as in the preceding article. The consul shall determine by the same order or preliminary decision the place, day, and hour of the visit, which shall take place in presence of the parties or those duly summoned by the service of the said order or preliminary decision in the form prescribed by articles 11 and 12 of
the present regulations: of all this he shall draw up an official report
(process verbal).

19. In cases where the question is simply that of ascertaining the value,
condition, or waste of certain goods and merchandise, the consul may
confine himself to appointing by virtue of his office, from among those of
our subjects residing in his consular district, experts, who, after having
taken the oath required, shall proceed, in the presence of the parties,
or those duly summoned, to the inspections and appraisements which
shall have been ordered, of which they shall draw up an official report
(process verbal), which shall be deposited in the chancery.

20. There shall be delivered to the parties who shall request it, certi-
fi ed copies of the official reports mentioned in the preceding articles, and
on which they may note their observations; it is not necessary to serve
the said official reports before the decision, which shall be rendered by the
consul, assisted by persons of respectability with all possible expedi-
tion, either in the presence of the parties or their attorneys, or after
having deliberated thereon.

21. If the parties disagree as to the facts in a case in which parol evi-
dence is admissible, they shall be compelled to name their witnesses im-
mediately; and the consul shall order that the said witnesses shall be
summoned to appear before him on the day and hour that he shall in-
dicate by the same decision or order; and should such an examination be
ordered in the absence of the parties or of one of them, the consul shall
fix, according to circumstances, a period within which the names of the
witnesses shall be sent or delivered to the officer performing the duties
of chancellor, so that time may be had to summon the witnesses before
the day fixed for the hearing.

22. The French subjects named as witnesses shall be summoned by
the said officer, in pursuance of the decision or order of the consul. In
the case of foreigners, the consul shall make requisitions upon the for-
eign consuls in accordance with the usage in the port, for the purpose of
obtaining an order compelling them to appear; as to subjects of the
powers in whose territory consulates shall be established, the consuls
shall conform, for the purpose of procuring their appearance where it
is deemed proper or necessary, to the agreements and usages observed
in the different consulates.

23. The parties in whose presence the testimony shall have been or-
dered are bound, without notice, to appear before the judge on the day
and hour which shall have been determined upon to receive the evidence
of the witnesses; and as to parties who shall have transmitted their
written statements or shall have caused themselves to be represented by
attorneys, the simple notification of the said decision or order, in the
form prescribed by articles 11 and 12 of the present regulations, shall be
binding upon them as a summons to name their witnesses, and as notice
to be present at the examination.

24. We enjoin upon our subjects summoned as witnesses before our
consuls in foreign countries to present themselves in exact accordance
with the summons. Those failing to appear, who shall not have shown
a legitimate excuse to the consul, shall be condemned to a fine of thirty
livres for the first offense and one hundred livres for the second, which
fines shall be paid to the poor fund. Fines in the case of further disob-
iedience by the same witness shall be doubled for each repetition of
offense, although repeated in different suits. Our consuls may also
order, even on the first failure to appear, that the offenders shall be ar-
rested and forced to come and testify, as far as prudence may permit in
foreign countries, and in places where the government is accustomed to lend them assistance.

25. After the parties or their attorneys shall have verbally offered their objections, if they shall have any, to the witnesses, and mention shall have been made thereof in the decree which shall take the place of a record (process verbal), the said witnesses shall be heard summarily; their depositions shall be set forth in the said decree, and the consul, assisted by two persons of respectability may decide concerning the evidence immediately, or order the documents to be left with him for deliberation thereon.

26. Foreigners who do not understand the French tongue shall be assisted, in giving their testimony, by an interpreter, who shall first take, before the consul, the oath in such case required. The dragomans, however, and other interpreters attached to the consulate, who shall have been sworn at the time of entering upon their duties, are exempted from repeating the oath.

27. Notice, in the form prescribed by articles 11 and 12 of the present regulations, given to parties against whom judgment shall be rendered, of final decrees, whether after hearing or by default, shall take the place of every summons and order of the court; after such notice the said parties shall be bound to execute the said decrees in accordance with the customs in force in the different consulates.

28. Those against whom a decree by default shall have been rendered may nevertheless present their bill of exceptions thereon to the consul within three days at the latest after the day of the notice of the said decrees given to the party in person, or to his attorney; after this time has passed no objections can be received. Nevertheless, in case the party condemned shall be absent and shall have no attorney to represent him, the period within which the objections are to be brought shall not begin to run until the day on which notice shall have been given him of the judgment; the judgments by default shall, however, be levied on the goods of the defaultor, three days after the notification shall have been made thereof to him personally at his residence or by placard, conformably with the above Article 12.

29. The exceptions shall be disposed of as soon as possible, observing, as circumstances allow, the summary formalities above prescribed.

30. Final judgments rendered by our consuls, assisted by two persons of respectability on bills of exchange, bills, accounts stated, or other contracts in writing, shall be executed provisionally, notwithstanding any exceptions and appeal whatever, and without prejudice thereto, all of which shall be ordered by the said judgments.

31. In cases in which verbal agreements or running accounts are in question, an order shall appear in the judgments themselves that they shall be executed notwithstanding appeal, and without prejudice to the same, upon security given, which security shall be received before the consul.

32. The party who shall desire the execution by virtue of the preceding article, of a judgment whereof the party condemned shall have given notice of an appeal, shall present to the consul a petition on which he shall note his security; the consul shall order that the parties shall come before him, on the day and hour which he shall name, in order that, if there be ground therefor, the said security may be received. Notice of this petition and the order thereupon shall be given to the defendant in the form prescribed by Articles 11 and 12 of the present regulations.

33. The said security shall be accepted, if clearly good, without an execution of an inventory of property.
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34. The parties may moreover, in lieu of the said security, deposit the amount of the judgment in the strong box of the consulate; and after notice given of the treasurer's receipt, the judgments shall be executed.

35. Independently of the execution of the judgments of our consuls by all practical ways in the country where they shall have been rendered, they shall moreover be executed throughout the whole extent of our kingdom, in virtue of the parentis, in the same manner as judgments rendered by our other judges.

36. Our consuls may order imprisonment in all the cases provided for and set forth in our laws.

37. Appeals from judgments of our consuls established in the sea ports of the Levant and on the coasts of Africa shall be taken to our high court at Aix; and as to other consulates, to that court of final resort nearest the place where the decision shall have been rendered.

38. We order that justice shall be administered, in civil suits, at Constantinople, where we have no consul established, by three persons of respectability (notables), French subjects, who shall be named by our ambassador acting commissioners, and whom we exempt from being sworn. In the instrument of appointment of the said commissioners, our ambassador shall designate the one among them who shall perform the duties of consul, for the purpose of issuing the orders of the court on petitions and affidavits; the official performing the duties of chancellor at Constantinople shall give all the notices required by the said orders, and shall also perform the duties of clerk to the said commissioners, who shall furthermore conform in every respect to the preceding provisions of the present regulations; and the appeals from their decisions shall be carried to our high court of Aix.

Articles 39 to 81. [These articles, not here repeated, were repealed by the law of the 28th May, 1836, Article 82; they concern the prosecution and sentence of offenses, felonies, and crimes committed by French subjects in the sea ports of the Levant and the Barbary states; they have been replaced by the law of the 28th of May, 1836.]

Articles 82 and 83. [These articles, relating to the law of consular police, are still in force. It has not been considered necessary to translate them.]

84. Vice-consuls or other officers appointed, under whatever title, in the different consulates or sea ports to take the place of and to represent consuls, shall perform, in the absence of a consul, all the duties mentioned in the present regulations, to which they shall conform in all points.

85. Furthermore, the edict of 1881, and other later edicts relating to consular jurisdiction, shall be carried out by our consuls in foreign countries, in so far as they have not been repealed or modified by our present regulations, which shall be executed in foreign countries where we have established or shall establish consuls or other officers to protect the commerce of our subjects, notwithstanding all ordinances and other laws observed in our kingdom, which we have modified and do hereby modify for this specific purpose. We therefore order, &c.
APPENDIX II.

LAW OF THE 26th MAY, 1836, RELATING TO THE PROSECUTION AND SENTENCE OF VIOLATIONS OF REGULATIONS, MISDEMEANORS, AND CRIMES COMMITTED BY FRENCH SUBJECTS IN THE SEA-PORTS OF THE LEVANT AND THE BARBARY STATES.

TITLE I.—PRELIMINARY PROCEEDINGS.

1. In cases provided for by treaties and agreements or authorized by usage, consuls in the sea-ports of the Levant and the Barbary states shall continue to examine, either on complaint or information, or of their own motion, and without the necessity of a public prosecutor, into violations of regulations, misdemeanors, and crimes committed by French subjects in the said ports.

2. In case of a vacancy in a consulate, or of absence or disability of consuls, the officers or other persons appointed to replace, supply the place of, or represent consuls, shall perform the duties which are intrusted to the latter by this law.

The same duties shall be performed at Constantinople by the officer designated by the Emperor.

3. Any person who shall allege that he has been injured by a crime, a misdemeanor, or a violation of regulations may make complaint thereof; he can, if he deems proper, constitute himself a civil party in the action.

Any civil party who may not live in the place where the consul intrusted with the prosecution resides, shall be held to elect a domicile there by a declaration made at the chancery of the consulate, in default of which he cannot avail himself of failure of notice of any of the proceedings incident to the examination.

4. Upon complaint made to a consul, either by petition, or by declaration made at the chancery, or upon knowledge that the consul may obtain by common report, of a crime or misdemeanor committed by a French subject, the consul shall make an official visit if there is reason therefor, with all possible expedition, assisted by the officer who shall perform the duties of clerk, to the place where the crime or misdemeanor has been committed, for the purpose of verifying it by an official report. He shall take possession of everything tending to prove criminality, and can make examinations and searches at the residence and place of business of the accused.

5. In case of assaults or murder the consul shall be attended by a physician, who, after having taken the oath in such case required, shall examine the wounded man or the corpse, shall set forth the facts concerning the severity of the wounds or the manner of death, and shall make his statement to the consul of the whole matter. This statement shall be added to the official report, which shall be signed by the consul, the clerk, and the physician.

6. The consul shall hear, as far as possible, the witnesses on the spot where the crime or misdemeanor has been committed, without the necessity of summons. Every inquiry shall tend as much towards sustaining the charge as towards dismissing it.

7. Consular agents in the sea-ports of the Levant and the Barbary states shall immediately notify the consul of violations of regulations, misdemeanors, and crimes which have been therein committed; they
shall also receive complaints and informations, and shall transmit them
to that officer.

They shall draw up, in all cases, the necessary reports; they shall
take possession of everything tending to prove criminality, and shall col-
lect, in virtue of their discretionary powers of taking evidence not under
oath, the allegations of witnesses; but they may not, except immediately
after the offense [en cas de flagrant délit], search or make investigations
in the residences and places of business of the accused, unless they have
received, for this purpose, a special authorization from the consul or
from the person who performs his duties.

8. The consul may, according to the facts set forth in his official report,
order the accused to be arrested, in accordance with the customs of the
country in which his consulate is situated.

The accused cannot be imprisoned except in the following cases: 1st,
when the subject matter is a crime; 2d, when the subject matter is a
misdemeanor, the penalty for which is imprisonment, and when, in this
latter case, the accused is not registered, either as the present or former
head, or as manager of a commercial house.

9. In the case of prosecution of a misdemeanor, temporary liberty may
be granted at any stage of the proceedings to the accused, if he offers
bail to appear in person, and if he elects domicile at the place where the
consular tribunal sits.

The bail in this case shall be fixed by the consul.

If there is a civil party, the bail shall be increased by the whole
amount of estimated damage as may be provisionally decided by the
consul.

Vagabonds and persons who have undergone judicial punishment
cannot, in any case, be admitted to bail.

10. The accused against whom there shall have been issued an order
of arrest shall be summoned to appear to be examined on the day and
hour that the consul shall appoint by his order.

When a French subject accused of a crime or misdemeanor shall have
been arrested and put in a place of security, either on shore or on a
French ship in the harbor, the consul shall examine him within the next
twenty-four hours.

The examination shall be signed by the accused, after it shall have
been read to him, and, if not, mention shall be made of his refusal to
sign, or the reasons which prevented him. The consul shall number
and place his initials on each page of the examination, and shall sign it
at the end with the clerk.

11. The consul may repeat the examination of every accused person
as often as he shall judge it necessary for the conduct of the case.

12. When the consul shall discover private writings or signatures
which may result in proofs, or indications, he shall add them to the
documents of the prosecution, after having put his initials to them; they
shall be shown the accused at the time of his examination; the consul
shall ask if he has written or signed them, or whether he wishes to, or
can identify them; he shall in all cases be called upon to affix his ini-
tials to them.

13. In case the accused shall refuse to identify the writings and sig-
natures seized, the consul shall procure, if possible, papers for the pur-
pose of comparison, which shall be signed by his initials and added to
the documents of the prosecution, after having been brought before the
accused in the form prescribed by the preceding article and with the
same questions.

Proof of these writings and signatures shall be made before the judges
who shall give final judgment, as well upon the papers above mentioned
as upon all others which may be produced before judgment.

14. The writings and signatures seized by the consul shall also be
shown, at the time of the examination, to the witnesses, who shall be
called on to state any knowledge they may have thereof.

15. In case of forgery, the consul shall conform to the three preceding
articles, but these may be supplemented as much as necessary by other
formalities to be prescribed by the judges in the case.

16. All articles tending to prove the criminality of the accused shall be
deposited at the chancery, and a report shall be drawn up of this de-
posit, which shall be signed by the consul and the clerk.

The articles shall be exhibited to the accused at the time of his ex-
amination, and to the witnesses at the time of their examination; both
the accused and the witnesses shall be asked to declare whether they
identify them.

17. In the prosecution of an inquiry not provided for in Article 6
above, the consul shall issue an order fixing the day and hour on which
the witnesses shall present themselves before him.

In accordance with this order, French subjects named as witnesses,
shall be summoned by the officer discharging the duties of chancellor.

In the case of foreigners, the consul shall make requisitions upon the
foreign consuls, in accordance with the usage in the port, for the purpose
of obtaining an order compelling them to appear, and, in cases concern-
ing the subjects of powers in whose territory the consulates are estab-
lished, the consul shall conform for the purpose of procuring their ap-
pearance to the agreements and usages observed in the different con-
sulates.

18. Before giving his testimony, each witness shall be sworn to speak
the whole truth and nothing but the truth. The consul shall ask his
name, christian names, age, occupation, residence, whether he is a serv-
ant, relative, or connection of the party making the complaint, or of the
person who has suffered injury, or of the accused.

The question and the answer of the witness shall be noted.

When the religious belief of a witness prevents him from taking the
oath above prescribed, or from making any kind of affirmation, the
record shall state the fact, and he shall be examined without being
sworn.

19. Witnesses shall give their testimony orally and separate from
each other.

Each deposition shall be written in French by the clerk; it shall be
signed by the witness after being read to him, and after he declares that
he adheres to it, and by the consul and the clerk; if the witness cannot
or will not sign, the fact shall be noted.

20. The official reports of inquiry into a crime shall be numbered and
signed with his initials on each page, by the consul, and shall be closed
by an order which he shall give, either to proceed to a further exami-
nation or to remit the matter for hearing when the offense is a simple
violation of police regulations, or to proceed, in accordance with the
rules hereinafter laid down, to a verification of the evidence, and to the
confrontation of the witnesses and accused when there shall be evidence
of a crime punishable by a corporal or infamous punishment.

Nevertheless, the consul may, in any case when he shall deem it
proper, confront the witnesses and the accused.

21. If it is expedient, in accordance with the preceding article, to read
to the witnesses their depositions, verify them, and to confront the
witnesses with the accused, the consul shall fix, in his order, the day and hour on which the proceeding shall take place.

22. This order shall be made known to the accused three days before the day fixed upon, and he shall be served with a copy of the information. The accused shall be notified of the privilege which he has of employing counsel at the confrontation; if he does not avail himself of this privilege, counsel on his behalf may be named by the consul. This counsel may confer freely with him.

23. The consul shall cause the witnesses to appear before him on the day fixed, in the manner prescribed in Article 17. He need not call witnesses who shall have declared, in the preliminary investigation, that they have no knowledge of the matter; he shall, however, call them if the accused requires it.

French witnesses shall be bound, in all cases provided for by the foregoing articles, to obey the citation. Those who fail to appear may be condemned to a fine not exceeding one hundred francs. They shall be cited anew; if they show legitimate excuses the consul may remit this fine.

The consul shall always have the right to order, even on the first failure to appear, that the defaulters shall be arrested and compelled to testify.

24. In order to verify the testimony a reading shall be made separately and privately, to each witness, of his deposition, by the clerk, and the witness shall declare whether he wishes to add or to retract anything, and whether he adheres to it. The consul may, at the time of the verification of the evidence, question the witnesses in order to elucidate or explain their depositions. The witnesses shall sign their verifications after the reading, or shall declare that they do not know how to sign or that they cannot do so. Each verification shall, furthermore, be signed by the consul and the clerk. The record shall be numbered and signed in initial on every page by the consul.

25. After the verification of the testimony, the witnesses shall be confronted with the accused. For this purpose the consul shall cause the latter to appear, in the presence of whom each witness shall again be sworn to speak the whole truth and nothing but the truth.

26. The declaration of the witness shall be read to the accused; the witness shall be asked to declare if the accused is indeed the person of whom he has intended to speak.

If the accused or his counsel notice any contradiction in the testimony, or any other circumstance which may benefit him, both may ask the consul to question the witness on this point.

The accused and his counsel shall have the right to question the witness, through the consul, on all points which they deem necessary for the elucidation of facts, or for the explanation of the testimony.

They shall not interrupt the witness in the course of his testimony.

The counsel for the accused cannot make answer for the latter, nor suggest to him any statement or reply.

27. When a witness cannot present himself at the confrontation, his place shall be supplied by the reading of his deposition. This reading shall be made in the presence of the accused and his counsel, whose observations shall be recorded in the official report.

28. The accused can, either personally or by his counsel, make objections to the witnesses. He is permitted to make objections in every stage of the proceedings, as well before as after knowledge of the accusations.

If he shall make objections at the time of the confrontation, the
witness shall be required to answer these objections, and mention shall be made in the official report of what the accused and the witness shall have said respectively on this subject.

29. If there are several accused persons, they shall also be confronted with each other, after their testimony shall have been read to them separately, in the forms prescribed for the reading of testimony to witnesses.

30. The confrontations shall be written down in a separate book, numbered and signed in initial on every page by the consul. Each confrontation shall be signed respectively by the accused and the witness, after it shall have been read to them by the clerk; if they cannot or will not sign, mention shall be made of the cause of their refusal. Each confrontation shall likewise be signed by the consul and the clerk.

31. The accused shall, in all stages of the proceedings, have the right to offer facts in his own justification, and the proof of these facts may be admitted even when they have not been set forth either in the examinations or other instruments of the proceedings.

When they shall have been offered, the accused shall be called on to name his witnesses; mention shall be made of the whole matter in a report, at the end of which the consul shall order, as of course, that the witnesses shall be summoned, and by him heard on the day and hour that he shall appoint, pursuant to the rules prescribed for inquiries.

32. In the inquiry, which shall take place pursuant to the preceding article, the witnesses shall first be called upon to declare in regard to the facts in justification set forth in the record; the consul may then put such questions to the witnesses as he may deem necessary for discovery of the truth.

33. Examinations, verifications of the testimony, and confrontations in the case of witnesses who do not understand the French language, shall be carried on by the aid of a sworn interpreter of the consulate or any other interpreter who shall be appointed by the consul. In the latter case, the consul shall cause the interpreter to swear to translate faithfully; there shall be drawn up a report thereof, which shall be annexed to the documents in the case. This oath shall serve for all proceedings in the same action which may require the services of the same interpreter.

Examinations, verifications, and confrontations shall be signed by the interpreter in every place where the witness shall have signed or declared that he cannot.

In any case when the religious belief of an interpreter prevents him taking the required oath, or making any other affirmation, the report shall certify this fact.

34. In case of the flight or escape of the accused, the consul shall draw up a report signed by himself and the clerk, stating that unavailing search has been made, and that it has not been possible for him to secure the accused; this report, annexed to the documents in the case, shall take the place of every other formality to prove the contumacy.

35. The consul shall take possession of all the effects, valuable papers, and documents belonging to the fugitive from justice, after an inventory and description has been made thereof by the clerk.

36. The proceedings in contumacy shall be begun with all possible expedition, by inquiries, by examination of witnesses, and by the exhibition to the said witnesses of documents and other objects which may serve to convict.

37. The preliminaries terminated, the case shall be submitted to the consular tribunal.
JUDICIAL EXTRATERRITORIAL RIGHTS.

This tribunal shall be composed of the consul, or the person who shall perform his duties, and two French subjects, chosen by him from among the people of respectability residing in the jurisdiction of the consulate.

38. These two persons shall be named in advance for the whole year. They may be reappointed.

In case of absence or disability, they may be temporarily replaced by such other persons (notables) as the consul shall name, and mention shall be made of the reasons for this substitution in the order or judgment of the consular tribunal.

39. The two persons (notables) named by the consul shall also be sworn.

A report of the completion of that formality shall be drawn up in the record book of legal instruments of the chancery.

40. In case it shall be impossible to compose the consular tribunal of such persons (notables), the consul shall institute proceedings alone, following the rules hereinafter prescribed, upon condition of making note of this impossibility in his orders and judgments.

41. The consular tribunal, composed either of the consul and the said persons (notables), or of the consul alone, shall, in accordance with the above articles, decide as follows:

If the act presents neither a violation of regulations, misdemeanor, or crime, or if there shall be no charges of sufficient gravity against the accused, the tribunal shall declare that the prosecution be dismissed.

If the tribunal is of opinion that the act is nothing but a simple violation of police regulations the accused shall be sent to a hearing to be there judged pursuant to Title II hereinafter.

In the two cases above-named the accused, if under arrest, shall be set at liberty, and if he has furnished bail it shall be discharged.

42. If the judges consider that the act constitutes a misdemeanor, and the accusations are sufficient to sustain it, the accused shall be referred to a hearing.

In this latter case, if the misdemeanor entails the penalty of imprisonment, the accused, if he is under arrest, shall be held so for the time being, unless he be admitted to bail, according to the terms of Article 9.

If the accused is registered, as mentioned in Article 8, or if the misdemeanor does not entail the penalty of imprisonment, the accused shall be set at liberty, upon condition of presenting himself on the day of the hearing.

43. If the act entails a corporal or infamous punishment, and if the charge is sufficiently established, the consular tribunal shall issue an order of arrest against the accused, and the proceedings shall subsequently take place in accordance with the rules prescribed by Title III hereinafter.

44. When the consular tribunal shall have declared that there is not ground to continue prosecution, or when it shall have decided that an act complained of as a crime or misdemeanor is a simple violation of regulations, or finally, when it shall have decided that an act having the elements of a crime is a minor offense (attribué a la police correctionnelle), the party acting in his own name (partie civile) shall have the right to except to the order, upon condition of making the declaration thereof at the chancery of the consulate, within three days, counting from the service of the notice upon him of the order.

The party acting in his own name (partie civile) must notify the accused of his objections within the eight days following, and summon him to produce before the tribunal such statement in his behalf as he shall deem proper.
JUDICIAL EXTERRITORIAL RIGHTS.

These exceptions shall not prevent the accused from being set at liberty if this has been ordered before the exceptions were offered by the party acting in his own name (partie civile), or if pronounced afterwards, without prejudice to the further execution of the order of arrest which may be issued by the tribunal.

45. The right of making exceptions shall belong, in every case, to the public prosecutor of the imperial court having cognizance of the orders of the consular tribunal, in conformity with the terms of Title III hereafter. His exception shall be declared in the manner and within the period specified by Article 79 of this law.

TITLE II.—OF JUDGMENT IN THE CASE OF MINOR OFFENSES AND MISDEMEANORS.

46. The consular court shall take cognizance of misdemeanors, either by direct summons, or when the case has been referred to it in accordance with Articles 20 and 42 above.

The consul shall decide alone in matters of simple police; he shall take cognizance, either by direct summons, or when the case shall have been referred to him in accordance with Articles 20 and 41. He shall conform to Articles 47, 48, 49, 51, and 52 hereinafter.

47. The day of the hearing shall be fixed by order of the consul; there shall be at least a period of three days between the summons and the judgment when the accused shall reside in the place in which the consulate is established. If he shall not reside there the order shall declare, taking the distances of the places into consideration, the period within which he shall appear.

48. The person summoned shall appear in person or by a specially qualified attorney.

In matters relating to minor offenses, however, when the law shall pronounce the penalty of imprisonment, the accused should present himself in person, and, in other cases, the tribunal may order him to appear.

49. The preliminary proceedings at the hearing shall take place in the following order:

The official reports and statement of facts shall be read; the witnesses for and against shall be sworn and heard; the objections offered shall be decided upon; a reading shall take place of the written declarations of those witnesses who, by reason of their living at a distance, or for any other legitimate cause, cannot appear. Defaulting witnesses, not included in the cases above, may be condemned and held personally bound to appear conformably with Article 23. Every document or object that may serve to convict or acquit the accused shall be exhibited to the witnesses and the parties in the suit; the party acting in his own name (partie civile) shall be heard; the accused or his counsel, as well as the parties accountable in damages, shall offer their defense; reply shall be allowed the party acting in his own behalf (partie civile); but the accused, or his counsel, shall always speak last; judgment shall be pronounced immediately, or, at latest, at a hearing which shall be fixed, and which shall not be delayed more than eight days.

The judgment shall make mention of the fact that these formalities have been observed; the reasons in the case shall be stated, and if a condemnation is pronounced the terms of the law applicable to the case shall be inserted.

If the accused is acquitted he shall be set at liberty immediately, or his bail shall be discharged.
JUDICIAL EXTRATERRITORIAL RIGHTS.

50. In case, after the preliminary procedure at the hearing, the act imputed to the accused shall appear to have the elements of a crime, the proceedings shall take place in the following manner:

If the accused has been directly summoned to the hearing, in conformity with Article 46, he shall be sent before the consul, who shall proceed to inquiries, examinations, verifications, and confrontation in the manner prescribed in Title I of this law.

If the accused has been arraigned at the hearing, in accordance with an order under Article 20, he shall be sent before the same consul, who shall proceed to such additional inquiry as may seem good to him, and to the formalities of verification and confrontation.

Finally, if the accused has not been brought before the court until after a full preliminary proceeding, the consular tribunal shall enter judgment against him of arrest, and further proceedings shall take place in accordance with the rules prescribed by Title III hereinafter.

In case, after the preliminary proceedings at the hearing, the act imputed to the accused shall be decided to be only a violation of police regulations the consular tribunal shall pronounce judgment conformably with Article 54 of the present law without appeal.

51. Condemnations by default, in matters involving minor offenses and violations of police regulations, shall be considered void if, within eight days of notice made thereof upon the condemned in person, at his domicile, actual or elected, or even at his last residence, when he shall no longer have an actual domicile or residence in the jurisdiction of the consulate, he offers his objections to the execution of the judgment by a declaration at the chancery of the consulate.

The tribunal can, however, taking into consideration the distance of the last domicile and the greater or less facility of communication, extend, by its judgment, this period as shall appear to it proper.

In case of acquittal pronounced by the final judgment, the expenses arising from the summons, the notice of judgment by default, and the exceptions may be charged to the accused.

52. Registered French subjects cannot be refused admittance to the place where the consular tribunal shall sit during the sessions, except when the common law of France authorizes closed doors.

The consul shall have charge of the preservation of order at the sittings of the court.

53. In the case of minor offenses the record of the hearing shall state the names, Christian names, ages, callings, and residences of the witnesses who shall have been heard; their oath to speak the whole truth and nothing but the truth; their declarations stating whether they are relatives, connections by marriage, or servants of the parties in the case, and the objections which shall have been made to their admissibility; it shall contain an abstract of their statements.

54. In matters of violations of police regulations, the consul shall give judgment finally and without appeal.

If there is a civil party (partie cirile), and if the demand for damages exceeds one hundred and fifty francs, the consul shall remit this party to a civil action, and shall nevertheless pass judgment on the offense.

55. In matters involving minor offenses (matière correctionnelle), an appeal may be taken from the judgment.

The appeals shall be carried to the imperial court at Aix.

The right of appeal shall belong to the accused and the persons accountable in damages and to the public prosecutor of the imperial court of Aix. It shall belong likewise to the civil party (partie cirile), as regards his civil interests alone.
The declaration of appeal shall be made at the chancery of the consulate by the appellant in person or by his attorney within ten days after the judgment is pronounced, if adverse. During this period and during the procedure on appeal, the execution of the judgment of condemnation shall be delayed.

No appeal can be taken by the defaulters from judgments by default. Such judgments may be set aside by him only by proceedings in error for cause shown.

The declaration of appeal should contain election of domicile in the city of Aix, in default of which the notices to be made to the appellant can be made at the office of the public prosecutor before the imperial court of Aix, without any extension of time by reason of distances.

The accused shall be notified within eight days of a declaration of appeal by the civil party in the action, and shall be served with summons to appear before the imperial court.

The appeal of the public prosecutor shall be declared in the forms and within the periods provided by Article 70 hereinafter.

The procedure, the declaration of appeal, and the petition, if one has been filed by the appellant, shall be immediately transmitted to the public prosecutor of the imperial court of Aix. The condemned, if he is under arrest, shall be sent on the first French ship returning to France, and shall be taken to the jail of the said court.

If temporary liberty is requested on the ground of an appeal, the bail shall be at least equal to the total amount of damages imposed by the judgment of the lower court, including the special fine authorized by the second paragraph of Article 75 of this law.

Immediately after the arrival of the documents in the case and the condemned person, if under arrest, the appeal shall be heard in the imperial court of Aix, sitting to judge appeals in cases involving fines and imprisonment (chambre des appels de police correctionnelle.) The case shall be advanced upon the docket.

On appeal by the civil party (partie civile), the original notice of the declaration of appeal, containing citation, shall be annexed to the documents, which should be transmitted to the court.

In all the cases above, the appeal shall be decided in accordance with the forms prescribed by the code of criminal procedure. Nevertheless, the condemned person, not under arrest, or who has been allowed to furnish bail, can be exempted from appearing in person at the hearing, and may be represented by a specially authorized attorney.

When it shall appear to the court, in passing upon the appeal, that the act on which the consular tribunal has passed judgment, as a tribunal having cognizance of matters involving fines and imprisonment (tribunal correctionnel) constitutes a crime, it shall proceed as follows:

If the preliminary inquiry has been followed by the verification of the testimony (récoulement) and by confrontation, the court shall give judgment as a court of accusation, and shall issue an order of arrest.

In all other cases it shall order a supplementary inquiry, and, for this purpose, shall give the consul power to pronounce judgment as in the preceding case, except that it shall not grant him any further powers when the procedure shall be completed.

**Title III.—Of Arraignment.**

When, in accordance with the terms of Article 43 or of Article 50, the consular tribunal shall have declared the act to entail a corporal or
infamous penalty, notice of the order of arrest shall be given immediately to the accused. The latter shall be sent by the first French ship returning to France, and shall be sent, together with the record and everything serving to prove criminality, to the public prosecutor of the imperial court of Aix.

Within the shortest possible period, the public prosecutor shall make his report to the court of accusation of the same tribunal, which shall proceed in the manner prescribed by the code of criminal procedure.

65. In cases of forgery the court of accusation shall proceed to the examinations prescribed by Articles 13 and 15 of this law.

66. If the court of accusation sees that the act has not been properly defined and constitutes only a misdemeanor, it shall cancel the order of arrest and send the accused and the record to the court of original jurisdiction of Aix, which shall condemn to fine or imprisonment (statuera correctionelement), permitting appeal therefrom. The court shall retain the accused under arrest, or order him to be set at liberty, conformably with Article 42.

The tribunal having jurisdiction pursuant to this article shall proceed in accordance with the provisions of the code of criminal procedure, except as hereinafter provided.

The written procedure shall be read at the hearing; the witnesses, if any shall be produced, shall be heard under oath.

The accused, if he has been set at liberty, shall have the right of being represented by a special attorney.

The tribunal shall have power to change the penalty of imprisonment to a special fine, in accordance with the rules prescribed by Title V of this law.

67. If an arraignment is ordered by the court, the decision thereon and the bill of indictment shall be served on the accused, and the latter shall be brought before the first chamber and the chamber of appeals in matters of fines and imprisonment (police correctionelle), sitting as one court, of the imperial court of Aix, which shall give judgment in the forms hereinafter laid down, and never with less than twelve judges sitting.

When the arraignment shall have been ordered by the chamber of appeals in cases involving fines and imprisonment (police correctionelle) in conformity with Article 63, that chamber shall be replaced, for the purpose of judgment of the facts in the case, by the chamber of arraignments (celle des mises en accusation).

68. In case exceptions are offered to the order of the consular tribunal by the civil party (partie civile), or by the public prosecutor, in accordance with the terms of Articles 44 and 45 of this law, the documents in the case shall be transmitted, and the court of accusation shall pass judgment as above. Nevertheless, if the court of accusation charges the accused simply with a misdemeanor, it shall send him before the consular tribunal.

TITLE IV.—OF THE JUDGMENT IN CASE OF CRIMES.

69. The accused shall undergo a preliminary examination before one of the counsellors (conseillers) of the court, delegated by the presiding judge; a copy of the record shall be given him at the same time; he shall be asked to choose counsel; in case of not making this choice, a counsel shall be appointed for him, and mention shall be made of the whole matter in the examination.

70. The public prosecutor, the civil party (partie civile), and the ac-
cused shall have the right of causing witnesses to be summoned for the
day of the hearing. They can, however, avail themselves of this right
only in the case of those persons who shall be present on French terri-
tory.

The accused shall be notified of the names, occupation, and residence
of the witnesses summoned, at least twenty-four hours before the hear-
ing, by the public prosecutor or the civil party, and the public prosecutor
shall receive a similar notice from the accused.

71. Within eight days after the examination, and on the day named
for the judgment, the report shall be made on the case by one of the
counsels; the record shall be read before the court sitting at a pub-
lic hearing, the accused and his counsel being present. The presiding
judge shall examine the accused. The witnesses, if they have been
called, in accordance with the preceding article, shall be next heard.
The accused, however, and the public prosecutor can object to the hear-
ing of a witness who shall not have been named or who shall not have
been clearly described in the notice.

The presiding judge may, also, in virtue of his discretionary power,
cause all persons to appear whose testimony he deems useful in the dis-
covery of the truth, and the court shall hear them.

The witnesses summoned and the witnesses called pursuant to the dis-
cretionary power shall take the oath prescribed by Article 18 of this
law.

72. The civil party, or his counsel, and the public prosecutor shall be
heard on motions and applications. The accused and his counsel shall
state their defense. Reply to this shall be permitted, but the accused
and his counsel shall always close.

The presiding judge, after having asked the accused whether he has
anything further to say in defense, shall state the issues and shall cause
them to be read by the clerk.

The court shall decide upon the objections made to this statement.
73. The issue shall be decided successively; the presiding judge shall
take the vote.

A decision, either against the accused, or on the extenuating circum-
stances, requires two-thirds of the votes, and in the calculation of these
two-thirds, fractions, if there are any, shall be counted in favor of the
accused.

The same vote shall be necessary for the infliction of every corporal
or infamous punishment.

The judgment shall be pronounced publicly; it shall contain the issues
which have been stated, the reasons for the decisions, and the text of the
law which shall have been applied.

It shall certify the existence of the majority above required.
If the judgment imposes a corporal or infamous punishment, it shall
be posted in the chanceries of consulates established in the sea-ports of
the Levant and the Barbary states.

74. If the accused is contumacious, the procedure shall take place as
provided in Articles 465 to 478, inclusive, of the code of criminal pro-
der.

When, however, the accused shall be domiciled in the sea-ports of the
Levant or the Barbary states, notice of the order in contumacy shall
be given at his domicile, and also at the chancery of the consulate, where
it shall be posted.

Title V.—Of penalties.

75. Violations of police regulations, misdemeanors, and crimes com-
mitted by French subjects in the sea-ports of the Levant and the Bar-
bary states shall be punished by the penalties provided in the laws of France.

Yet, in affairs involving fines and imprisonment (matière correctionnelle) and of minor offenses (simple police), after the judges shall have sentenced to imprisonment, they can, by a provision which shall be inserted in the sentence or judgment of condemnation, change this penalty to a special fine, computed at the rate of ten francs or more for each day of imprisonment pronounced.

This special fine shall be in addition to that which shall have been incurred by the delinquent, in accordance with the terms of the ordinary penal laws.

Violations of regulations made by consuls for the police of the ports shall be punished by an imprisonment which shall not exceed five days, and by a fine which shall not exceed fifteen francs. These two penalties may be cumulative or separate.

**TITLE VI.—GENERAL PROVISIONS.**

76. Judgments of the imperial court, rendered pursuant to this law, may be examined on appeal for the reasons and in accordance with the distinctions set forth in Titre III of Book 2 of the code of criminal procedure.

77. If on appeal the judgment is reversed, the case shall be referred to another imperial court, to be prosecuted and decided anew in the forms prescribed by this law.

78. Consuls shall send to the minister of foreign affairs a list of orders made under Articles 41, 42, 43, and of judgments which shall have been made in matters involving fines and imprisonment (correctionnels), which list shall be sent within one month, at latest, after these orders and judgments shall have been made. The said list shall be transmitted by the minister of foreign affairs to the minister of justice.

79. Under instructions which shall be sent him by the minister of justice, the public prosecutor of the imperial court of Aix shall have the right to cause the documents in the case and the proceedings to be sent to him.

When he shall exercise his right of offering objections or of appeal pursuant to Articles 45 and 55, he must make declaration thereof at the office of the clerk of the court.

In case of objection he shall notify the party of it, and notify him to produce his memorial, if he deems it proper. In case of appeal, he shall cause the party to be cited.

The above declaration, notification, and citation shall be given within a period of six months, reckoned from the date of the orders or judgments, under penalty of forfeiture.

80. When there shall be occasion, pursuant to Articles 58 and 64 of this law, to send a convict or an accused, and the documents relating to the proceedings and conviction on the first French ship, captains shall be held bound to comply with the requisitions of the consul under penalty of a fine of from 500 francs to 2,000 francs, which fine shall be levied by the consul, subject to appeal to the imperial court of Aix. Captains can, further, be suspended from command by decree of the minister for the navy.

Captains shall not be held bound to take on board a number of accused greater than one-fifth of the number of their crew.

81. The expenses of justice incurred in the execution of this law in the sea-ports of the Levant and the Barbary states and in France in
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which expenses shall be included the compensation due to captains for the passage of the accused, shall be advanced by the state; fines and other sums obtained in the administration of justice shall be paid into the public treasury.

82. Articles 39 to 81, inclusive, of the edict of June, 1778, are hereby repealed.

This law does not affect the provisions of the law of the 10th April, 1825, relating to the prosecution and judgment of the crime of piracy.

APPENDIX III.

[Translation of the French law of July 8, 1892.]

LAW OF JULY 8, 1892, RELATIVE TO THE JURISDICTION OF FRENCH CONSULS IN CHINA, AND WITHIN THE DOMINIONS OF THE IMAUM OF MUSCAT.

TITLE I.—Consular Jurisdiction in China.

CHAPTER I.—Civil Jurisdiction.

ARTICLE 1.—Disputes in civil and commercial matters which may arise in China between French citizens shall be decided by consular courts according to such of the provisions of the edict of 1778 as are still in force in ports of the Levant and the Barbary states, excepting the provisions contained in the three following articles:

1. The decisions of consular courts shall be final in the following cases:

1st. All suits in which the parties being subject to the jurisdiction of these courts, and exercising their rights, shall have declared their desire to be judged finally and without appeal.

2d. All personal suits, or suits relating to personal property, in which the amount involved shall not exceed 3,000 francs.

3d. Cross-suits, even when the amounts therein involved, joined to the principal suit, shall exceed 3,000 francs.

If the amount involved in one of the principal or cross-suits shall exceed the aforesaid limits, the decision of the court upon them all shall be subject to appeal. Nevertheless, decision shall be rendered subject to appeal, in suits for damages, when they shall be based exclusively upon the principal suit itself.

3. The appeal from the decisions rendered subject to appeal by the consular courts shall be taken before the court of appeals at Pondicherry. That court shall proceed according to the laws and ordinances governing the administration of justice in the French East Indian colonies.

4. Appeals against the final decisions rendered by the consular courts shall be allowable to the parties only in case those courts have exceeded their powers.

CHAPTER II.—Criminal Jurisdiction.

5. Disputes between French citizens and Chinese subjects shall be settled in accordance with the provisions of Article 25 of the treaty of September 24, 1844.

6. The law of May 28, 1836, in relation to infractions, misdemeanors, and crimes committed by French citizens in the ports of the Levant
and the Barbary States, shall be applicable to infractions, misdemeanors, and crimes committed by French citizens in China, with the modifications resulting from this chapter.

7. Decisions by default in matters relating to misdemeanors shall be open to appeal, after the delays of the opposition.

8. The powers conferred by the law of 1836 upon the court of appeals and the court of first instance of Aix, shall belong to the court of appeals and to the court of first instance of Pondicherry, which shall proceed and decide, as the case may be, according to the laws and ordinances concerning the organization of the judicial system and the administration of justice in the French East Indian colonies, the provisions of Articles 62 (section 2), 66 (section 3 and following), and 68 of the aforesaid law of May 28, 1836, being, however, observed.

9. In case of contumacy, notice of the ordinance relative to contumacy shall be given both at the domicile of the accused and at the office of the consul, in which said ordinance shall be posted up.

10. Only persons within the territory of Pondicherry shall be summoned as witnesses before the court or tribunal of Pondicherry.

11. Accused and condemned persons who, in the cases provided for by Articles 58 and 64 of the law of May 28, 1836, are to be removed to Pondicherry, may, in the absence of French vessels, or in case captains may refuse to take them on board in virtue of paragraph 2 of Article 86 of the said law, be shipped on board of foreign vessels under the care of the consul. In the case of a misdemeanor, the accused, if he shall request not to be removed, shall be permitted to remain at the place where he is confined. In criminal cases the same privilege may be granted to the accused, at his request, by the consul. Nevertheless, the attorney-general and the court may always order the removal of the accused.

12. Consuls, independently of the extract from their orders and decisions which they are required, by Article 79 of the law of May 28, 1836, to address to the minister of foreign affairs, shall send, directly, a similar extract to the attorney-general attached to the court of appeals of Pondicherry, who may require the transmission of the documents and proceedings.

Title II.—Consular Jurisdiction Within the Dominions of the Imam of Muscat.

13. The provisions of Articles 1, 2, 3, and 4 of this law shall be applicable to the consulates of France within the dominions of the Imam of Muscat. Nevertheless, jurisdiction without appeal of consular courts, in the cases provided for by paragraphs 3, 4, and 5, Article 2, shall be limited to cases in which the amount involved does not exceed 1,500 francs. The court of appeals of the island of Réunion shall discharge, for these consulates, the functions declared by the said articles to belong to the court of appeals of Pondicherry.

14. The provisions of Chapter 2 of the present law shall likewise be applicable to infractions, misdemeanors, and crimes committed by French citizens in the dominions of the Imam of Muscat. The powers conferred by the foregoing provisions upon the judicial authorities of Pondicherry shall be exercised by those of the island of Réunion and of the tribunal of Saint-Denis according to the rules of their organization. None but persons who shall be in the island of Réunion shall be summoned as witnesses.

15. Disputes between the subjects of the Imam of Muscat and French
citizens, of which the consuls of France are to take cognizance, according to Article 6, of the treaty of November 17, 1844, shall be decided in accordance with the provisions of Articles 1, 2, 3, and 4 of this law.

TITLE III.—OF THE EXERCISE OF THE RIGHT OF HIGH POLICE.

16. The consuls of France in China and in the dominions of the Imam of Muscat shall be invested with the right of high police, which is conferred upon the consuls of France in the ports of the Levant by Articles 82 and 83 of the edict of 1778.

17. In case of urgency, and if it shall be absolutely impossible to send back directly to France a French citizen who has been expelled in virtue of this right, such French citizen may be placed on board of a French or foreign vessel, to be sent, according to circumstances, to one of the French colonies in the East Indies or in Oceania, or to some point occupied as a French naval station.

TITLE IV.—GENERAL PROVISIONS.

18. The functions provided as belonging to consuls by the foregoing articles shall be discharged at Canton or Macao by such officer of the diplomatic mission in China as may be designated by the President of the Republic. In case the consulates shall be vacant, or the consuls absent or prevented from acting, in China or in the dominions of the Imam of Muscat, the officers or other persons who shall be called to represent or take the place of the consuls shall discharge the functions which are declared to belong to the latter by the present law.

APPENDIX IV.

STATUTE OF GREAT BRITAIN, 6 AND 7 VICTORIA, CHAP. XCIV.

6 and 7 Victoria, cap. xciv.

AN ACT to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual. [24th August, 1843.]

"Whereas, by treaty, capitulation, grant, usage, sufferance, and other lawful means, Her Majesty hath power and jurisdiction within divers countries and places out of Her Majesty's dominions: And, whereas, doubts have arisen how far the exercise of such power and jurisdiction is controlled by and dependent on the laws and customs of this realm, and it is expedient that such doubts should be removed!"

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present Parliament assembled, and by the authority of the same, That it is and shall be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty now hath or may at any time hereafter have within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory.

II. And be it enacted, That every act, matter and thing which may at any time be done, in pursuance of any such power or jurisdiction of Her
Majesty in any country or place out of Her Majesty's dominions, shall, in all courts ecclesiastical and temporal and elsewhere within Her Majesty's dominions, be and be deemed and adjudged to be, in all cases and to all intents and purposes whatsoever, as valid and effectual as though the same had been done according to the local law then in force within such country or place.

III. And be it enacted, That if in any suit or other proceedings, whether civil or criminal, in any court ecclesiastical or temporal within Her Majesty's dominions, any issue or question of law or of fact shall arise for the due determination whereof it shall, in the opinion of the judge or judges of such court, be necessary to produce evidence of the existence of any such power or jurisdiction as aforesaid, or of the extent thereof, it shall be lawful for the judge or judges of any such court, and he or they are hereby authorized, to transmit, under his or their hand and seal or hands and seals, to one of Her Majesty's principal secretaries of state, questions by him or them properly framed respecting such of the matters aforesaid as it may be necessary to ascertain in order to the due determination of any such issue or question as aforesaid; and such secretary of state is hereby empowered and required, within a reasonable time in that behalf, to cause proper and sufficient answers to be returned to all such questions, and to be directed to the said judge or judges, or their successors, and such answers shall, upon production thereof, be final and conclusive evidence, in such suit or other proceedings, of the several matters therein contained and required to be ascertained thereby.

IV. "And whereas it may in certain cases be expedient that crimes and offenses committed within such countries or places as aforesaid should be inquired of, tried, determined, and punished within Her Majesty's dominions;" Be it enacted, That it shall and may be lawful for any person having authority derived from Her Majesty in that behalf, by warrant under his hand and seal, to cause any person charged with the commission of any crime or offense the cognizance whereof may at any time appertain to any judge, magistrate, or other officer of Her Majesty within any such country or place as aforesaid, to be sent for trial to any British colony which Her Majesty may by any order or orders in council from time to time appoint in that behalf; and upon the arrival of such person within such colony it shall and may be lawful for the supreme court exercising criminal jurisdiction within the same to cause such person to be kept in safe and proper custody, and, so soon as conveniently may be, to inquire of, try, and determine such crime or offense, and upon conviction of the person so charged as aforesaid to correct and punish him according to the laws in force in that behalf within such colony, in the same manner as if the said crime or offense had been committed within the jurisdiction of such supreme court: Provided always, That before any such person shall be sent for trial to any such colony as aforesaid it shall be lawful for him to tender for examination to the judge, magistrate, or other officer of Her Majesty to whom the cognizance of the crime or offense with which he is charged may appertain, within the country or place where the same may be alleged to have been committed, any competent witness or witnesses, the evidence of whom he may deem material for his defense, and whom he may allege himself to be unable to produce at his trial in the said colony; and the said judge, magistrate, or other officer shall thereupon proceed in the examination and cross-examination of such witness or witnesses in the same manner as though the same had been tendered at a trial before such judge, magistrate, or other officer, and shall cause the evidence so
taken to be reduced into writing, and shall transmit a copy of such evidence to the supreme court before which the trial of such person is to take place, together with a certificate under his hand and seal of the correctness of such copy; and thereupon it shall be lawful for the said supreme court, and it is hereby required, to allow so much of the evidence so taken as aforesaid as would have been admissible according to the law and practice of the said supreme court, had the said witness or witnesses been produced and examined at the trial before the said court, to be read and received as legal evidence at such trial: Provided also, That if it shall be made to appear at such trial that the laws by which the person charged with any criminal act would have been tried had his trial taken place before a judge, magistrate, or other officer of Her Majesty in the country or place in which such act may be alleged to have been committed, vary from or are inconsistent with the laws in force within such colony, in respect either of the criminality of the act charged, or of the nature or degree of the alleged crime or offense, or of the punishment to be awarded for the same, such supreme court is hereby empowered and required to admit and give effect to the laws by which such person would have been so tried as aforesaid, so far as but not further or otherwise than the same relate to the criminality of such act, or to the nature or degree of such crime or offense, or to the punishment thereof: Provided also, That nothing herein contained shall be construed to alter or repeal any law, statute, or usage by virtue of which any crime or offense committed out of Her Majesty's dominions might, at the time of the passing of this act, be inquired of, tried, determined, and punished within Her Majesty's dominions, or any part thereof, but the same shall remain in full force and effect, anything herein contained to the contrary notwithstanding.

V. "And whereas it may likewise in certain cases be expedient that the sentences passed within such countries and places as aforesaid at the trial of crimes and offenses within the same should be carried into effect within Her Majesty's dominions;" Be it enacted, That if any offender shall have been sentenced to suffer death or imprisonment for or in respect of any crime or offense of which such offender shall have been lawfully convicted before any judge, magistrate, or other officer of Her Majesty within any such country or place as aforesaid, it shall be lawful for any person having authority derived from Her Majesty in that behalf, by warrant under his hand and seal, to cause such offender to be sent to any British colony which Her Majesty may by any order or orders in council from time to time appoint in that behalf, in order that the sentence so passed upon such offender may be carried into effect within the same; and the magistrates, jailers, and other officers to whom it may appertain to give effect to any sentence passed by the supreme court exercising criminal jurisdiction within such colony are hereby empowered and required to do all acts and things necessary to carry into effect the sentence so passed upon such offender, in the same manner as though the same had been passed by such supreme court.

VI. And be it enacted, That if any offender shall have been ordered or sentenced to be transported beyond the seas by any judge, magistrate, or other officer of Her Majesty within any such country or place as aforesaid, or, having been adjudged to suffer death, shall have received Her Majesty's most gracious pardon upon condition of transportation beyond the seas, it shall be lawful for any person having authority derived from Her Majesty in that behalf to cause such offender to be sent to any place beyond seas to which convicts may at any time be lawfully transported from any part of Her Majesty's dominions, and, if there shall be no convenient means of transporting such offender with-
out bringing him to England, to cause such offender to be brought to England in order to be transported, and to be imprisoned in any place of confinement provided under the authority of any law or statute relating to the transportation of offenders convicted in England, until such offender shall be transported or shall become entitled to his liberty; and as soon as any such offender shall have arrived at the place to which he may be transported, or, if brought to England, shall have been there imprisoned, as aforesaid, all the provisions, rules, regulations, authorities, powers, penalties, matters, and things concerning the safe custody, confinement, treatment, and transportation of any offender convicted in Great Britain shall extend and be construed to extend to such offender as fully and effectually, to all intents and purposes, as if such offender had been convicted and sentenced at any session of jail delivery holden for any county in England.

VII. And be it enacted, That if any suit or action shall be brought in any court within Her Majesty's dominions against any person or persons for anything done in pursuance of any such power or jurisdiction of Her Majesty as aforesaid or of this act, then and in every such case such action or suit shall be commenced or prosecuted within six months after the fact committed, and not afterwards, except where the cause of action shall have arisen out of Her Majesty's dominions, and then within six months after the plaintiff or plaintiffs and defendant or defendants shall have been within the jurisdiction of the court in which the same may be brought; and the same and every such action or suit shall be brought in the county or place where the cause of action shall have arisen, and not elsewhere, except where the cause of action shall have arisen out of Her Majesty's dominions; and the defendant or defendants shall be entitled to the like notice, and shall have the like privilege of tendering amends to the plaintiff or plaintiffs, or their agent or attorney, as is provided in actions brought against any justice of the peace for acts done in the execution of his office by an act passed in the twenty-fourth year of the reign of King George the Second, intituled An act for the rendering justices of the peace more safe in the execution of their office, and for indemnifying constables and others acting in obedience to their warrants; and the defendant or defendants in every such action or suit may plead the general issue, and give the special matter in evidence; and if the matter or thing complained of shall appear to have been done under the authority and in execution of any such power or jurisdiction of Her Majesty as aforesaid or of this act, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought and laid in any other county or place than the same ought to have been brought or laid in as aforesaid, then the jury shall find for the defendant or defendants; and if the plaintiff or plaintiffs shall become nonsuit, or discontinue any action after the defendant or defendants shall have appeared, or if a verdict shall pass against the plaintiff or plaintiffs, or if upon demurrer judgment shall be taken against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases of law.

VIII. And be it enacted, That from and after the first day of October in the year one thousand eight hundred and forty-four so much of an act passed in the sixth year of His late Majesty King George the Fourth, intituled An act to repeal certain acts relating to the governor and company of merchants of England, trading to the Levant Seas, and the duties payable to them; and to authorize the transfer and disposal of the possessions and property of the said governor and company for the public ser-
vice, as provides, "that from and immediately after the enrolment of any such deed or instrument as therein mentioned all such rights and duties of jurisdiction and authority over His Majesty's subjects resorting to the ports of the Levant, for the purposes of trade or otherwise, as were lawfully exercised and performed, or which the letters patent or acts by the said act recited, or any of them, authorized to be exercised and performed, by any consul or other officers appointed by the said company, or which such consuls or other officers lawfully exercised and performed under and by virtue of any power or authority whatever, should, from and after the enrolment of such deed or instrument as aforesaid, be and become vested in and should be exercised and performed by such consuls and other officers respectively as His Majesty might be pleased to appoint for the protection of the trade of His Majesty's subjects in the ports and places respectively mentioned in the said letters patent and acts, or any or either of them;" and also that from and after the passing of this act an act passed in the parliament holden in the sixth and seventh years of His said late Majesty King William the Fourth, intituled An act to enable His Majesty to make regulations for the better defining and establishing the powers and jurisdiction of His Majesty's consuls in the Ottoman Empire, shall be and the same are hereby repealed, save as to any matter or thing theretofore done under the authority of the same respectively.

IX. And be it enacted, That this act may be amended or repealed by any act to be passed during this session of parliament.

APPENDIX V.


BRITISH ORDER IN COUNCIL REVISING THE ORDERS IN COUNCIL OF JANUARY 9, 1863, AND NOVEMBER 17, 1863, RELATIVE TO THE POWER AND JURISDICTION OF HER MAJESTY IN THE OTTOMAN DOMINIONS; NOVEMBER 30, 1864.

At the Court of Windsor, the 30th day of November, 1864.
Present, the Queen: most Excellent Majesty in council.

Whereas by the act of the session of Parliament of the 6th and 7th years of Her Majesty's reign, cap. 94,§ "to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual," hereinafter called the Foreign Jurisdiction Act, it was enacted (among other things) that it was and should be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty then had or might at any time thereafter have within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory:

And whereas Her Majesty has had, and now has, power and jurisdiction in the dominions of the Sublime Ottoman Porte:

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‡ "London Gazette" of December 2, 1864.
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And whereas Her Majesty was pleased, by and with the advice of her privy council, on the 9th day of January, 1863, and the 17th day of November, 1863, to make, by orders in council dated on those days respectively, provision for the exercise of her power and jurisdiction aforesaid:

And whereas it has seemed to Her Majesty, by and with the advice of her privy council, to be expedient at the present time to revise the provisions of the said orders, and to make further provisions for the due exercise of Her Majesty's power and jurisdiction aforesaid, and for the more regular and efficient administration of justice and the better maintenance of order among all classes of Her Majesty's subjects and of persons enjoying Her Majesty's protection resident in or resorting to the dominions of the Sublime Ottoman Porte:

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Foreign Jurisdiction Act or otherwise in her vested, is pleased by and with the advice of her privy council to order, and it is hereby ordered, as follows:

I.—PRELIMINARY.

1. This order shall commence from and after the 31st day of December, 1864.

2. The orders of the 9th day of January, 1863, and the 17th day of November, 1863, are hereby repealed.

This repeal shall not affect the past operation of those orders, or either of them, or any appointment made or thing done under them, or either of them.

3. Pending proceedings shall be regulated by this order as far as the nature and circumstances of each case admit.

4. In this order the term "the Ottoman dominions" means the dominions of the Sublime Ottoman Porte; the term "native Indian subject of Her Majesty" means a native of India (as defined in the act of parliament of 1858 "for the better government of India"), not being of European descent; the term "month" means calendar month; words importing the plural or the singular may be construed as referring to one person or thing, or more than one person or thing, and words importing the masculine as referring to females (as the case may require).

5. The provisions of this order relating to British subjects apply to all subjects of Her Majesty, whether by birth or by naturalization, and also to all persons enjoying Her Majesty's protection in the Ottoman dominions.

The provisions of this order relating to foreigners apply to subjects of the Sublime Ottoman Porte and subjects or citizens of any other power or state not being enemies of Her Majesty.

II.—GENERAL PROVISIONS RESPECTING HER MAJESTY'S JURISDICTION.

6. All Her Majesty's jurisdiction exercisable in the Ottoman dominions for the judicial hearing and determination of matters in difference between British subjects, or between British subjects and foreigners,—or for the administration or control of the property or persons of British subjects,—or for the repression or punishment of crimes or offenses committed by British subjects,—or for the maintenance of order among British subjects,—shall be exercised under and according to the provisions of this order, and not otherwise.

7. Subject to the other provisions of this order the civil and criminal
jurisdiction aforesaid shall, as far as circumstances admit, be exercised upon the principles of and in conformity with the common law, the rules of equity, the statute law, and other law, for the time being in force in and for England, and with the powers vested in and pursuant to the course of procedure and practice observed by and before courts of justice and justices of the peace in England, according to their respective jurisdictions and authorities.

8. Nothing in this order shall be deemed to deprive Her Majesty's consular officers of the right to observe and to enforce the observance of any reasonable custom obtaining within the Ottoman dominions, or to deprive any person of the benefit thereof, except where this order contains some express and specific provision incompatible with the observance of such custom.

9. Except as to offenses against the capitulations, articles of peace, and treaties between Her Majesty and the Sublime Ottoman Porte, or against any rules and regulation for the observance thereof, or for the maintenance of order among British subjects in the Ottoman dominions, made by or under the authority of Her Majesty, or against any of the provisions of this order, or of any rule made under it.

No act done by a British subject in the Ottoman dominions, or on board a British vessel within those dominions, which would not by a court of justice having criminal jurisdiction in England be deemed a crime or offense, rendering the person doing such act amenable to punishment in England, shall, in the exercise of criminal jurisdiction under this order, be deemed a crime or offense, rendering the person doing such act amenable to punishment.

III.—Constitution of Her Majesty's Consular Court.

I.—The Supreme Consular Court at Constantinople.

10. There shall be a court styled "Her Britannie Majesty's Supreme Consular Court for the Dominions of the Sublime Ottoman Porte."

11. The supreme consular court shall hold its ordinary sittings at Constantinople, but may on emergency sit at any other place within the district of the consulate-general of Constantinople, and may at any time hold its ordinary sittings at any such place within the Ottoman dominions as one of Her Majesty's principal secretaries of state approves.

12. There shall be one judge of the supreme consular court. Her Majesty's consul-general at Constantinople for the time being shall be the judge, but he shall be appointed to the office of judge by Her Majesty by special warrant under her royal sign manual. He shall be, at the time of his appointment, a member of the bar of England, Scotland, or Ireland, of not less than seven years' standing, or a subject of Her Majesty (by birth or naturalization) who has filled the office of legal vice-consul in the Ottoman dominions or the office of law secretary to the supreme consular court.

He may, in case of his absence from the district of the consulate-general of Constantinople, either in the discharge of his duty or with permission of one of Her Majesty's principal secretaries of state, or in case of illness, appoint, by writing under his hand and seal, a fit person to be his deputy, who shall have all the power and authority of judge.

During a vacancy in the office of judge, or on emergency, a fit person, approved by one of Her Majesty's principal secretaries of state, may
temporarily be and act as acting judge, with all the power and authority of judge.

Notwithstanding anything in this order, Her Majesty may make an appointment to the office of judge at any time after the passing of this order; but any such appointment shall not take effect before the 1st day of January, 1865.

13. There shall be attached to the court—

(1) One law secretary.

(2) So many officers and clerks as one of Her Majesty’s principal secretaries of state from time to time thinks fit.

One of Her Majesty’s principal secretaries of state may, from time to time, temporarily attach to the court such persons holding appointments as consuls or vice-consuls as he thinks fit.

14. The law secretary shall be appointed by Her Majesty. He shall hold by special commission from Her Majesty the appointment of vice-consul. He shall act as registrar of the court. He shall discharge such duties in connection with the conduct of criminal prosecutions as the judge from time to time directs. He shall hear and determine, in a summary way, such criminal charges as may, under this order, be properly so heard and determined, and as are specially referred to him by the judge.

Where a suit or proceeding of a civil nature, originally instituted in the supreme consular court, relates to money, goods, or other property, or any civil right or other matter at issue of a less amount or value than £100 sterling, or is instituted for the recovery of damages of a less amount than £100 sterling, the judge may refer such suit or proceeding specially to the law secretary, to be heard and determined by him; but in all such cases an appeal shall lie as of course to the judge.

In case of the absence or illness of the law secretary, or during a vacancy in the office of law secretary, or during the temporary employment of the law secretary in any other capacity, the judge may, by writing under his hand and seal, appoint any fit person approved by one of Her Majesty’s principal secretaries of state to act temporarily as law secretary. The person so appointed shall have all the power and authority of law secretary.

Every consul or vice-consul temporarily attached to the court under Article 13 shall discharge such duties in connection with the court as the judge from time to time, with the approval of one of Her Majesty’s principal secretaries of state, directs; and for that purpose shall have the like power and authority as the law secretary.

2.—The provincial consular courts.

15. In addition to the supreme consular court, each of Her Majesty’s consuls general, consuls, and vice-consuls (holding a commission as such from Her Majesty), resident in the Ottoman dominions (with such exceptions as one of Her Majesty’s principal secretaries of state at any time thinks fit to make), or any person acting temporarily, with the approval of one of Her Majesty’s principal secretaries of state, as such a consul general, consul, or vice-consul, shall, for and in his own consular district, hold and form a court styled “Her Britannic Majesty’s consular court at [Smyrna, as the case may be]” hereafter in this order called a provincial consular court.

IV.—JURIES, ASSISTORS.

16. Every male British subject resident in the Ottoman dominions, being of the age of twenty-one years or upwards, being able to speak
and read English, having or earning a gross income at the rate of not less than £50 a year, not having been attainted of treason or felony, or convicted of any crime that is infamous (unless he has obtained a free pardon), and not being under outlawry, shall be qualified to serve on a jury.

17. All persons so qualified shall be liable so to serve, except the following:

Persons in Her Majesty's diplomatic, consular, or other civil service in actual employment;

Officers, clerks, keepers of prisons, messengers, and other persons attached to or in the service of any consular court;

Officers and others on full pay in Her Majesty's navy or army, or in actual employment in the service of any department connected therewith;

Persons holding appointments in the civil service, and commissioned officers in the naval or military service of the Sublime Ottoman Porte;

Clergymen and ministers in the actual discharge of professional duties;

Advocates and attorneys in actual practice;

Physicians, surgeons, and apothecaries in actual practice;

and except persons disabled by mental or bodily infirmity.

18. On or before the 14th day of January in every year, each consular court shall make out a list of the persons so qualified and liable, resident within its district.

The list shall, on or before the 21st day of the same month, be affixed in some conspicuous place in the court, and shall be there exhibited until the 31st day of that month, with a notice annexed that on a day specified, not being sooner than the 7th or later than the 14th day of the then next month, the court will hold a special sitting for the revision of the list.

The court shall hold such special sitting accordingly, and at such sitting, or at some adjournment thereof (of which public notice shall be given), shall revise the list by striking out the name of any person appearing to be not qualified or not liable to serve, and by inserting the name of any person omitted and appearing to be so qualified and liable, either on the application of the person omitted, or on such notice to him as the court thinks fit to direct.

The list shall be finally revised and settled not later than the 21st day of February in every year; and when settled shall be affixed in some conspicuous place in the court, and be there exhibited during not less than two months.

Such list, as settled, shall be brought into use in every year on the 1st day of March, and shall be used as the jury list of the court for the months then next ensuing.

19. Where, in pursuance of this order, a jury is required, the court shall summon so many of the persons comprised in the jury list, not fewer than 15, as seem requisite.

Any person failing to attend according to such summons shall be liable to such fine, of not more than £10 sterling, as the court thinks fit to impose.

Any such fine shall not be levied until after the expiration of fourteen days. The proper officer of the court shall forthwith give to the person fined notice in writing of the imposition of the fine, and require him within six days after receipt of the notice to file an affidavit excusing his non-attendance (if he desires to do so). The court shall consider the affidavit, and may, if it seems proper, remit the fine.
20. A jury shall consist of five jurors.

21. In civil and in criminal cases the like challenges shall be allowed as in England, with this addition, that in civil cases each party may challenge three jurors peremptorily.

22. A jury shall be required to give an unanimous verdict.

23. Where there is a jury, all the proceedings at the trial shall be conducted in English; evidence, if given in any other language, being interpreted in the usual way.

24. Where a provincial consular court (not held before a resident legal vice-consul) proceeds, in pursuance of this order, to hear and determine any case, civil or criminal, with assessors, the court shall nominate and summon as assessors not less than two and not more than four indifferent British subjects of good repute, resident in the district of the court. Where, however, by reason of local circumstances, the court is able to obtain the presence of one fit person only as assessor, the court may sit with him alone as assessor, and where for like reasons it is not able to obtain the presence of any fit person as assessor, it may sit without an assessor; but in every such case the court shall record in the minutes of proceedings its reasons for sitting with one assessor only, or without an assessor.

25. An assessor shall not have voice or vote in the decision of the court in any case, civil or criminal, but an assessor dissenting in a civil case from any decision of the court, or in a criminal case from any decision of the court, or the conviction, or the amount of punishment awarded, may record in the minutes of proceedings his dissent and the grounds thereof, and an assessor dissenting shall be entitled to receive gratis a certified copy of the minutes.

V.—JURISDICTION AND AUTHORITIES OF THE CONSULAR COURTS.

1.—In general.

26. All Her Majesty's jurisdiction, civil and criminal, exercisable in the Ottoman dominions shall, for and within the district of the consular-general of Constantinople, be vested exclusively in the supreme consular court as its ordinary original jurisdiction.

27. All Her Majesty's jurisdiction, civil and criminal, exercisable in the Ottoman dominions beyond the district of the consular-general of Constantinople, and not under this order vested exclusively in the supreme consular court, shall, to the extent and in the manner provided by this order, be vested in the provincial consular courts, each for and within its own district.

28. The supreme consular court shall have, in all matters civil and criminal, an original jurisdiction concurrent with the jurisdiction of the several provincial consular courts, such concurrent jurisdiction to be exercised subject and according to the other provisions of this order.

29. The judge of the supreme consular court may visit, in a magisterial or judicial capacity, any provincial consular court, and there inquire of, or hear and determine, any case, civil or criminal, pending in that court, or arising within its district, or may appoint the law secretary of the supreme consular court to visit in the like capacity and for the like purpose any provincial consular court, or may appoint the resident legal vice-consul of any provincial consular court to visit in the like capacity and for the like purpose any provincial consular court where there is not a resident legal vice-consul.

30. A provincial consular court may, of its own motion, or on the ap-
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plication of any person concerned, report to the supreme consular court the pendency of any case, civil or criminal, which appears to the provincial consular court fit to be heard and determined by the supreme consular court.

The supreme consular court shall thereupon direct in what mode and where the case shall be heard and determined, and the same shall be so heard and determined accordingly.

31. Every consular court shall, in the exercise of every part of its respective jurisdiction, be a court of record.

32. Each provincial consular court shall execute any writ or order issuing from the supreme consular court, and take security from any person named in any writ or order for his appearance, personally or by attorney, and in default of such security being given, or when specially ordered by the supreme consular court so to do, send such person to Constantinople on board one of Her Majesty's vessels of war, or if there is no such vessel available, then on board any British or other fit vessel.

The order of the supreme consular court shall be sufficient authority to the commander or master of such vessel of war or other vessel to receive and detain such person, and carry him to and deliver him up at Constantinople according to the order.

33. The several consular courts shall be auxiliary to one another in all particulars relative to the administration of justice, civil or criminal.

34. Each provincial consular court shall, every six months, furnish to the supreme consular court a report of every case, civil and criminal, brought before it, in such form as the judge of the supreme consular court from time to time directs.

2. In civil matters.—Reconciliation and arbitration.

35. Every consular court and its officers shall, as far as there is proper opportunity, promote reconciliation, and encourage and facilitate the settlement in an amicable way, and without recourse to litigation, of matters in difference between persons over whom the court has jurisdiction.

36. Every consular court may promote reconciliation, and encourage and facilitate the settlement, in an amicable way, of any suit or proceeding pending before it.

37. A consular court may, with the consent of the parties, refer to arbitration the final determination of any suit or proceeding pending before it, or of all matters in difference between the parties, on such terms and with such directions as to appointment of an arbitrator, and other things as may seem fit, and may, if it thinks fit, take from the parties, or any of them, security to abide by the result of the reference. In any such case the award shall be final and conclusive.

On the application of any party, a decree of the court may be entered in conformity with the award, and such decree shall not be open to any appeal or rehearing whatever.

38. Every agreement for reference to arbitration, or submission to arbitration by consent, between or by British subjects, may, on the application of any party, be made a rule of the consular court having jurisdiction in the matter of the reference or submission, which court shall thereupon have power and authority to enforce the agreement or submission and the award made thereunder, and to control and regulate the proceedings, before and after the award, in such manner and on such terms as may be just.
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General authority of courts.

30. The supreme and every other consular court shall be a court of law and of equity, and (subject to the other provisions of this order) shall have, and may exercise, all jurisdiction, power, authority, legal, equitable, or other, which any consul of Her Majesty by custom has, or may exercise, in the Ottoman dominions.

Special authorities of courts.

40. The supreme and every other consular court shall be a court of bankruptcy, and as such shall, as far as circumstances admit, have, each for and within its own district, with respect to British subjects and to their debtors and creditors, being either British subjects or foreigners submitting to the jurisdiction of the court, all such jurisdiction as for the time being belongs to the court of bankruptcy and the county courts in England, or to any other judicial authority having for the time being jurisdiction in bankruptcy in England.

41. The supreme consular court shall be a court of vice-admiralty, and as such shall, for and within the Ottoman dominions, and for vessels and persons coming within those dominions, have all such jurisdiction as for the time being ordinarily belongs to courts of vice-admiralty in Her Majesty's possessions abroad.

Every provincial consular court held before a resident legal vice-consul shall be a court of vice-admiralty, and as such shall, for its own district, and for vessels and persons coming within that district, have the like jurisdiction.

42. The supreme consular court shall, as far as circumstances admit, have in itself exclusively, for and within the dominions of the Sublime Ottoman Porte, with respect to British subjects, all such jurisdiction relative to the custody and management of the persons and estates of persons of unsound mind, as for the time being belongs to the lord chancellor or other person or persons in England intrusted by virtue of Her Majesty's sign manual with the care and commitment of the custody of the persons and estates of persons found by inquisition in England idiot, lunatic, or of unsound mind.

43. The supreme consular court shall be a court for matrimonial causes, and as such shall, as far as circumstances admit, have in itself exclusively, for and within the Ottoman dominions, with respect to British subjects, all such jurisdiction, except the jurisdiction relative to dissolution or nullity or יבשות of marriage, as for the time being belongs to the court for divorce and matrimonial causes in England.

44. The supreme consular court shall be a court of probate, and as such shall, as far as circumstances admit, have, for and within the Ottoman dominions, with respect to the property of British subjects having at the time of death their fixed places of abode within those dominions, all such jurisdiction as for the time being belongs to Her Majesty's court of probate in England.

A provincial consular court shall, however, also have power to grant probate or administration where there is no contention respecting the right to the grant, and it is proved on oath that the deceased had at the time of his death his fixed place of abode within the jurisdiction of the particular court.

Probate or administration granted by a provincial consular court shall have effect over all the property of the deceased within the Ottoman dominions, and shall effectually discharge persons dealing with an ex-
ecutor or administrator thereunder, notwithstanding that any defect afterwards appears in the grant. Such a grant shall not be impeachable by reason only that the deceased had not at the time of his death his fixed place of abode within the particular jurisdiction.

45. From the death of a British subject, having at the time of death his fixed place of abode within the Ottoman dominions, intestate, until administration granted, his personal property within those dominions shall be vested in the judge of the supreme consular court as the personal property of an intestate in England is vested in the judge of Her Majesty's court of probate there.

46. If any person other than one of Her Majesty's consular officers takes possession of and in any manner administers any part of the personal property of any person deceased without obtaining probate or administration within three months after the death of the deceased, or within one month after the termination of any suit or dispute respecting probate or administration (if there is any such which is not ended within two months after the death of the deceased), he shall be liable to such penalty not exceeding £100 sterling as the court having jurisdiction in the matter of the property of the deceased thinks fit to impose.

**Trial with a jury.**

47. Where a suit instituted in the supreme consular court, or in a provincial consular court held before a resident legal vice-consul, relates to money, goods, or other property, or any civil right or other matter at issue, of the amount or value of £50 sterling or upwards, or is brought for recovery of damages of the amount of £50 sterling or upwards, the suit shall, on the demand of either party, be tried with a jury.

In any case (except where, according to the rules of the court, the suit is to be heard and determined in a summary way), a suit so instituted may be tried with a jury, if the court, of its own motion or on the application of either party, thinks fit so to order.

One of Her Majesty's principal secretaries of state may, by order under his hand, extend the present provision to any provincial consular court not held before a resident legal vice-consul where it appears to him a sufficient jury list can be obtained.

**Trial with assessors.**

48. Where a suit instituted in a provincial consular court not held before a resident legal vice consul relates to money, goods, or other property of a less amount or value than £300 sterling, or does not relate to or involve, directly or indirectly, a question respecting any civil right or other matter at issue of the amount or value of £300 sterling, or upwards, or is brought for recovery of damages of a less amount than £300 sterling, the court may hear and determine the case without assessors.

In all other cases the court shall hear and determine the case with assessors.

3.—**In criminal matters.**

49. Every consular court shall have authority to cause to be apprehended and brought before it any British subject being within the district of the court and charged with having committed a crime or offense within the Ottoman dominions, or on board a British vessel within those dominions, and to deal with the accused according to the jurisdiction of the court and in conformity with the provisions of this order; or where
the crime and offense is triable, and is to be tried in England, to take
the preliminary examination, and to commit the accused for trial, and
cause or allow him to be taken to England.

50. Where a person charged with a crime or offense escapes or removes
from the consular district within which the crime or offense was com-
mitted and is found within another consular district, the consular court
within the district of which he is found may proceed in the case to ex-
amination, trial, and punishment, or in a summary way (as the case
may require) in the same manner as if the crime or offense had been
committed in its own district; or may, on the requisition or with the
consent of the court of the district within which the crime or offense
was committed, send him in custody to that court, or require him to
give security for his surrender to that court, there to answer the charge
and be dealt with according to law.

Where any person is to be so sent in custody, a warrant shall be
issued by the court within the district of which he is found, and such
warrant shall be sufficient authority to any person to whom it is directed
to receive and detain the person therein named, and carry him to and
deliver him up to the court of the district within which the crime or
offense was committed according to the warrant.

51. Where a warrant or order of arrest is issued by a competent
authority in Malta for the apprehension of a British subject, a native of
Malta or of any of its dependencies, who is accused of having committed
a crime or offense within the jurisdiction of the authority issuing the
warrant or order, and who is, or is supposed to be, in the Ottoman
dominions, and the warrant or order is produced to a consular court, the
court may back the warrant or order, and the same, when so backed,
shall be sufficient authority to any person to whom the warrant or order
was originally directed, and also to any constable or any other officer
of the court by which it is backed, to apprehend the accused at any
place in the Ottoman dominions where the court by which the warrant
or order is backed has jurisdiction, and to carry him to and deliver him
up at Malta, according to the warrant or order.

52. Where any person is charged with the commission of a crime or
offense the cognizance whereof appertains to a consular court in the
Ottoman dominions, and it is expedient that the crime or offense be in-
quired of, tried, determined, and punished within Her Majesty's dom-
inions, the accused may (under the Foreign Jurisdiction Act, section 4)
be sent for trial as follows, namely: With respect to native Indian sub-
jects of Her Majesty, to Bombay; and with respect to other British sub-
jects, to Malta.

The judge of the supreme consular court may, where it appears so
expedient, by warrant under his hand and seal and the seal of the su-
preme consular court, cause the accused to be sent for trial to Bombay
or to Malta (as the case may require) accordingly.

Such warrant shall be sufficient authority to any person to whom it
is directed to receive and detain the person therein named, and carry
him to and deliver him up at Bombay or at Malta (as the case may be),
according to the warrant.

Where any person is to be so sent to Bombay or to Malta, the consu-
lar court before which he is charged shall take the preliminary exa-
nination, and shall bind over such of the proper witnesses as are British
subjects in their own recognizances to appear and give evidence on the
trial.

53. A consular court may promote reconciliation, and encourage and
facilitate the settlement in an amicable way, of proceedings for assault,
or any other offense not amounting to felony and being of a private or personal character, on terms of payment of compensation, or other terms that may seem reasonable or expedient, and may thereupon order the proceedings to be stayed.

54. All crimes which in England are capital shall be tried by the judge of the supreme consular court, with a jury.

Other crimes and offenses above the degree of misdemeanor, tried before the judge or law secretary of the supreme consular court, and not heard and determined in a summary way, shall be tried with a jury.

Any crime or offense tried before the judge or law secretary of the supreme consular court may be tried with a jury where the judge or law secretary so directs.

Subject to the foregoing provisions, such classes of criminal cases within the original jurisdiction (ordinary or concurrent) of the supreme consular court as the judge, having regard to the law and practice existing in England, from time to time directs, shall be heard and determined in a summary way.

55. The supreme consular court may impose the punishment of imprisonment for any term not exceeding twenty years, with or without hard labor, and with or without a fine not exceeding £500 sterling, or the punishment of a fine alone not exceeding £500 sterling.

56. Where any person is convicted of murder, the proper officer of the court, under the direction of the judge, shall, in open court, require the offender to state if he has anything to say why judgment of death should not be recorded against him. If such offender does not allege anything that would be sufficient in law to prevent such judgment if the offense had been committed and the trial had been had in England, the court may order such judgment to be entered on record.

Thereupon the proper officer shall enter judgment of death on record against such offender, as if judgment of death had been actually pronounced on him in open court by the court.

The judge of the supreme consular court shall forthwith send a report of every such judgment, with a copy of the minutes of proceedings and notes of evidence, and any observations he thinks fit to make, to one of Her Majesty's principal secretaries of state, for his direction as to the punishment to be actually imposed, such actual punishment not to exceed the measure of imprisonment and fine mentioned in Article LV.

57. Where a provincial consular court is held before a resident legal vice-consul, crimes and offenses above the degree of misdemeanor tried before the court, and not heard and determined in a summary way, shall be tried with a jury.

Any crime or offense may be tried with a jury where the court so directs.

Subject to the foregoing provisions, such classes of criminal cases as the judge of the supreme consular court, with the advice and assistance of the resident legal vice-consul, having regard to the law and practice existing in England, from time to time directs, shall be heard and determined in a summary way.

58. A provincial consular court held before a resident legal vice-consul may impose the punishment of imprisonment for any term not exceeding two years, with or without hard labor, and with or without a fine not exceeding £100 sterling, or the punishment of a fine alone not exceeding £100 sterling.

59. Where the crime or offense with which any person is charged before a provincial consular court not held before a resident legal vice-consul is any crime or offense other than assault endangering life, cut-
ting, maiming, arson, or housebreaking, and appears to the court to be such that, if proved, it would be adequately punished by imprisonment, with or without hard labor, for not more than three months, or by a fine of not more than £25 sterling, the court shall hear and determine the case in a summary way, and without assessors.

In other cases the courts shall hear and determine the case on indictment, and with assessors.

60. A provincial consular court not held before a resident legal vice-consul may impose the punishment of imprisonment for any term not exceeding twelve months, with or without hard labor, and with or without a fine of £50 sterling, or the punishment of a fine alone not exceeding £50 sterling.

61. Where the crime or offense with which any person is charged before a provincial consular court appears to the court to be such that, if proved, it would not be adequately punished by such punishment as the court has power to impose, and the accused is not to be sent for trial to England, Bombay, or Malta, the court shall reserve the case to be heard and determined by or under the special authority of the supreme consular court.

The provincial consular court shall take the depositions, and forthwith send them, with a minute of other evidence, if any, and a report on the case, to the supreme consular court.

The supreme consular court shall direct in what mode and where the case shall be heard and determined, and the same shall be so heard and determined accordingly.

62. The supreme and every other consular court, in imposing punishments, shall have regard, as far as circumstances admit, and subject to the other provisions of this order, to the punishments imposed by the law of England in like cases.

63. A consular court may order any person convicted before it of any crime or offense to pay all or any part of the expenses of his trial and imprisonment or other punishment.

Where it appears to the court that a charge is malicious, or frivolous and vexatious, the court may order all or any part of the expenses of the prosecution to be paid by the prosecutor.

64. Where the circumstances of the case make it just or expedient, the judge of the supreme consular court may report to one of Her Majesty's principal secretaries of state, recommending a mitigation or remission of any punishment awarded by the supreme or any other consular court; and on such recommendation any such punishment may be mitigated or remitted.

But no such recommendation shall be made with respect to any punishment awarded by a provincial consular court except on the recommendation of that court, or on the dissent of the assessors or assessor, if any, from the conviction or from the amount of punishment awarded.

65. The judge of the supreme consular court may, where it seems expedient, by warrant under his hand and the seal of the supreme consular court, cause any offender convicted before any consular court, and sentenced to imprisonment, to be sent to and imprisoned at any such place in the Ottoman dominions as one of Her Majesty's principal secretaries of state from time to time approves.

Such warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and carry him to and deliver him up at such place, according to the warrant.

66. Where any offender convicted before a consular court in the Ottoman dominions is sentenced to suffer imprisonment in respect of the
crime or offense of which he is convicted, and it is expedient that the sentence be carried into effect within Her Majesty’s dominions, the offender may (under the Foreign Jurisdiction Act, section 5) be sent for imprisonment as follows, namely: With respect to native Indian subjects of Her Majesty, to Bombay; and with respect to other British subjects, to Malta.

The judge of the supreme consular court may, where it appears so expedient, by warrant under his hand and seal and the seal of the supreme consular court, cause such offender to be sent to Bombay or to Malta (as the case may require), in order that the sentence passed upon him may be there carried into effect accordingly.

Such warrant shall be sufficient authority to any person to whom it is directed to receive and him detain the person therein named, and carry him to and deliver him up at Bombay or at Malta (as the case may be), according to the warrant.

67. The supreme consular court shall, when required by one of Her Majesty’s principal secretaries of state, send to the secretary of state a report of the sentence passed by the judge or law secretary of the court in any case not heard and determined in a summary way, with a copy of the minutes of proceedings and notes of evidence, and any observations the court thinks fit to make.

Every provincial consular court shall forthwith send to the supreme consular court a report of the sentence passed by it in every case not heard and determined in a summary way, with a copy of the minutes of proceedings and notes of evidence, and any observation the court thinks fit to make. The supreme consular court shall, when required by one of Her Majesty’s principal secretaries of state, transmit the same, with any observations the court thinks fit to make, to the secretary of state.

VI.—DEPORTATION OF OFFENDERS.

68. (i.) Where it is shown, on oath, to the satisfaction of a consular court, that there is reasonable ground to apprehend that any British subject in the Ottoman dominions is about to commit a breach of the public peace, or that the acts or conduct of any such British subject are or is likely to produce or excite to a breach of the public peace, the court may cause him to be brought before it, and require him to give security to the satisfaction of the court to keep the peace, or for his future good behavior, as the case may require.

(ii.) Where any British subject is convicted of any crime or offense before a consular court, or before a court in the sentence of which one of Her Majesty’s consular officers concurs, the consular court for the district in which he happens to be may require him to give security to the satisfaction of court for his future good behavior.

In either of these cases, if the person required to give security fails to do so, the court may order that he be deported from the Ottoman dominions to such places as the court directs.

The court shall not, however, without the consent of the person to be deported, direct the deportation of a native Indian subject of Her Majesty to any place other than Bombay, or of a native of Malta or any of its dependencies to any place other than Malta, or of a native of Gibraltar to any place other than Gibraltar, or of a native of any part of Her Majesty’s dominions other than Malta, its dependencies, or Gibraltar (the person to be deported not being a native Indian subject of Her Majesty) to any place other than England.

A provincial consular court shall forthwith report to the supreme con-
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sular court any order of deportation made by it, and the grounds thereof. The supreme consular court may reverse the order, or may confirm it with or without variation, and in case of confirmation shall direct it to be carried into effect.

The person to be deported shall be detained in custody until a fit opportunity for his deportation occurs.

He shall, as soon as may be practicable (and in the case of a person convicted, either after execution of the sentence or while it is in course of execution), be embarked, in custody, under the warrant of the supreme consular court, on board one of Her Majesty's vessels of war, or if there be no such vessel available, then on board any British or other fit vessel bound to the place of deportation.

The warrant of the court shall be sufficient authority to the commander or master of such vessel of war or other vessel to receive and detain the person to be deported, and carry him to and deliver him up at the place of deportation, according to the warrant.

68. The supreme or other consular court may order the person to be deported to pay all or any part of the expenses of his deportation. Subject thereto, the expenses of deportation shall be defrayed as the expenses relating to distressed British subjects are defrayed, or in such other manner as one of Her Majesty's principal secretaries of state from time to time directs.

70. The supreme consular court shall forthwith report to one of Her Majesty's principal secretaries of state any order of deportation made or confirmed by it, and the grounds thereof, and shall also inform Her Majesty's ambassador, minister, or chargé d'affaires at the Sublime Ottoman Porte of the same.

71. If any person deported returns to the Ottoman dominions without the permission of one of Her Majesty's principal secretaries of state (which permission the secretary of state may give), he shall be liable, on conviction thereof, to punishment (in the discretion of the court before which he is convicted) by imprisonment for not more than one month, with or without hard labor, and with or without a fine of not more than £10 sterling, or by a fine of not more than £20 sterling alone, and also to be forthwith again deported in manner hereinbefore provided.

VII.—REGISTRATION OF RESIDENTS AND OTHERS.

72. Every British subject (except native Indian subjects of Her Majesty) resident in the Ottoman dominions, being of the age of twenty-one years or upwards, or being married or a widower or widow, though under that age, shall, in the month of January in every year, register himself or herself in a register to be kept at the consulate of the consular district within which he or she resides, subject to this qualification: that the registration of a man shall be deemed to comprise the registration of his wife (unless she is living apart from him), and that the registration of the head of a family, whether male or female, shall be deemed to comprise the registration of all females, being relatives of the head of the family (in whatever degree of relationship), living under the same roof with the head of the family at the time of his or her registration.

Every such British subject not so resident arriving at any place within the Ottoman dominions where a consular office is maintained, unless borne on the muster-roll of a British vessel there arriving, shall, within one month after his or her arrival, register himself or herself in a register to be kept at the consular office, but so that no such person
shall be required to register himself or herself more than once in any year, reckoned from any first day of January. Any person falling so to register himself or herself, and not excusing his or her failure to the satisfaction of the consular officer, shall not be entitled to be recognized or protected as a British subject in the Ottoman dominions, and shall be liable to a fine of not more than 40s. for each instance of such failure.

73. Any native Indian subject of Her Majesty resident in or resorting to the Ottoman dominions may, if he or she thinks fit, register himself or herself at the respective times and in the manner aforesaid. Any native Indian subject of Her Majesty not so registering himself or herself shall not be entitled to sue in any of Her Majesty's consular courts in the Ottoman dominions, or to receive the support or protection of any of Her Majesty's consular officers with respect to any suit or proceeding to which he or she is a party in a court or before a judicial officer of the Sublime Ottoman Porte, or in a court or before a judicial officer in the Ottoman dominions of any state in amity with Her Majesty; nor shall any of Her Majesty's consular officers exercise any jurisdiction for the punishment of any crime or offense committed by any native Indian subject of Her Majesty unless at the date of the commission of the crime or offense he or she was so registered.

74. Every person shall, on every such registration of himself or herself, pay a fee of 5s.

75. The consular officer shall give to every person so registered a certificate of registration under his hand and consular seal; and the name of a wife (unless she is living apart from her husband) shall be indorsed on her husband's certificate; and the names and descriptions of females whose registration is comprised in that of the head of the family shall be indorsed on the certificate of the head of the family.

VIII.—DEATHS OF BRITISH SUBJECTS NON-RESIDENT.

76. Where a British subject not having at the time of death his fixed place of abode in the Ottoman dominions dies in those dominions, the consular court within whose district he dies shall, where the circumstances of the case appear to the court so to require, forthwith on the death of the deceased, or as soon after as may be, take possession of his personal property within the particular jurisdiction, or put it under the seal of the court (in either case, if the nature of the property or other circumstances so require, making an inventory), and so keep the property until it can be dealt with according to law.

IX.—OFFENSES AGAINST RELIGION.

77. If any British subject is guilty of publicly deriding, mocking, or insulting any religion established or observed within the Ottoman dominions, or of publicly offering any insult to any religious service, feast, or ceremony established or kept in any part of those dominions, or to any place of worship, tomb, or sanctuary belonging to any such religion, or to the ministers or professors thereof, or of wilfully committing any act tending to bring any such religion, or its ceremonies, mode of worship, or observances, into hatred, ridicule, or contempt, and thereby to provoke a breach of the public peace, he shall be liable (in the discretion of the court) to imprisonment for not more than two years, with or without hard labor, and with or without a fine of not more than £100 sterling, or to a fine of not more than £100 sterling alone.
JUDICIAL EXTRATERRITORIAL RIGHTS.

...Notwithstanding anything in this order, every charge against a British subject of having committed any such offense shall be heard and determined in a summary way, and any provincial consular court shall have power to impose the punishment aforesaid.

Her Majesty's consular officers shall take such precautionary measures as seem to them proper and expedient for the prevention of such offenses.

X.—FOREIGNERS.—FOREIGN TRIBUNALS.

78. Where a foreigner desires to institute or take any suit or proceeding of a civil nature against a British subject, or a British subject against a foreigner, the supreme or other consular court, according to its respective jurisdiction, shall entertain the same, and shall hear and determine it, either by the judge or proper consular officer sitting alone, or, if all parties desire, or the court thinks fit to direct, a trial with a jury, then by such judge or officer with a jury, but in all other respects according to the ordinary course of the court; provided that the foreigner first obtains and files in the court the consent in writing of the competent local authority on behalf of the Sublime Ottoman Porte, or that of the consul of his own nation (as the case may be), to his submitting, and does submit, to the jurisdiction of the court, and, if required, gives security to the satisfaction of the court, by deposit or otherwise, to pay fees, damages, costs, and expenses, and abide by and perform such decision as may be given by the supreme or other consular court originally or on appeal (as the case may require).

79. Where it is shown to a consular court that the attendance of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required in a court or before a judicial officer of the Sublime Ottoman Porte, or in a court or before a judicial officer in the Ottoman dominions of any state in amity with Her Majesty, the consular court may, in cases and under circumstances which would require the attendance of such British subject before one of Her Majesty's consular courts in the Ottoman dominions, and if it seems to the consular court just and expedient so to do, make an order for the attendance of such British subject in such court or before such judicial officer, and for such purpose as aforesaid, but so that a provincial consular court shall not have power to make an order for such attendance of a British subject at any place beyond the particular jurisdiction of the court.

Any British subject duly served with such an order, and with reasonable notice of the time and place at which his attendance is required, failing to attend accordingly, and not excusing his failure to the satisfaction of the court making the order, shall be liable to a fine of not more than £100 sterling, or to imprisonment for not more than one month, in the discretion of the court.

XI.—APPEAL TO SUPREME CONSULAR COURT.

1.—In civil cases.

80. Where any decision of a provincial consular court, sitting with or without assessors, is given in a civil case in respect of a sum or matter at issue of the amount or value of £50 sterling or upwards, or determines, directly or indirectly, any claim or question respecting property or any civil right of the amount or value of £50 sterling or upwards, any party aggrieved by the decision may apply to the provincial con-
sular court for leave to appeal to the supreme consular court, and shall be entitled to leave on the terms prescribed by the rules made under this order, and subject to any restrictions and exceptions therein contained. In any other case the provincial consular court may, if it seems just and expedient, give leave to appeal on like terms. In any case the supreme consular court may give leave to appeal on such terms as seem just.

2.—In criminal cases.

81. Where any person is convicted otherwise than in a summary way of a crime or offense, the court or consular officer before whom he is tried may reserve for the consideration of the supreme consular court any question of law arising on the trial. The court or officer shall then state a special case setting out the question reserved, with the facts and circumstances on which it arose, and shall send the case to the supreme consular court.

82. Where any person is convicted in a summary way of a crime or offense, and is dissatisfied with the conviction, as being erroneous in point of law, the court or consular officer before whom he is tried shall, on his application (unless the application appears merely frivolous, in which case the court or officer may refuse the application), state a special case setting out the facts and the grounds of the conviction, for the opinion of the supreme consular court, and send it to that court.

83. Where a special case is stated, the court or consular officer shall, as seems fit, either postpone judgment on the conviction or respite execution of the judgment, and either commit the person convicted to prison or take proper security for him to appear and receive judgment or to render himself in execution (as the case may require) at an appointed time and place.

84. The supreme consular court shall hear and finally determine the matter, and thereupon shall reverse, affirm, or amend any judgment given at the trial, or set aside such judgment and order an entry to be made in the minutes of proceedings that in the judgment of the supreme consular court the person ought not to have been convicted, or arrest the judgment, or order judgment to be given at a subsequent sitting of the court or officer by whom the case is stated, or make such other order as justice requires, and shall also give all necessary and proper consequential directions.

85. The judgment of the supreme consular court shall be delivered in open court, after the public hearing of any argument offered on behalf of the prosecution or of the person convicted.

86. Before delivering judgment the supreme consular court may, if necessary, cause the special case to be amended by the court or consular officer by whom it was stated.

XII.—Appeal to Her Majesty in Council.

87. Where any decision of the supreme consular court is given in a civil case in respect of a sum or matter at issue of the amount or value of £500 sterling or upwards, or determines, directly or indirectly, any claim or question respecting property or any civil right of the amount or value of £500 sterling or upwards, any party aggrieved by the decision may, within fifteen days after the same is given, apply by motion
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to the supreme consular court for leave to appeal to Her Majesty in council.

If leave to appeal is applied for by a party adjudged to pay money or perform a duty, the supreme consular court shall direct either that the decision appealed from be carried into execution or that the execution thereof be suspended pending the appeal, as the court considers to be in accordance with substantial justice.

If the court directs the decision to be carried into execution, the party in whose favor it is given shall, before the execution of it, give security to the satisfaction of the court for the due performance of such order as Her Majesty in council may think fit to make.

If the court directs the execution of the decision to be suspended pending an appeal, the party against whom the decision is given shall, before any order for suspension of execution, give security to the satisfaction of the court for the due performance of such order as Her Majesty in council may think fit to make.

In all cases security shall also be given by the appellant to the satisfaction of the court, to an amount not exceeding £500 sterling, for the prosecution of the appeal, and for payment of all such costs as may be awarded to any respondent by Her Majesty in council, or by the lords of the judicial committee of Her Majesty's privy council.

If the last-mentioned security is given within one month from the filing of the motion-paper for leave to appeal, then, and not otherwise, the supreme consular court shall give leave to appeal, and the appellant shall be at liberty to prefer and prosecute his appeal to Her Majesty in council according to the rules for the time being in force respecting appeals to Her Majesty in council from her colonies, or such other rules as Her Majesty in council, from time to time, thinks fit to make concerning appeals from the supreme consular court.

In any case other than the cases hereinbefore described, the supreme consular court, if it considers it just or expedient to do so, may give leave to appeal on the terms and in the manner aforesaid.

88. This order shall not affect the right of Her Majesty at any time, on the humble petition of a party aggrieved by a decision of the supreme consular court, to admit his appeal thereon on such terms and in such manner as Her Majesty in council may think fit, and to deal with the decision appealed from in such manner as may be just.

XIII.—Rules.

89. The judge of the supreme consular court may, notwithstanding anything herein contained, at any time after the passing of this order, and from time to time, frame rules for the effectual execution of this order, and for the observance of the capitulations, articles of peace, and treaties between Her Majesty and the Sublime Ottoman Porte, and for the maintenance of order among British subjects in the Ottoman dominions, and may thereby impose reasonable penalties; and also rules for the regulation of procedure and pleading, forms of writs and other proceedings, expenses of witnesses and prosecutions, costs, and fees, in civil and criminal cases, in the supreme consular court and other consular courts, and the regulation of appeals to the supreme consular court from the other consular courts.

The rules affecting the conduct of civil suits shall be so framed as to secure, as far as may be, that cases shall be decided on their merits, according to substantial justice, without excessive regard to technicalities of pleading or procedure, and without unnecessary delay. No rules
shall take effect unless and until approved by one of Her Majesty's principal secretaries of state.

The rules made under the order of the 9th day of January, 1863, shall remain in force until rules made under the present order take effect; and references to the order of the 9th day of January, 1863, in the rules made thereunder, shall be construed as referring to the corresponding provisions of the present order.

90. A copy of the rules for the time being in force shall be exhibited in some conspicuous place in each consular court and consulate in the Ottoman dominions. Printed copies shall be provided and sold at such reasonable price as the judge of the supreme consular court from time to time directs.

No penalty shall be enforced in any court for the breach of any rule until the rule has been so exhibited in the court for one month.

91. For the purpose of convicting any person committing a breach of any rule, and for all other purposes of law, a printed copy of the rule, purporting to be certified under the hand of the judge of the supreme consular court and the seal of the court, or under the hand and consular seal of one of Her Majesty's consular officers, shall be taken as conclusive evidence of the same, and no proof of the handwriting or seal purporting to certify the same shall be required.

XIV.—Miscellaneous provisions.

92. In every case, civil or criminal, heard in a consular court, proper minutes of the proceedings shall be drawn up, and shall be signed by the judge or consular officer before whom the proceedings are taken, and sealed with the seal of the court, and shall, where assessors are present, be open for their inspection, and for their signature if concurred in by them.

The minutes, with depositions of witnesses and notes of evidence taken at the trial by the judge or consular officer, shall be preserved in the public office of the court.

93. In a civil case a consular court may order such costs, or costs, charges, and expenses as to the court seem reasonable to be paid by any party to the proceeding or out of any fund to which the proceeding relates.

94. A consular court, either of its own motion or, in civil cases, on the application of any party to any suit or proceeding or reference, may summon as a witness any British subject in the Ottoman dominions, but so that a provincial consular court shall have power so to summon British subjects in its own district only.

Any British subject duly served with such a summons, and with reasonable notice of the time and place at which his attendance is required, failing to attend accordingly, and not excusing his failure to the satisfaction of the court, shall, over and above any other liability to which he may be subject, be liable to a fine of not more than £100 sterling, or to imprisonment for not more than one month, in the discretion of the court.

95. In civil cases a consular court may, where the circumstances appear to justify it, order that the expenses of a witness, on his appearing to give evidence, shall be defrayed by the parties, or any of them.

96. Any person appearing before a consular court to give evidence in any case, civil or criminal, may be examined or give evidence on oath in the form or with the ceremony that he declares to be binding on his conscience.
97. Any British subject willfully giving false evidence in any suit or proceeding, civil or criminal, or on any reference, shall be deemed guilty of willful and corrupt perjury.

98. All costs and all charges and expenses of witnesses, prosecutions, punishments, and deportations, and other charges and expenses, and all fees, fines, forfeitures, and pecuniary penalties payable under this order, may be levied by distress and seizure, and sale of ships, goods, and lands; and no bill of sale, or mortgage, or transfer of property, made with a view to security in regard to crimes or offenses committed, or to be committed, shall be of any avail to defeat the provisions of this order.

99. All fees, fines, forfeitures, and pecuniary penalties levied under this order shall be carried to the public account, and be applied in diminution of the public expenditure on account of Her Majesty's consular service in the Ottoman dominions.

100. A copy of this order shall be exhibited in each consular court and consulate in the Ottoman dominions. Printed copies shall be provided and sold at such reasonable price as the judge of the supreme consular court directs.

101. Any suit or proceeding shall not be commenced in a consular court against any person for anything done or omitted under this order, or any rule made under it, unless notice in writing is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the suit or proceeding, nor unless it is commenced within three months next after the act or omission complained of, or, in case of a continuation of damage, within three months next after the doing of such damage has ceased.

The plaintiff in any such suit shall not succeed if tender of sufficient amends is made by the defendant before the commencement thereof; and if no tender is made, the defendant may, by leave of the court, at any time pay into court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the court as may be had and made on the payment of money into court in an ordinary suit.

XV.—JOINT JURISDICTION.

102. In any case in the decision of which, under the capitulations, articles of peace, and treaties with the Sublime Ottoman Porte, any of Her Majesty's consuls may or ought to concur, the judge of the supreme consular court, or a consular officer exercising jurisdiction under this order, shall exclusively act on the part and on behalf of Her Majesty. And the right honorable the Earl Russell, and the right honorable Edward Cardwell, and the right honorable Sir Charles Wood, three of Her Majesty's principal secretaries of state, and the lords commissioners of the admiralty, are to give the necessary directions herein as to them may respectively appertain.

ARTHUR HELPS.
APPENDIX VI.
BRITISH ORDER IN COUNCIL OF OCTOBER 25, 1881.

At the court at Balmoral, the 25th day of October, 1881.
Present, the Queen's Most Excellent Majesty in Council.

Whereas Her Majesty the Queen has power and jurisdiction in relation to Her Majesty's subjects and others in the dominions of the Emperor of China and the dominions of the Mikado of Japan:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the foreign jurisdiction acts, 1843 to 1878, or otherwise, in her vested, is pleased, by and with the advice of her privy council, to order, and it is hereby ordered, as follows:

PRELIMINARY.

1. This order may be cited as the China and Japan order in council, 1881.

2. This order shall, except as otherwise expressed, commence to take effect from and immediately after the thirty first day of December, 1881, which time is in this order referred to as the commencement of this order.

3. In this order—
"China" means the dominions of the Emperor of China.
"Japan" means the dominions of the Mikado of Japan.
"Minister" means superior diplomatic representative, whether ambassador, envoy, minister plenipotentiary, or chargé d'affaires.
"Consular officer" includes every officer in Her Majesty's consular service, whether consul-general, consul, vice-consul, or consular agent, or person authorized to act in any such capacity in China or in Japan.
"British subject" means a subject of Her Majesty, whether by birth or by naturalization.
"Foreigner" means a subject of the Emperor of China or of the Mikado of Japan, or a subject or citizen of any other state in amity with Her Majesty.
"Treaty" includes convention, and any agreement, regulations, rules, articles, tariff, or other instrument annexed to a treaty, or agreed on in pursuance of any stipulation thereof.
"Month" means calendar month.

Words importing the plural of this singular may be construed as referring to one person or thing, and words importing the masculine as referring to females (as the case may require).

REPEAL.

4. Subject to the provisions of this order, Articles 83 to 91, inclusive, of the China and Japan order in council, 1865, authorizing the making of regulations for the purposes and by the authority therein mentioned, and the regulations made thereunder, dated respectively 11 July, 1866, and 16 November, 1866, relating to mortgages, bills of sale, and proceedings against partnerships or partners or agents thereof, and Rule 252 of the rules of the supreme court and other courts in China and Japan of 4 May, 1865, relating to proceedings against partnerships,
and Articles 117 and 118 of the China and Japan order in council, 1865, relating to foreigners and foreign tribunals, are hereby repealed, as from the commencement of this order; but this repeal does not affect any right, title, obligation, or liability acquired or accrued before the commencement of this order.

CONFIRMATION OF REGULATIONS NOT REPEALED.

5. Such regulations as are described in the schedule of this order, being regulations made or expressed or intended to be made under or in execution of the powers conferred by Articles 85 to 91 of the China and Japan order in council, 1865, and all other regulations made or expressed or intended to be so made and having been approved, or, in case of urgency, not disapproved, under that order, before the commencement of this order, except the regulations expressed to be repealed by this order, are hereby confirmed, as from the passing of this order, and the same, as far as they are now in force, shall be in force, and shall be deemed to have always been of the like validity and effect as if they had been originally made by order in council.

AUTHORITY FOR FURTHER REGULATIONS.

6. Her Majesty's minister in China may from time to time, subject and according to the provisions of this order, make such regulations as to him seem fit for the peace, order, and good government of British subjects resident in or resorting to China.

7. The power aforesaid extends to the making of the regulations for securing observance of the stipulations of treaties between Her Majesty, her heirs and successors, and the Emperor of China, and for maintaining friendly relations between British subjects and Chinese subjects and authorities.

8. Her Majesty's minister in China may, as he thinks fit, make any regulations under this order extend either throughout China or to some one or more only of the consular districts in China.

9. Her Majesty's minister in China, in the exercise of the powers aforesaid, may, if he thinks fit, join with the ministers of any foreign Powers in amity with Her Majesty in making or adopting regulations with like objects as the regulations described in the schedule to this order commonly called the Shanghai Land Regulations, or any other regulations for the municipal government of any foreign concession or settlement in China; and, as regards British subjects, joint regulations so made shall be as valid and binding as if they related to British subjects only.

10. Her Majesty's minister in China may, by any regulation made under this order, repeal or alter any regulation made under the China and Japan order in council, 1865, or under any prior like authority.

11.—(a.) Regulations made under this order shall not have effect unless and until they are approved by Her Majesty the Queen, that approval being signified through one of Her Majesty's principal secretaries of state—save that, in case of urgency declared in any such regulations, the same shall take effect before that approval, and shall continue to have effect unless and until they are disapproved by Her Majesty the Queen, that disapproval being signified through one of Her Majesty's principal secretaries of state, and until notification of that disapproval has been received and published by Her Majesty's minister in China.

(b.) That approval, where given, shall be conclusive, and the validity
and regularity of any regulation so approved shall not be called in ques-
tion in any legal proceeding whatever.
12. Any regulations made under this order may, if Her Majesty's
minister thinks fit, impose penalties for offenses against the same.
13. Penalties so imposed shall not exceed the following, namely, for
any offence imprisonment for three months, with or without hard labor,
and with or without a fine of $500, or a fine of $500 without imprison-
ment, with or without a further fine, for a continuing offence, of $25 for
each day during which the offence continues after the original fine is
incurred.
14. Regulations imposing penalties shall be so framed as to allow in
every case of part only of the highest penalty being inflicted.
15. All regulations made under this order, whether imposing penal-
ties or not, shall be printed, and a printed copy thereof shall be affixed,
and be at all times kept exhibited conspicuously in the public office of
each consulate in China.
16. Printed copies of the regulations shall be kept on sale at such
reasonable price as Her Majesty's minister in China from time to time
directs.
17. Where a regulation imposes a penalty, the same shall not be en-
forceable in any consular district until a printed copy of the regulation
has been affixed in the public office of the consulate for that district,
and has been kept exhibited conspicuously there during one month.
18. A charge of an offence against a regulation made under this or-
der, imposing a penalty, shall be inquired of, heard, and determined as
an ordinary criminal charge under the China and Japan order in coun-
cil, 1865, except that (notwithstanding anything in that order) where
the regulation is one for securing observance of the stipulations of a
treaty, the charge shall be heard and determined in a summary way,
and (where the proceeding is before a provincial court) without assess-
ors.
19. A printed copy of a regulation, purporting to be made under this
order, and to be certified under the hand of Her Majesty's minister in
China, or under the hand and consular seal of one of Her Majesty's con-
sular officers in China, shall be conclusive evidence of the due making of
the regulation, and of its contents.
20. The foregoing provisions authorizing regulations for China are
hereby extended to Japan, with the substitution of Japan for China,
and of the Mikado of Japan for the Emperor of China, and of Her Maj-
esty's minister in Japan for Her Majesty's minister in China, and of
Her Majesty's consular officers in Japan for her Majesty's consular offi-
cers in China.

PRISON REGULATIONS.

21. The respective powers aforesaid extend to the making of regula-
tions for the governance, visitation, care, and superintendence of pris-
ons in China or in Japan, for the infliction of corporal or other punish-
ment on prisoners committing offenses against the rules or discipline of
a prison; but the provisions of this order respecting penalties, and re-
specting the printing, affixing, exhibiting, and sale of regulations, and
the mode of trial of charges of offenses against regulations, do not ap-
ply to regulations respecting prisons and offenses of prisoners.

MORTGAGES.

22. A deed or other instrument of mortgage, legal or equitable, of
lands or houses, in China or in Japan, executed by a British subject,
may be registered at any time after its execution at the consulate of the consular district wherein the property mortgaged is situate.

23. Registration is made as follows: The original and a copy of the deed or other instrument of mortgage and affidavit verifying the execution and place of execution thereof, and verifying the copy, are brought into the consulate; and the copy and affidavit are left there.

24. If a deed or other instrument of mortgage is not registered at the consulate aforesaid within the respective time following (namely):

(i.) Within fourteen days after its execution, where it is executed in the consular district wherein the property is situate:

(ii.) Within two months after execution, where it is executed in China or Japan, elsewhere than in that consular district, or in Hong Kong:

(iii.) Within six months after its execution, where it is executed elsewhere than in China, Japan, or Hong Kong:

then, and in every such case, the mortgage debt secured by the deed or other instrument and the interest thereon shall not have priority over judgment or simple contract debts contracted before the registration of that deed or other instrument.

25. Registered deeds or other instruments of mortgage, legal or equitable, of the same lands or houses have, as among themselves, priority in order of registration.

26.—(a.) The provisions of this order do not apply to a deed or other instrument of mortgage executed before the commencement of this order.

(b.) As regards a deed or other instrument of mortgage executed before the commencement of this order, the regulations repealed by this order shall, notwithstanding that repeal, be in force, and shall be deemed to have always been of the like validity and effect as if they had originally been made by order in council.

27. The power conferred on the chief justice of the supreme court for China and Japan by article 127 of the China and Japan order in council, 1865, of framing rules from time to time, is hereby extended to the framing of rules for prescribing and regulating the making and keeping of indexes, and of a general index, to the register of mortgages, and searches in those indexes, and other particulars connected with the making, keeping, and using of those registers and indexes, and for authorizing and regulating the unregistering of any deed or other instrument of mortgage, or the registering of any release or satisfaction in respect thereof.

BILLS OF SALE.

28. The provisions of this order relating to bills of sale—

(i.) Apply only to such bills of sale executed by British subjects as are intended to affect chattels in China or in Japan;

(ii.) Do not apply to bills of sale given by sheriffs or others under or in execution of process authorizing seizure of chattels.

29.—(a.) Every bill of sale must conform with the following rules (namely):

(1.) It must state truly the name, description, and address of the grantor.

(2.) It must state truly the consideration for which it is granted.

(3.) It must have annexed thereto or written therein under an inventory of the chattels intended to be comprised therein.

(4.) Any defeasance, condition, or declaration of trust affecting the bill not contained in the body of the bill must be written on the same paper as the bill.
The execution of the bill must be attested by a credible witness, with his address and description.

Otherwise, the bill is void in China and in Japan to the extent following, but not further (that is to say):

In the case of failure to conform with the rule respecting an inventory, as far as regards chattels omitted from the inventory; and

In any other case, wholly.

The inventory, and any defeasance, condition, or declaration as foresaid, respectively, is for all purposes deemed part of the bill.

A bill of sale conforming, or appearing to conform, with the foregoing rules, may be registered, if it is intended to affect chattels in China, at the supreme court; and if it is intended to affect chattels in Japan, at the court for Japan; or in either case at the consulate of the consular district wherein the chattels are; within the respective time following, and not afterwards, namely:

(i) Within fourteen days after its execution, where it is executed in the consular district wherein the chattels are.

(ii) Within two months after its execution, where it is executed in China or in Japan, elsewhere than in that consular district, or in Hong-Kong.

(iii) Within six months after its execution, where it is executed elsewhere than in China, Japan, or Hong-Kong.

Registration is made as follows: The original and a copy of the bill of sale and an affidavit verifying the execution, and the time and place of execution, and the attestation thereof, and verifying the copy, are brought into the proper office of the court or the consulate, and the copy and affidavit are left there.

If a bill of sale is not registered at a place and within the time by this order appointed and allowed for registration thereof, it is, from and after the expiration of that time, void in China or in Japan, according as that place is in China or in Japan, to the extent following, but not further—that is to say:

(i) As against trustees or assignees of the estate of the grantor, in or under bankruptcy, liquidation, or assignment for benefit of creditors; and

(ii) As against all sheriffs and others seizing chattels under process of any court, and any person on whose behalf the seizure is made; but only

(iii) As regards the property in, or right to the possession of such chattels comprised in the bill, as, at or after the filing of the petition for bankruptcy or liquidation, or the execution of the assignment, or the seizure, are in the grantor’s possession, or apparent possession.

Registered bills of sale affecting the same chattels have, as among themselves, priority in order of registration.

Chattels comprised in a registered bill of sale are not in the possession, order, or disposition of the grantor with the law of bankruptcy.

If in any case there is an unregistered bill of sale, and within or on the expiration of the time by this order allowed for registration thereof, a subsequent bill of sale is granted, affecting the same or some of the same chattels, for the same or part of the same debt, then the subsequent bill is, to the extent to which it comprises the same chattels and is for the same debt, absolutely void, unless the supreme court for China and Japan, or the court for Japan, as the case may require, is satisfied that the subsequent bill is granted in good faith for the purpose of correcting some material error in the prior bill, and not for the purpose of unlawfully evading the operation of this order.
36. The registration of a bill of sale must be renewed once, at least, 
every five years.
37. Renewal of registration is made as follows: An affidavit stating 
the date of and parties to the bill of sale, and the date of the original 
registration, and of the last renewal, and that the bill is still a subsist-
ing security, is brought into the proper office of the court or the con-
sulate of original registration, and is left there.
38. If the registration of a bill of sale is not so renewed in any period 
of five years, then on and from the expiration of that period the bill is 
deemed to be unregistered.
39. The provisions of this order relating to renewal apply to bills of 
sale registered under the regulations repealed by this order.
40. A transfer or assignment of a registered bill of sale need not be 
registered; and renewal of registration is not necessary by reason only 
of such a transfer or assignment.
41. Where the time for registration or renewal of registration of a bill 
of sale expires on a Sunday, or other day on which the office for regis-
tration is closed, the registration or renewal is valid if made on the first 
subsequent day on which the office is open.
42. If in any case the supreme court for China and Japan, or the court 
for Japan, as the case may require, is satisfied that failure to register or 
to renew the registration of a bill of sale in due time, or any omission or 
misstatement connected with registration or renewal, was accidental or 
 inadvertent, the court may, if it thinks fit, order the failure, omission, or 
 misstatement to be rectified in such manner and on such terms, if any, 
 respecting security, notice by advertisement or otherwise, or any other 
matter, as the court thinks fit.
43. (a.) The provisions of this order, except as regards renewal of reg-
istration, do not apply to a bill of sale executed before the commenc-
ment of this order.
(b.) As regards a bill of sale executed before the commencement of 
this order, the regulations repealed by this order shall, notwithstanding 
that repeal, be in force, and shall be deemed to have always been of the 
like validity and effect as if they had originally been made by order in 
council.
44. The power conferred on the chief justice of the supreme court for 
China and Japan by article 127 of the China and Japan order in council, 
1865, of framing rules from time to time, is hereby extended to the 
framing of rules for prescribing and regulating the making and keeping 
of indexes, and of a general index, to the registers of bills of sale, and 
searches in those indexes, and other particulars connected with the 
making, keeping, and using of those registers and indexes, and for au-
thorizing and regulating the unregistering of any bill of sale, or the reg-
istering of any release or satisfaction in respect thereof.

Suits by or against partners.

45. (a.) The following are rules of procedure of Her Majesty's courts 
in China and Japan, under the China and Japan order in council, 1865: 
(1.) Persons claiming or being liable as partners may sue or be sued 
in the firm-name, if any.
(2.) Where partners sue in the firm-name they must, on demand in 
writing on behalf of any defendant, forthwith declare the names and 
addresses of the partners.
(3.) Otherwise, all proceedings in the suit may, on application, be 
 stayed on such terms as the court thinks fit.
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(4.) When the names of the partners are so declared, the suit proceeds in the same manner, and the same consequences in all respects follow, as if they had been named as the plaintiffs in the petition.

(5.) All subsequent proceedings nevertheless continue in the firm name.

(6.) Where partners are sued in the firm name, the petition must be served either on one or more of the partners within the jurisdiction, or at the principal place of the partnership business within the jurisdiction on some person having then and there control or management of the partnership business.

(7.) Where one person carried on business in the name of a firm apparently representing more persons than one, is sued in the firm name, the petition may be served at the principal place of the business within the jurisdiction on some person having then and there control or management of the business.

(8.) Where partners are sued in the firm name, they must appear individually in their own names.

(9.) All subsequent proceedings nevertheless continue in the firm name.

(10.) Where a person, carrying on business in the name of a firm apparently representing more persons than one, is sued in the firm name he must appear in his own name.

(11.) All subsequent proceedings nevertheless continue in the firm name.

(12.) In any case not hereinbefore provided for, where persons claiming or being liable as partners sue or are sued in the firm name, any party to the suit may, on application to the court, obtain a statement of the names of the persons who are partners in the firm, to be furnished and verified on oath or otherwise, as the court thinks fit.

(13.) Where a judgment is against partners in the firm name, execution may issue—

(i.) Against any property of the partners as such; and

(ii.) Against any person who has admitted in the suit that he is a partner, or who has been adjudged to be a partner; and

(iii.) Against any person who has been served in the suit as a partner, and has failed to appear.

(14.) If the party who has obtained judgment claims to be entitled to issue execution against any other person, as being a partner, he may apply to the court for leave so to do; and the court, if the liability is not disputed, may give such leave, or if it is disputed may order that the question of the liability be tried and determined as a question in the suit, in such manner as the court thinks fit.

(b.) The foregoing rules may be from time to time varied by rules of procedure made under the China and Japan order in council, 1865.

(c.) Printed copies of the foregoing rules must be exhibited conspicuously in each court and consulate in China and Japan, with the other rules of procedure for the time being in force under the China and Japan order in council, 1865, and be sold at such reasonable price as the chief justice of the supreme court from time to time directs.

(d.) A printed copy of the foregoing rules purporting to be certified under the hand of the chief justice of the supreme court and the seal of that court is for all purposes conclusive evidence thereof.

46. (a.) The provisions of this order do not apply to proceedings instituted by or against partnership or partners or agents thereof, before the commencement of this order.

(b.) As regards proceedings instituted by or against partnerships or
partners or agents thereof before the commencement of this order, the
regulations repealed by this order shall, notwithstanding that repeal,
be in force, and shall be deemed to have always been of the like validity
and effect as if they had been rules of procedure made under the China
and Japan order in council, 1865; and, as regards the same proceedings,
the rule of procedure (252) repealed by this order shall continue to
have effect, notwithstanding that repeal, subject always to the operation
of the regulations repealed by this order.

Suits by or against foreigners.

47. (a) Where a foreigner desires to institute or take a suit or pro-
ceeding of a civil nature against a British subject, or a British subject
desires to institute or take a suit or proceeding of a civil nature against
a foreigner, the supreme court for Japan, and a provincial court, ac-
curring to the respective jurisdiction of the court, may entertain the suit or
proceeding, and determine it; and, if all parties desire, or the court
directs, a trial with a jury or assessors, then, with a jury or assessors,
at a place where such a trial might be had if all parties were British
subjects, but in all other respects according to the ordinary course of
the court:

(b) Provided, that the foreigner first obtains and files in the court
the consent in writing of the competent authority of his own nation to
his submitting, and that he does submit, to the jurisdiction of the court,
and, if required by the court, gives security to the satisfaction of the
court, and to such reasonable amount as the court directs, by deposit
or otherwise, to pay fees, damages, costs, and expenses, and abide by
and perform the decision to be given either by the court or on appeal.

(c) A counter claim or cross suit cannot be brought or instituted in
the court against a plaintiff, being a foreigner, who has submitted to
the jurisdiction, by a defendant, except by leave of the court first ob-
tained.

(d) The court, before giving leave, requires proof from the defendant
that his claim arises out of the matter in dispute, and that there is rea-
sonable ground for it, and that it is not made for vexation or delay.

(e) Nothing in this provision prevents the defendant from instituting
or taking in the court against the foreigner, after the termination of the
suit or proceeding in which the foreigner is plaintiff, any suit or pro-
ceeding that the defendant might have instituted or taken in the court
against the foreigner if no provision restraining counter-claims or cross-
suits had been inserted in this order.

(f) Where a foreigner obtains in the court an order against a de-
fendant, being a British subject, and in another suit that defendant is
plaintiff and the foreigner is defendant, the court may, if it thinks fit,
on the application of the British subject, stay the enforcement of the
order pending that other suit, and may set off any amount ordered to
be paid by one party in one suit against any amount ordered to be paid
by the other party in the other suit.

(g) Where a plaintiff, being a foreigner, obtains in the court an order
against two or more defendants, being British subjects, jointly, and in
another suit one of them is plaintiff, and the foreigner is defendant,
the court may, if it thinks fit, on the application of the British subject,
stay the enforcement of the order pending that other suit, and may set
off any amount ordered to be paid by one party in one suit against any
amount ordered to be paid by the other party in the other suit, without
prejudice to the right of the British subject to require contribution from his co-defendants under the joint liability.

(h.) Where a foreigner is co-plaintiff in a suit with a British subject who is within the particular jurisdiction, it is not necessary for the foreigner to make deposit or give security for costs, unless the court so directs; but the co-plaintiff British subject is responsible for all fees and costs.

CHINESE, JAPANESE, OR FOREIGN TRIBUNALS.

48.—(a) Where it is shown to the supreme or other court that the attendance of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required in a Chinese or Japanese court, or before a Chinese or Japanese judicial officer, or in a court or before a judicial officer of any state in amity with Her Majesty, the supreme or other court may, if it thinks fit, in a case and in circumstances in which it would require his attendance before itself, order that he do attend as so required.

(b) A provincial court, however, cannot so order attendance at any place beyond its particular jurisdiction.

(c) If the person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the supreme or other court, he is, independently of any other liability, guilty of an offence against this order, and for every such offence, on conviction thereof, by summary trial, is liable to a fine not exceeding $500, or to imprisonment for not exceeding one month, in the discretion of the court.

And the right honorable the Earl Granville, one of Her Majesty's principal secretaries of state, is to give the necessary directions herein.

C. L. PEEL.

[The schedule to which the foregoing order in council refers.]

1. Regulations made by Sir Rutherford Alcock, while Her Majesty's minister in China, intituled or designated as Land Regulations, Regulations, and By-Laws annexed to the Land Regulation, for the foreign quarter of Shanghai north of the Yang-king-pang, and commonly called the Shanghai Land Regulations.

2. Port, consular, customs, and harbor regulations applicable to all the treaty ports in China, dated 31st May, 1869.
APPENDIX VII.

REGULATIONS IN FORCE IN THE CONSULAR COURTS OF THE UNITED STATES IN CHINA.

WITH TABLE OF FEES, AS PRESCRIBED BY THE DECREES OF APRIL 23, 1864; TO WHICH IS ADDED A SET OF FORMS, AS USED IN THE UNITED STATES CONSULATE-GENERAL; AND THE ACT OF JULY, 1870.

I.—ORDINARY CIVIL PROCEEDINGS.

1. How commenced.—Civil proceedings between American citizens must commence by written petition verified by oath before the consul.

2. Three classes of action.—Ordinary personal civil actions are of three classes, viz.: Contract, comprising all cases of contract or debt; wrong, when damages are claimed for a wrong; replevin, when possession of a specific article is claimed.

3. Demand necessary in contract and replevin.—In contract, the petition must aver that payment, or a performance of the conditions of contract, has been demanded and withheld; and, in replevin, that the articles to be replevied have been demanded.

4. Petitioner must deposit money.—The petitioner shall be required to deposit a reasonable sum to defray the probable expenses of court and defendant's costs; subsequent deposits may be required if found necessary.

5. Notice to defendant.—Upon deposit of the money, the consul shall order notice on the petition, in writing, directing defendant to appear before the court at a given day and hour, to file his written answer on oath.

6. Service.—Notice must be served on each defendant at least five days before return day, by delivery of an attested copy of the petition and order, and of any accompanying account or paper.

7. Personal service should always be required when practicable.

8. Default.—On proof of due notice, judgment by default shall be procured against any defendant failing to appear and file his answer as required; but the default may be taken off for good cause within one day after, exclusive of Sunday.

9. Damages.—But in actions of wrong, and all others where the damages are in their nature unliquidated and indefinite, so that they cannot be calculated with precision from the statement of the petition, the amount of the judgment shall be ascertained by evidence, notwithstanding the default.

10. Answer.—If defendant appears and answers, the consul, having both parties before him, shall, before proceeding further, encourage a settlement by mutual agreement, or by submission of the case to referees agreed on by the parties, a majority of whom shall decide it.

11. Amendments.—Parties should, at the trial, be confined as closely as may be to the averments and denials of the statement and answer, which shall not be altered after filing, except by leave granted in open court.

12. American witnesses compelled to attend.—On application of either party and advance of the fees, the consul shall compel the attendance of any witness within his jurisdiction before himself, referees, or commissioners.

13. Parties are witnesses.—Each party is entitled and may be required to testify.
14. **Decrees to be obeyed.**—Judgment may be given summarily against either party failing to obey any order or decree of the consul.

15. **Attachment or arrest.**—For sufficient cause and on sufficient security the consul, on filing a petition, may grant a process of attachment of any defendant's property to a sufficient amount, or of arrest of any defendant not a married woman, nor in the service of the United States under commission from the President.

16. **Dissolution of attachment.**—Defendant may at any time have the attachment dissolved by depositing such sum, or giving such security as the consul may require.

17. **Sale of perishable property.**—Perishable property, or such as is liable to serious depreciation under attachment, may, on petition of either party, be sold by the consul's order, and its proceeds deposited in the consulate.

18. **Release of debtor.**—Any defendant arrested or imprisoned on civil petition shall be released on tender of a sufficient bond, deposit of a sufficient sum, or assignment of sufficient property.

19. **Debtor's disclosure.**—Any person under civil arrest or imprisonment may have his creditor cited before the consul to hear a disclosure of the prisoner's affairs under oath, and to question thereon; and if the consul shall be satisfied of its truth and thoroughness, and of the honesty of the debtor's conduct towards the creditor, he shall forever discharge him from arrest upon that debt; provided that the prisoner shall offer to transfer and secure to his creditor the property disclosed, or sufficient to pay the debt at the consul's valuation.

20. **Debtor's board.**—The creditor must advance to the jailer his fees and payment for his prisoner's board until the ensuing Monday, and afterwards weekly, or the debtor will be discharged from imprisonment and future arrest.

21. **Execution.**—On the second day after judgment (exclusive of Sunday), execution may issue, enforcing the same, with interest at 12 per cent. a year against the property and person of the debtor, returnable in thirty days, and renewable.

22. **Seizure and sale of property.**—Sufficient property to satisfy the execution and all expenses, may be seized and sold at public auction by the officer, after due notice.

23. Property attached on petition, and not advertised for sale within ten days after final judgment, shall be returned to the defendant.

24. **Final judgment for defendant.**—When final judgment is given in favor of defendant, his person and property are at once freed from imprisonment or attachment, and all security given by him discharged. And the consul may, at his discretion, award him compensation for any damage necessarily and directly sustained by reason of such attachment, arrest, or imprisonment.

25. **Offset.**—In actions of contract, defendant may offset petitioner's claim by a counter claim, filing his own claim, under oath, with his answer. Petitioner shall be notified to file his answer seasonably, on oath, and the two claims shall then be tried together, and but one judgment given for the difference, if any be proved in favor of either party, otherwise for defendant's costs.

26. **Costs.**—Except as hereinafter provided, the party finally prevailing recovers costs, to be taxed by him and revised by the consul.

27. **Trustee process.**—In contract, the consul may order defendant's property or credits in a third party's hands, to be attached on the petition by serving him with due notice as trustee, provided petitioner secures trustee his costs by adequate special deposit.
28. Trustee's costs.—If adjudged trustee, the third party may retain his costs from the amount for which he is adjudged trustee, if sufficient; otherwise the balance of trustee's costs must be paid out of petitioner's special deposit, as must the whole of his costs if not adjudged trustee.

29. Demand on trustee upon execution.—The amount for which a trustee is charged must be inserted in the execution, and demanded of him by the officer within ten days after judgment, or all claim on him ceases. Process against property or person of the trustee may issue ten days after demand.

30. Debt must be at least ten dollars.—If petitioner recovers judgment for less than ten dollars, or if less than ten dollars of defendant's property or credits is proved in the third party's hands, in either case the third party must be discharged with costs against petitioner.

31. Replevin.—Before granting a writ of replevin, the consul shall require petitioner to file a sufficient bond, with two responsible sureties, for double the value of the property to be repleived, one an American citizen; or petitioner may deposit the required amount.

II.—Tender, Etc.

32. Before a creditor files his petition in contract, his debtor may make an absolute and unconditional offer of the amount he considers due, by tendering the money in the sight of the creditor or his legal representative.

33. Deposit.—If not accepted, the debtor shall, at his own risk, and paying the charges, deposit the money with the consul, who shall receipt to him and notify the creditor.

34. Demand or withdrawal.—It shall be paid to the creditor at any time, if demanded, unless previously withdrawn by the depositor.

35. Costs.—If the depositor does not withdraw his deposit, and, upon trial, is not adjudged to have owed petitioner at the time of the tender more than its amount, he shall recover all his costs.

36. Offer to be defaulted.—At any stage of a suit in contract or wrong, defendant may file an offer to be defaulted for a specific sum and the costs up to that time; and if petitioner chooses to proceed to trial, and does not recover more than the sum offered, and interest, he shall pay all defendant's costs arising after the offer, execution issuing for the balance only.

III.—Reference.

37. When parties agree to a reference they shall immediately file a rule, and the case be marked "Referred"; a commission shall then issue to the referees, with a copy of all papers filed in the case.

38. Award and acceptance.—The referees shall report their award to the consul, who shall accept the same, and give judgment and issue execution thereon, unless satisfied of fraud, perjury, corruption, or gross error in the proceedings.

39. When transmitted to minister.—In cases involving more than five hundred dollars, if his acceptance is withheld, the consul shall at once transmit the whole case, with a brief statement of his reasons, and the evidence thereon, to the minister, who shall give judgment on the award, or grant a new trial before the consul.

IV.—Appeal.

40. Must be within one day.—Appeals must be claimed before three o'clock in the afternoon of the day after judgment (excluding Sunday); but in civil cases, only upon sufficient security.
41. To be perfected within five days.—Within five days after judgment, the appellant must set forth his reasons by petition filed with the consul, which shall be transmitted as soon as may be to the minister, with a copy of docket entries and of all papers in the case.

V.—NEW TRIAL.

42. Because of perjury.—On proof of the perjury of any important witness of the prevailing party upon a material point, affecting the decision of a suit, the consul who tried it may, within a year after final judgment, grant a new trial on such terms as he may deem just.

43. Generally.—Within one year after final judgment in any suit not involving more than five hundred dollars, the consul who tried it, or his successor, may, upon sufficient security, grant a new trial where justice manifestly requires it; if exceeding $500, with the concurrence of the minister.

VI.—Habeas-corpus.

44. Slaves not to be held.—No consul shall recognize the claim of any American citizen arising out of a violation of the provisions of the act of Congress approved February 19, 1862, relating to the "coolie trade" so called, nor any claim which involves the holding any person in slavery.

45. Habeas corpus.—Upon application of any person in writing and under oath, representing that he or any other person is enslaved, unlawfully imprisoned, or deprived of his liberty by any American citizen within the jurisdiction of a consul, such consul may issue his writ of habeas corpus, directing such citizen to bring the said person, if in his custody or under his control, before him; and the question shall be determined summarily, subject to appeal.

VII.—DIVORCE.

46. Libels for divorce must be signed and sworn to before the consul, and on the trial each party may testify.

47. Attachment.—The consul, for good cause, may order the attachment of libeller's property to such an amount and on such terms as he may think proper.

48. Husband to advance money.—He may also, at his discretion, order the husband to advance to his wife, or pay into court, a reasonable sum to enable her to prosecute or defend the libel, with a reasonable monthly allowance for her support, pending the proceedings.

49. Alimony.—Alimony may be awarded or denied the wife on her divorce, at his discretion.

50. Minor children.—Custody of the minor children may be decreed to such party as justice and the children's good may require.

51. Release of both.—Divorce releases both parties, and they shall not be remarried to each other.

52. Costs.—Costs are at the discretion of the consul.

VIII.—MARRIAGE.

53. Record and return.—Each consul shall record all marriages solemnized by him or in his official presence.

IX.—BIRTHS AND DEATHS.

54. The birth and death of every American citizen within the limits of his jurisdiction shall likewise be recorded.
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X.—Bankruptcy, partnership, probate, etc.

55. Until promulgation of further regulations, consuls will continue to exercise their former lawful jurisdiction and authority in bankruptcy, partnerships, probate of wills, administration of estates, and other matters of equity, admiralty, ecclesiastical and common law, not specially provided for in previous decrees, according to such reasonable rules not repugnant to the Constitution, treaties, and laws of the United States, as they may find necessary or convenient to adopt.

XI.—Seamen.

56. In proceedings or prosecutions instituted by or against American seamen, the consul may, at his discretion, suspend any of these rules in favor of the seamen when, in his opinion, justice, humanity, and public policy require it.

XII.—Criminal proceedings.

57. How commenced.—Complaints and informations against American citizens should always be signed and sworn to before the consul when the complainant or informant is at or near the consul's port.

58. How authenticated.—All complaints and informations not so signed and sworn to by a citizen of the United States, and all complaints and informations in capital cases, must be authenticated by the consul's certificate of his knowledge or belief of the substantial truth of enough of the complaint or information to justify the arrest of the party charged.

59. Copy of accusation.—No citizen shall be arraigned for trial until the offense charged is distinctly made known to him by the consul in his own language. In cases of magnitude, and in all cases when demanded, an attested copy (or translation) of the complaint, information, or statement, authenticated by the consul, shall be furnished him in his own language, as soon as may be, after his arrest.

60. Presence of accuser.—The personal presence of the accuser is indispensable throughout the trial.

61. May testify.—He shall be informed of his right to testify, and cautioned that if he chooses to offer himself as a witness, he must answer all questions that may be propounded by the consul or his order, like any other witness.

62. American witnesses compelled to attend.—The government and the accused are equally entitled to compulsory process for witnesses within their jurisdiction; and if the consul believes the accused to be unable to advance the fees, his necessary witnesses shall be summoned at the expense of the United States.

63. Fines and costs.—When punishment is by fine, costs may be included or remitted at the consul's discretion. An alternative sentence of thirty days' imprisonment shall take effect on non-payment of any part of the fine or costs adjudged in any criminal proceeding.

64. Any prisoner, before conviction, may be admitted to bail by the consul who tries him, except in capital cases.

65. Capital cases.—No prisoner, charged with a capital offense, shall be admitted to bail where the proof is evident, or the presumption of his guilt great.

66. After conviction.—After conviction and appeal, the prisoner may be admitted to bail only by the minister.

67. American bail.—Any citizen of the United States offering himself as bail shall sign and swear, before the consul, to a schedule of unen-
cumbered personal property of a value at least double the amount of the required bail.

68. Foreign bail.—Any other proposed bail or security shall sign and swear before the consul to a similar schedule of unencumbered personal property within the local jurisdiction of the consulate, or he may be required to deposit the amount in money or valuables with the consul.

69. Two sureties.—Unless such sufficient citizen becomes bail, or such deposit is made, at least two sureties shall be required.

70. Surrender.—Any American bail may have leave of the consul to surrender his principal on payment of all costs and expenses.

71. Prosecutor may be required to give security.—Any complainant, informer, or prosecutor, may be required to give security for all costs of the prosecution, including those of the accused; and every complainant, &c., not a citizen of the United States, shall be so required, unless in the consul's opinion justice will be better promoted otherwise; and when such security is refused the prosecution shall abate.

72. Honorable acquittal.—When the innocence of the accused, both in law and in intention, is manifest, the consul shall add to the usual judgment of acquittal the word "honourably."

73. Costs.—In such case judgment may be given and execution issued summarily against any informer, complainant, or prosecutor, for the whole costs of the trial, including those of the accused, or for any part of either or both, if the proceeding appears to have been groundless and vexatious, originating in corrupt, malicious, or vindictive motives.

74. Minor offenses.—Consuls will ordinarily encourage the settlement of all prosecutions, not of a heinous character, by the parties aggrieved or concerned.

XIII.—OATHS.

75. Oaths shall be administered in some language that the witness understands.

76. Not Christians.—A witness not a Christian shall be sworn according to his religious belief.

77. Atheist.—An avowed atheist shall not be sworn, but may affirm, under the pains and penalties of perjury; the credibility of his evidence being for the consideration of the consul.

78. Affirmation.—A Christian, conscientiously scrupulous of an oath, may affirm under the pains and penalties of perjury.

XIV.—DOCKETS, RECORDS, ETC.

79. Civil docket.—Each consul shall keep a regular docket or calendar of all civil actions and proceedings, entering each case separately, numbering consecutively, to the end of his term of office, with the date of filing, the names of the parties in full, their nationality, the nature of the proceeding, the sum or thing claimed, with minutes and dates of all orders, decrees, continuances, appeals, and proceedings, until final judgment.

80. Criminal.—He shall keep another regular docket for all criminal cases, with sufficient similar memoranda.

81. Filing papers.—All original papers shall be filed at once and never removed; no person but an officer of the consulate or the minister should be allowed access to them. All papers in a case must be kept together in one inclosure, and numbered as in the docket with the parties' names, the nature of the proceeding, the year of filing the petition and of final judgment conspicuously marked on the inclosure, and each year's cases kept by themselves in their order.
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XV.—LIMITATION OF ACTIONS AND PROSECUTIONS.

82. Criminal.—Heinous offenses, not capital, must be prosecuted within six years; minor offenses within one.

83. Civil.—Civil actions based on written promise, contract, or instrument must be commenced within six years after the cause of action accrues; others within two.

84. Absence; fraudulent concealment.—In prosecutions for heinous offenses, not capital, and in civil cases involving more than $500, any absence of respondent or defendant for more than three months at a time from China shall be added to the limitation; and in civil cases involving more than $100, the period during which the cause of action may be fraudulently concealed by defendant shall likewise be added.

XVI.—GENERAL PROVISIONS.

85. Trials, public.—All trials and proceedings in the United States consular courts in China shall be open and public.

86. Interpreting and translating.—Papers and testimony in a foreign language shall be translated into English by a sworn interpreter appointed by the consul; in civil cases to be paid by petitioner. Oaths and questions shall be translated by the interpreter from the English for any witness who does not understand English.

87. Testimony.—Parties may be required to file their petitions, answers, complaints, informations, and all other papers addressed to the court, in English; or they may be translated by the interpreter at the consul’s discretion. All testimony must be taken in writing in open court, by the consul or his order, and signed by the witness, after being read over to him for his approval and correction, and it shall form part of the papers in the case.

88. Adjournment.—The consul may adjourn his court from time to time and place to place within his jurisdiction, always commencing proceedings and giving judgment at the consulate.

89. Officer.—All processes not served by the consul personally must be executed by an officer of the consulate, who shall sign his return, specifying the time and mode of service, and annexing an account of his fees.

90. Copies on appeal.—On appeal, copies of all the papers must be paid for in advance by the appellant, except in criminal cases where respondent is unable to pay.

91. Copies.—Any person interested is entitled to a copy of any paper on file, on prepayment of the fee.

92. Reasonable clearness, precision, and certainty should be required in the papers; and substantial justice and all practicable dispatch is expected in the decisions.

93. Definition of consul.—The word “consul” is intended to include the consul-general, and any vice-consul or deputy-consul actually exercising the consular power at any consulate, unless the sense requires a more limited construction.

94. Associates.—Each associate in a consular trial shall, before entering on his duties, be sworn by the consul. Before taking the oath, he may be challenged by either party, and for sufficient cause excused and another drawn.

95. Contempt.—Consuls will always preserve order in court, punishing summarily any contumacy committed in their presence, or any refusal to obey their lawful summons or order, by imprisonment not exceeding twenty-four hours, or by fine not exceeding $50, and costs.
96. **Attorney.**—Every party to a civil or criminal proceeding may be heard in person, or by attorney of his choice, or by both; but the presence of counsel shall be under the exclusive control and discretion of the consul.

97. **Accounts.**—The accounts of the consular courts shall be kept in United States currency; and every order of deposit, decree of costs, taxation of fees, and, generally, every paper issuing originally from the court, shall be expressed in dollars and cents, and satisfied in United States metallic currency, or its equivalent.

### XVII.—FEES.

#### In consular court.

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<td>In all cases where the amount in question is not more than $500</td>
<td>$5.00</td>
</tr>
<tr>
<td>In all cases where it is over $500</td>
<td>15.00</td>
</tr>
<tr>
<td>In all cases where no specific damages are sought, the fee shall be $5 for minor, and $15 for greater cases.</td>
<td></td>
</tr>
</tbody>
</table>

#### Clerk's fees.

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>For issuing all writs, warrants, attachments, or other compulsory process</td>
<td>1.50</td>
</tr>
<tr>
<td>For docketing every suit commenced</td>
<td>1.00</td>
</tr>
<tr>
<td>For executions</td>
<td>1.00</td>
</tr>
<tr>
<td>For summonses, subpoenas, and notices</td>
<td>5.00</td>
</tr>
<tr>
<td>For all records at the rate of, for each hundred words</td>
<td>3.00</td>
</tr>
<tr>
<td>For drawing every notice, paper, order, or process, not otherwise provided for.</td>
<td>2.00</td>
</tr>
<tr>
<td>And if it exceeds 200 words, for every additional hundred words</td>
<td>1.00</td>
</tr>
<tr>
<td>For every seal to process issued</td>
<td>1.00</td>
</tr>
<tr>
<td>For filing each paper upon the return of the marshal, and all other papers filed in court</td>
<td>10.00</td>
</tr>
</tbody>
</table>

#### Marshal's fees.

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>For apprehending a deserter and delivering him on board the vessel deserted from, to be paid by the vessel before leaving port</td>
<td>5.00</td>
</tr>
<tr>
<td>For searching for the same, and if not found, to be certified by the consul, and on his order to be paid by the ship</td>
<td>2.00</td>
</tr>
<tr>
<td>For serving any writ, warrant, attachment, or other compulsory process, each person</td>
<td>2.00</td>
</tr>
<tr>
<td>For serving summonses</td>
<td>1.00</td>
</tr>
<tr>
<td>For returning all notices, writs, attachments, warrants, and summonses, each</td>
<td>5.00</td>
</tr>
<tr>
<td>For each bail-bond</td>
<td>1.00</td>
</tr>
<tr>
<td>For every commitment or discharge of prisoner</td>
<td>2.00</td>
</tr>
<tr>
<td>On subpoenas, for each witness summoned</td>
<td>5.00</td>
</tr>
<tr>
<td>For returning subpoena</td>
<td>3.00</td>
</tr>
<tr>
<td>For each day's attendance upon court</td>
<td>3.00</td>
</tr>
<tr>
<td>For levying execution</td>
<td>1.00</td>
</tr>
<tr>
<td>For advertising property for sale</td>
<td>2.00</td>
</tr>
<tr>
<td>For releasing property under execution, by order of plaintiff</td>
<td>3.00</td>
</tr>
<tr>
<td>For selling property under execution, when the amount collected does not exceed $1,000</td>
<td>5 per cent.</td>
</tr>
<tr>
<td>If over $1,000 and not exceeding $5,000</td>
<td>3 per cent.</td>
</tr>
<tr>
<td>If over $5,000</td>
<td>2 per cent.</td>
</tr>
<tr>
<td>For making collections under $500 in cases where no adjudication has taken place</td>
<td>5 per cent.</td>
</tr>
<tr>
<td>If the amount exceeds $200</td>
<td>24 per cent.</td>
</tr>
<tr>
<td>For traveling fees in serving all processes, each mile</td>
<td>$0.15</td>
</tr>
<tr>
<td>For serving every notice not heretofore provided for, in addition to the usual traveling fees</td>
<td>50.00</td>
</tr>
</tbody>
</table>

#### Interpreter's fees.

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>For each day's attendance upon court</td>
<td>3.00</td>
</tr>
<tr>
<td>For making translations</td>
<td>2.00</td>
</tr>
<tr>
<td>If more than 200 words, for each additional hundred</td>
<td>1.00</td>
</tr>
</tbody>
</table>

#### Witnesses' fees.

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>For every day's attendance at court</td>
<td>1.50</td>
</tr>
<tr>
<td>For each mile traveled in going to and returning from court</td>
<td>15</td>
</tr>
</tbody>
</table>

#### Crier's fees.

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>On trial of every suit</td>
<td>1.00</td>
</tr>
</tbody>
</table>
JUDICIAL EXTRATERRITORIAL RIGHTS.

104. *Citizen associates' fees.*—
For each day's attendance ......................................... $3.00

105. *Costs for prevailing party.*—
All necessary court fees paid out.

XVIII.—PROVISO.

106. All decrees heretofore issued by authority of the commissioners and ministers of the United States to China, which are inconsistent in whole or in part with the provisions of this decree, are hereby annulled, and those portions are henceforth void and of no effect; and the promulgation of these rules abrogates no authority hitherto lawfully exercised by consuls in China not inconsistent herewith.

FORMS.

1.—*Consul's judicial oath.*

I, A. B., Consul of the United States at ———, do solemnly swear that I will administer justice without respect to persons, and will, in all things, faithfully and impartially discharge all the duties incumbent upon me as judge of a consular court in China, to the best of my ability. So help me God!

A. B.

Before me at ———, this ——— day of ———, A. D. 18—.

2.—*Oath to be administered to interpreter, clerk, or marshal.*

You do solemnly swear that you will faithfully discharge all the duties incumbent upon you as ——— for the United States consular court at ——— in China, to the best of your ability. So help you God!

3.—*Oath to be administered to associates.*

You (and each of you) do solemnly swear that you will faithfully hear and duly consider the evidence to be submitted in the matter now before the court, and a fair and impartial opinion give in the premises, to the best of your ability. So help you God!

4.—*Oath to be administered to witness.*

You do solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth. So help you God!

5.—*Docket (civil cause).*

In the court of the United States consulate.

(Nationality.)

A. B.)

vs. { An action of (contract, wrong, or replevin).

C. D.)

Amount (or thing) claimed, ——— dollars.

Entered the ——— day of ———, 18—.

Order for answer, the ——— day of ———, 18—, at — o'clock — m.
JUDICIAL EXTRATERRITORIAL RIGHTS.

Answer filed, the —— day of ———, 18——, at — o'clock — m.
Order for hearing, the —— day of ———, 18——, at — o'clock — m.
Heard before ———, consul, and ———, associates, the —— day of ———, 18——.
Judgment, ———.

6.—Docket (criminal cause).

In the court of the United States consulate.

THE UNITED STATES

vs.

A. B.

Nature of offense, ———.
By whom information laid, ———.
Date when laid, ———.
Date of issue of summons or warrant, ———.
Judgment, ———.

7.—Petition.

In the Court of the United States consulate,

Between A. B., petitioner, and C. D., defendant.

To ———, esquire,

Consul and Judge in the Court:

The petition of the above named plaintiff humbly sheweth:
That he is a citizen (or subject) of ———, resident at ———.
That the defendant is an American citizen, and within the jurisdiction of this court.
(Here follows a statement of the cause of action, divided into numbered paragraphs.)
Your petitioner therefore prays that judgment may be given against the defendant accordingly, with interest and costs; and that he may have such other and further relief as to your honorable court may seem meet.
And your petitioner will ever pray.

A. B.

Subscribed and sworn to at ———, this —— day of ———, A. D. 18——, before me.

[L. S.]

United States Consul, acting judicially.

8.—Summons to answer.

In the court of the United States consulate, ———, 18——.

Between A. B., petitioner, and C. D., defendant.

To the Marshal of the Court:

You are hereby directed to serve a copy of the hereunto attached petition, and of this notice, upon the defendant, C. D., if found within this consular jurisdiction, and notify him to appear in this court on the —— day of ———, A. D. 18——, at — o'clock — m. to file his written answer thereto on oath.
Given under my hand and the seal of this consulate, at ———, the day and year first above written.

[L. S.]

United States Consul, acting judicially.
9.—Defendant's answer.

In the court of the United States consulate,

Between A. B., petitioner, and C. D., defendant.

The answer of the defendant in this matter is:
(Set forth the defense in numbered paragraphs, referring as may be appropriate to the paragraphs of the petition.)
The defendant therefore prays that the petition be dismissed, the petitioner decreed to pay the costs, and that he may have such other or further relief as to the court may seem meet.

And defendant will ever pray.

C. D.

Subscribed and sworn to at ——, this —— day of ——, A.D. 18—, before me.

[L. s.]

United States Consul, acting judicially.

10.—Notice of hearing.

In the court of the United States consulate, ——, 18—.

A. B., petitioner, }

vs.

C. D., defendant. }

To the marshal of the court:
You are hereby directed to notify —— —— that the hearing in the above matter has been set down for the —— day of ——, 18—, at — o'clock — m.
The associates chosen are: Messrs. —— ——, and —— ——.
You will obtain from the said —— the names of the witnesses whom he desires to have summoned on his behalf.

And of this notice make due return.

[L. s.]

United States Consul, acting judicially.

11.—Subprena for associate.

In the court of the United States consulate, ——, 18—.

A. B., petitioner, }

vs.

C. D., defendant. }

To the marshal of the court:
You are hereby directed to summon —— —— if found within this consular jurisdiction, to be and appear before me, at — o'clock — m., on the —— day of ——, 18—, to act as an associate in this case.

And of this subpoena make due return.

[L. s.]

United States Consul, acting judicially.
12.—Subpena to witness.

In the court of the United States consulate, ———, 18——.

A. B., petitioner, \{ vs. \[ C. D., defendant. \]

To the marshal of the court:
You are hereby directed to summon ———, if found within this consular jurisdiction, to be and appear before me, at — o'clock — m., on the ——— day of ———, 18——, to give evidence in this case in behalf of the
And of this subpoena make due return.

[L. S.

United States Consul, acting judicially.

13.—Application to foreign court to subpoena foreign witness.

In the court of the United States consulate, ———, 18——.

The United States consul has the honor to request that ———, esq., consul for ———, at ———, will be pleased to order A. B., one of its (subjects or citizens) to appear in this court on ———, the ——— day of ——— 18——, at — o'clock — m., for the purpose of giving his evidence in the cause of "C. D. vs. E. F.," in which cause the said A. B. is cited as a witness by the (petitioner or defendant.)

[L. S.

United States Consul, acting judicially.

14.—Notice to foreign court of subpoena for American witness to appear in the said court.

In the court of the United States consulate, ———, 18——.

The United States consul has the honor to inform ———, esq., consul for ——— at ———, that in compliance with his request, he has given the order to subpoena A. B., a citizen of the United States, to appear in the said court, on ——— the ——— day of ———, 18——, at — o'clock — m., for the purpose of giving his evidence in the cause "C. D. vs. E. F.," in which cause the said A. B. is cited as witness by the (petitioner or defendant.)

[L. S.

United States Consul, acting judicially.

15.—Officer's return of service.

(To be indorsed on petition, notice, summons, subpoena, or warrant.)

A. B. \{ vs. \[ C. D. \]

Served on the within named ——— (state whether the same has been served personally on petitioner or on defendant, as the case may
JUDICIAL EXTRATERRITORIAL RIGHTS.

be, or by leaving copy at his place of residence or business, or with his counsel) at — o'clock — m., on the —— day of ——, 18—.

Marshall of the Court.

16.—Judgment by default.

In the court of the United States consulate, ——, 18—.

Between A. B., petitioner, and C. D., defendant.

C. D., a citizen of the United States, having been duly served with (personal or as the case may be) notice of this suit, on the —— day of ——, 18—, as appears by the officer's return thereon, and failing to answer to-day as required, judgment is hereby given in favor of A. B., the petitioner, by default, for —— dollars and —— cents, together with —— dollars and —— cents, the costs of this action.

[L. 8.]

United States Consul, acting judicially.

17.—Notice of judgment.

In the court of the United States consulate, ——, 18—.

Between A. B., petitioner, and C. D., defendant.

To —— ——:

Take notice that judgment will be delivered in this matter on the —— at — o'clock — m.

Clerk of the Court.

18.—Final judgment after trial.

In the court of the United States consulate, ——, 18—.

Between A. B., petitioner, and C. D., defendant.

Judgment.

Having heard and tried the foregoing action, I adjudge that C. D. pay to A. B. —— dollars and —— cents with —— dollars and —— cents costs.

United States Consul, acting judicially.

Assented to:

—— ——.

—— ——.

—— ——.

Associates.

S. Mis. 89—6
19.—Motion paper.

In the court of the United States consulate, —— 18—.

Between A. B., petitioner, and C. D., defendant.

The petitioner (or defendant) in this matter now moves the court to (here state briefly the substance of the action requested).

20.—Defendant’s offset statement.

In the court of the United States consulate, —— 18—.

Between A. B., petitioner, and C. D., defendant.

The answer of the defendant in this matter is: (Set forth a general admission of the claim made by the petitioner, or an admission of so much thereof as may be appropriate, in numbered paragraphs if necessary.)

And for further answer in this matter the defendant says that the plaintiff is indebted to him as follows: (Here set forth the nature of the offset claim in paragraphs, &c.)

The defendant therefore prays that judgment may be given (against the petitioner with costs, or that the petitioner’s claim may be reduced according to defendant’s statement and judgment given accordingly), and that he may have such other or further relief as to the court may seem meet.

And your petitioner will ever pray.

C. D.

Subscribed and sworn to at —— this —— day of ——, A. D. 18—, before me.

[L. S.]

United States Consul, acting judicially.

21.—Common execution.

In the court of the United States consulate.

Between A. B., petitioner, and C. D., defendant.

To the marshal of the court:

Final judgment having been given by this court in favor of A. B. against C. D. for —— dollars and —— cents, dated —— 18—,

You are hereby directed in the name of the United States to collect the same, amounting to —— dollars, with interest at 12 per cent. a year from the date of judgment, and —— dollars more for this execution, besides your legal fees; and unless paid on demand, you are hereby directed to seize any of his property within the jurisdiction of this court that may be shown to you by A. B., and sell sufficient thereof at public auction, after due notice; and for want thereof to arrest said debtor’s person,
JUDICIAL EXTRATERRITORIAL RIGHTS.

and bring him before this court, making return hereon of all your acts, within ——— days.

Given under my hand and the seal of this consulate, this ——— day of ———, A. D. 18——.

[LS]

United States Consul, acting judicially.

22.—Replevin bond.

In the court of the United States consulate, ——— 18——.

Between A. B., petitioner, and C. D., defendant.

We, A. B., petitioner in replevin, as principal, and Q. and R., citizens of the United States, as sureties, acknowledge ourselves jointly and severally bound for ——— dollars, to C. D., a citizen of the United States, defendant, to pay all costs of said suit, and for A. B. to return all the property replevied, in the same condition he received it, whenever such shall be the final judgment; upon immediate full compliance with which by A. B., this bond will be canceled.

Witness our hands and seals.

A. B., Principal. [LS]
Q., Surety. [LS]
R., Surety. [LS]

23.—Replevin execution against defendant.

In the court of the United States consulate.

Between A. B., petitioner, and C. D., defendant.

To the marshal of the court:

Final judgment having been given by this court in favor of A. B., against C. D., defendant in replevin, for possession of the personal property replevied by him, ———, 18——, and for his costs, taxed at ——— dollars, dated ———, 18——, you are directed to seize any of the property within the jurisdiction of this court that may be shown to you by A. B., and sell sufficient thereof, at public auction, after due notice; and for want thereof to arrest said debtor's person, and bring him before this court, making return hereon of all your acts, within ——— days.

Also to deliver to A. B. the accompanying bond filed by him on ———, 18——, and canceled by me.

Given under my hand and the seal of this consulate, this ——— day of ———, A. D. 18——.

[LS]

United States Consul, acting judicially.
JUDICIAL EXTRATERRITORIAL RIGHTS.

24.—Replevin execution against petitioner.

In the court of the United States consulate.

Between A. B., petitioner, and C. D., defendant.

To the marshal of the court:

Final judgment having been given by this court in favor of C. D., against A. B., petitioner in replevin, for a return of all (or a part) of the personal property relieved for him, 18, and for his costs taxed at —— dollars, dated ——, 18, you are required in the name of the United States of America to demand and receive of A. B. the immediate return of said costs and interest at 12 per cent. a year and —— dollars more for this (and another) execution, besides your legal fees, making return hereon of all your acts, within —— days.

Given under my hand and the seal of this consulate, this —— day of ——, A. D. 18—.

[L. 8.]

United States Consul, acting judicially.

25.—Agreement for settlement.

In the court of the United States consulate, ——, 18—.

Between A. B., petitioner, and C. D., defendant.

We, A. B. and C. D., parties to a suit pending before this court, by the advice of the consul, hereby voluntarily settle the case as follows, viz: (Here state the terms of settlement distinctly.)

A. B., Petitioner.
C. D., Defendant.

Done and acknowledged in my presence, filed, and the case dismissed.

[L. 8.]

United States Consul, acting judicially.

26.—Agreement to refer.

In the court of the United States consulate, ——, 18—.

Between A. B., petitioner, and C. D., defendant.

We, A. B. and C. D., parties to a suit pending before this court, encouraged by the consul, voluntarily agree to submit the controversy to the decision of Messrs. E., of ——, F., of ——, and G., of ——, referees agreed on by us, a majority of whom shall decide it. And after suitable notice to both parties, the referees may proceed ex parte.

Witness our hands and seals.

A. B., Petitioner.
C. D., Defendant.

Agreed to and acknowledged before me, filed, and case marked “referred.”

[L. 8.]

United States Consul, acting judicially.
JUDICIAL EXTRATERRITORIAL RIGHTS.

27.—Commission to referees.

In the court of the United States consulate, ———, 18—.

Between A. B., petitioner, and C. D., defendant.

To Messrs. E., of ———, F., of ———, and G., of ———:

GENTLEMEN: Messrs. A. B. and C. D., parties to a suit pending before this court, having agreed to submit it to your decision, you are appointed referees to hear, a majority of you having power to decide the case. After suitable notice to each party of the time and place of meeting for trial, you may proceed ex parte, in case either refuses or neglects to appear. You will patiently and impartially hear the parties and their witnesses, taking down all the evidence in writing in open court, carefully reading the testimony to each witness before allowing him to sign the same.

You will report your award, sealed, to me, returning this commission with the testimony and all copies and papers, taxing your own fees and the parties' costs.

[Signature]

United States Consul, acting judicially.

28.—Award of referees.

In the court of the United States consulate, ——— 18—.

Between A. B., petitioner, and C. D., defendant.

We, the referees commissioned to hear and decide the suit of A. B. against C. D., have the honor to report that we gave each party suitable notice of the time and place of our meeting for trial, and (both or either one) appeared (personally or by attorney) and the case was fully and impartially heard on (state each of the days) and (we or a majority of us) this day award judgment in favor of A. B. against C. D. for ——— dollars and ——— cents, debt (or damages,) and ——— dollars and ——— cents, costs of court to be taxed by the court.

And we return our commission, with all the testimony taken down in open court, and signed by each witness after hearing the same read to him, with the copies of petition, answer, and all other papers filed in the case.

E,
F,
G,

Referees.

29.—Consul’s acceptance of award.

In the court of the United States consulate, ——— 18—.

Between A. B., petitioner, and C. D., defendant.

Received, filed and accepted. Judgment given on the award in favor of A. B., for ——— dollars and ——— cents, debt (or damages) and ——— dollars and ——— cents costs of court, costs of reference included.

[Signature]

United States Consul, acting judicially.
30.—Consul's transmission of unaccepted award to the minister.

In the court of the United States consulate, ——— 18——.

To the honorable ——— ———,
United States Minister at Peking, China:

Sir: I have the honor to transmit the award of Messrs. E., F., and G., referees agreed on by the parties, and commissioned by me on the ——— 18——, to hear and decide the suit of A. B. against C. D., pending before this court, and all the copies, testimony, and papers filed in the case. I regret that I cannot accept the award, for the following reasons: (State the reasons and the evidence therefor.)

I have the honor to be, sir, your obedient servant,

______
United States Consul, acting judicially.

31.—Petition for new trial.

In the court of the United States consulate.

Between A. B., petitioner, and C. D., defendant.

To ——— ———,
Consul and Judge in the Court:

C. D., defendant in the above-named cause, which was decided in this court on the ——— day of ——— 18——, represents: (Here set forth the reason for asking for a new trial, in numbered paragraphs.)

Wherefore C. D. now petitions the court to grant a new trial of this matter as provided for in the court regulations.

And your petitioner will ever pray,

C. D.

Subscribed and sworn to at ———, this ——— day of ———, A. D. 18——, before me.

______
United States Consul, acting judicially.

32.—Grant of new trial.

In the court of the United States consulate, ———, 18——.

Between A. B., petitioner, and C. D., defendant.

The foregoing petition of C. D. for a new trial of the suit wherein judgment was given against him and in favor of A. B. for ——— dollars and ——— cents and ——— dollars and ——— cents costs, on the ———, 18——, has been considered, and a new trial of the suit is granted and ordered before this court, for the following reasons, and on the following conditions: (Here set forth the reasons and conditions at sufficient length.)

______
United States Consul, acting judicially.

C. D. having performed the foregoing conditions, the ——— day of ———, 18——, is assigned for a new trial of the suit.

______
United States Consul, acting judicially.
JUDICIAL EXTRATERRITORIAL RIGHTS. 87

33.—Application for trustee process.

In the court of the United States consulate.

A. B. versus C. D., and E. F., trustee.

A. B., petitioner in said suit, represents that E. F., a citizen of the United States, is, as he is satisfied, indebted to C. D., defendant, or has effects, credits, means or property of defendant, in his hands and possession, which A. B. asks to have attached in E. F.'s hands, and that E. F. may be summoned as C. D.'s trustee, and directed to transfer the same to A. B., for the following reasons: (State the reasons.)

A. B.

Subscribed and sworn to at ———, this ——— day of ———, A. D. 18—, before me.

[L. S.]

United States Consul, acting judicially.

34.—Order of notice to trustee.

In the court of the United States consulate, ———, 18—.

A. B. versus C. D., and E. F., trustee.

To the marshal of the court:

Notify E. F. to appear before me on the ——— day of ———, 18—, at ——— o'clock in the ——— noon, to file on oath, his reasons why he should not be adjudged trustee of C. D., by serving him personally with an attested copy of A. B.'s application and of this order at least five days beforehand, making return of your service hereon.

[L. S.]

United States Consul, acting judicially.

35.—Trustee execution.

In the court of the United States consulate.

A. B. versus C. D., and E. F., trustee.

To the marshal of the court:

Final judgment having been given by this court in favor of A. B. against C. D., as principal defendant, for ——— dollars and ——— cents debt (or damages), and ——— dollars and ——— cents costs, and against E. F., as trustee of C. D., for ——— dollars and ——— cents, dated the ———, 18—, you are directed, in the name of the United States of America, to collect the same, amounting to $ ———, with interest at 12 per cent. a year from said date of judgment, besides your legal fees; and unless paid by C. D., on demand, to demand the same (or the amount for which he is adjudged trustee less his costs taxed at $ ———) of E. F., within ten days after said date of judgment, and if still unpaid, you are directed to seize any of the principal defendant's property within the jurisdiction of this court that may be shown you by A. B., and sell sufficient thereof at auction after due notice, and for want thereof to arrest his person
and bring him before this court, or after ten days subsequent to your demand on said trustee, to proceed in the same manner against his property and person, making due return of your service hereon.

Given under my hand and the seal of this consulate, this —— day of ——, 18—.

[signed]

United States Consul, acting judicially.

36.—Petition for habeas corpus.

In the court of the United States consulate.

A. B. versus C. D.

To the United States consular court:

A. B. represents that he (or E. F.) is unlawfully deprived of his liberty by C. D., a citizen of the United States, and within the jurisdiction of this court, and solicits relief.

A. B.

Subscribed and sworn to at —— this —— day of ——, A. D. 18—, before me.

[signed]

United States Consul, acting judicially.

37.—Writ of habeas corpus.

In the court of the United States consulate, ——, 18—.

A. B. versus C. D.

To the marshal of the court:

Notify C. D., a citizen of the United States, to appear before me forthwith and to bring with him A. B., if he has him in his custody or under his control, by serving C. D. (personally) with an attested copy of the petition and of this order, making due return of your service hereon.

[signed]

United States Consul, acting judicially.

38.—Execution in habeas corpus.

In the court of the United States consulate, ——, 18—.

A. B. versus C. D.

To the marshal of the court:

Final judgment having been given by this court in favor of A. B., petitioner in habeas corpus, against C. D., for unlawfully depriving him of his liberty within this consular district, and for his costs, taxed at —— dollars and —— cents, dated ——, 18—, you are required, in the name of the United States of America, forthwith to set A. B. at liberty, and to collect the costs from C. D.

[signed]

United States Consul, acting judicially.
JUDICIAL EXTRATERRITORIAL RIGHTS.

39.—Decree for husband to advance money on libel for divorce.

In the court of the United States consulate, ———, 18——.

L. versus L., in divorce.

Ordered that L. pay into court within ——— days ——— dollars to enable his wife to prosecute her (or defend his) libel for divorce pending before me. Also that he advance or secure to her ——— dollars, monthly, for her support, payable on the first day of each month during the pendency of the libel, or until further order.

[L. 8.]

United States Consul, acting judicially.

40.—Certificate of divorce.

In the court of the United States consulate.

L. versus L., in divorce.

Upon the libel of Mr. (or Mrs. L.), filed on the ——— day of ———, 18——, against Mrs. (or Mr. L.), a full divorce was decreed by this court for (state the cause) and the bond of matrimony dissolved by decree entered on the ——— 18——.

Given under my hand and the seal of this consulate, this ——— day of ———, A. D. 18——.

[L. 8.]

United States Consul, acting judicially.

41.—Application for attachment of defendant's property or arrest of his person.

In the court of the United States consulate.

A. B. versus C. D.

To the United States consular court:

A. B., petitioner, solicits the attachment of ——— dollars and ——— cents of the property (or the arrest of the person) of C. D., defendant, in a suit commenced to-day before this court, for the following reasons (state the reasons and the evidence).

A. B.

Subscribed and sworn to at ——— this ——— day of ———, A. D. 18——, before me.

[L. 8.]

United States Consul, acting judicially.
42.—Bond of applicant for attachment or arrest.

In the court of the United States consulate, ——; 18—.

Between A. B., petitioner, and C. D., defendant.

We, A. B., petitioner, as principal, and Q. and R., of ——, citizens of the United States, as sureties, acknowledge ourselves jointly and severally bound for —— dollars to C. D., defendant, to pay all loss or damage that may be adjudged by the court to have been occasioned to C. D., defendant, by attachment of his property (or by arrest of his person) on application of A. B. to-day.

Witness our hands and seals.

A. B., Principal. [L. S.]
Q., Surety. [L. S.]
R., Surety. [L. S.]

43.—Attachment.

In the court of the United States consulate, ——, 18—.

A. B. versus C. D.

I hereby notify all concerned that in virtue of the judicial authority in me vested as United States consul, I do by this writ, issuing out of the United States consular court, attach all the property, real, personal, and mixed, of the defendant (or so much as may be necessary, same to be named if possible), to be held subject to the further order of this court in the matter of a suit now pending before me in which A. B. is petitioner.

[L. S.]

United States Consul, acting judicially.

44.—Application for sale of attached property.

In the court of the United States consulate.

A. B. versus C. D.

To the United States consular court:

A. B., petitioner (or C. D., defendant) in said suit pending before this court requests that the following personal property, attached in said suit on the ——, 18—, and now held by the officer, being perishable (or liable to serious depreciation under attachment), may be sold, to wit (annex a schedule).

A. B.

Subscribed and sworn to at —— this —— day of ——, A. D. 18—, before me.

[L. S.]

United States Consul, acting judicially.
45.—Consul's order of sale.

In the court of the United States consulate, ———, 18—.

A. B. versus C. D.

To the marshal of the court:

In the name of the United States, sell at public auction, for cash, the property above named, giving public notice thereof, and serving the parties seasonably with an attested copy of the application and of this order, making due return to the court.

[1. 8.]

United States Consul, acting judicially.

46.—Public notice of sale.

A. B. versus C. D.

By order of the United States consular court, dated ———, 18—, I shall sell at public auction, for cash, to the highest bidder, on ——— the ——— day of ———, 18—, at — o'clock in the ——— noon, at ———, the following personal property of C. D., attached (or seized) by me on the petition (or execution in favor) of A. B.

———, 18—.

United States Marshal.

47.—Order of dissolution of attachment.

In the court of the United States consulate, ———, 18—.

A. B. versus C. D.

To the marshal of the court:

The attachment on the property of C. D., defendant in said suit, is dissolved.

[1. 8.]

United States Consul, acting judicially.

48.—Process of civil arrest.

In the court of the United States consulate, ———, 18—.

A. B. versus C. D.

To the marshal of the court:

In the name of the United States, arrest the person of C. D., defendant in said suit, and bring him before this court to show cause why he should not be committed to jail on petition of A. B., filed to-day.

[1. 8.]

United States Consul, acting judicially.
JUDICIAL EXTRATERRITORIAL RIGHTS.

49.—Process of commitment on civil arrest.

In the court of the United States consulate, ——, 18—.

A. B. versus C. D.

To the Marshal of the Court:

In the name of the United States, commit forthwith to jail C. D., defendant in said suit pending before this court, on petition of A. B., and there let him be safely kept unless discharged by said A. B., or until further order.

[L. S.]

United States Consul, acting judicially.

50.—Bail bond of defendant arrested on petition.

In the court of the United States consulate, ——, 18—.

Between A. B., petitioner, and C. D., defendant.

We, C. D., defendant, as principal, and Q. and R., of ——, citizens of the United States, as sureties, acknowledge ourselves jointly and severally bound for —— dollars to A. B., petitioner, that C. D., defendant, principal, shall, within ten days after final judgment against him in said suit, pay the amount thereof, and all legal charges, or surrender himself into the custody of the court.

Witness our hands and seals.

C. D., Principal. [L. S.]
Q., Surety. [L. S.]
R., Surety. [L. S.]

51.—Application of defendant for citation of petitioner.

In the court of the United States consulate.

A. B. versus C. D.

To the United States Consular Court:

I, C. D., defendant in said suit pending before this court, arrested on petition of A. B. (or debtor of A. B., by judgment of this court, dated ——, 18—, and now under arrest, or committed to jail thereon by order of this court), desire to cite A. B. before this court on the —— day of ——, 18—, at — o'clock in the —— noon at the consulate, to hear my disclosure of my affairs on oath, and to question me thereon if he thinks proper.

——, 18—.

C. D.

52.—Consul's notice to petitioner.

In the court of the United States consulate, ——, 18—.

To the Marshal of the Court:

Notify A. B., petitioner, that the foregoing prayer of C. D. is granted, and that he, A. B., is cited to appear at the time and place, and for the
purposes named, by serving him personally with an attested copy of the petition and of this order at least five days beforehand, making due return of your service.

[Signature]

United States Consul, acting judicially.

53.—Oath, schedule, and assignment of defendant or debtor.

In the court of the United States consulate.

A. B. versus C. D.

I, C. D., defendant in said suit pending before this court (or judgment debtor of A. B.), and under arrest (or imprisonment) by said A. B., on petition dated ——, 18— (or on execution from this court, dated ——, 18—, issued on a judgment of ——, 18—, for —— dollars and —— cents debt, and —— dollars and —— cents costs), solemnly swear that the following is a correct schedule of all the property which I own, or in which I have any interest, and I am ready to assign it, or such part as the court may order, to said A. B., petitioner, towards payment, to take effect whenever he shall recover judgment against me (or to said A. B., my judgment creditor, towards payment of my debt).

Schedule.

Subscribed and sworn to at —— this —— day of ——, A. D. 18—,
before me.

[Signature]

United States Consul, acting judicially.

ASSIGNMENT.

I hereby assign to A. B. all my interest in all the property described in the foregoing schedule for —— dollars, being the valuation of court, to take effect whenever he shall recover judgment against me (or to said A. B., my judgment creditor, and towards payment of my debt).

(If a part of the property only is to be assigned, say, after specifying it, &c., in payment of my debt according to the valuation of court).

Witness my hand and seal.

[Signature]

Subscribed and sworn to at —— this —— day of ——, A. D. 18—,
before me.

[Signature]

United States Consul, acting judicially.

Accepted.

——, 18—.

A. B.

54.—Consul's certificate to defendant or debtor of discharge on disclosure, or on security.

In the court of the United States Consulate, ——, 18—.

A. B. versus C. D.

To C. D.:

Sir: Having made a satisfactory disclosure of your affairs (or having given sufficient security to A. B., petitioner) before this court to-day,
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you are hereby forever discharged from arrest or imprisonment by rea-
son of (describe the judgment and execution or petition).

[L. 8.]

United States Consul, acting judicially.

55.—Consul's order of release.

In the court of the United States consulate ——, 18—.

A. B. versus C. D.

To the Marshal of the Court:

In the name of the United States, forthwith release C. D., now in your

[United States Consul, acting judicially.] custody on petition (or judgment in favor) of A. B.

[L. 8.]

56.—Appellant's petition to minister.

In the court of the United States consulate.

Between A. B. or C. D., appellant, and C. D. or A. B., defendant.

To the honorable —— ——,

United States minister at Peking, China:

A. B., a citizen of the United States, appeals from the judgment of

the United States consular court at ——, given on the —— of ——,

18—, against him and in favor of C. D., for (state the judgment) for the

following reasons. (Here set forth the reasons in numbered paragraphs.)

——, 18—.

A. B.

57.—Consul's transmission of appeal.

In the court of the United States consulate ——, 18—.

Sir: A. B., appellant, having seasonably filed his appeal with suffi-
cient security, I have allowed it, and now have the honor to transmit his

[United States Consul, acting judicially.] petition, with copies of all the papers.

[L. 8.]

To the honorable —— ——,

United States minister at Peking, China.

58.—Appellant's petition of appeal to circuit court.

In the court of the United States consulate.

Between A. B. or C. D., appellant, and C. D. or A. B., defendant.

A. B. hereby appeals to the circuit court of the United States for the
district of California, from the final judgment rendered by the United
JUDICIAL EXTRATERRITORIAL RIGHTS.

States consular court at ———, on the ——— of ———, 18—, in a case in which A. B. was petitioner and C. D. was defendant (or as the case may be), and the said A. B. prays the said circuit court to re-examine the said judgment and all the proceedings in the case, and to reverse the said judgment and to render judgment in favor of A. B., with costs. And the said A. B. hereby specifies the following, among others, as errors in the said judgment: ———.

And the said A. B. prays leave to specify other errors hereafter. And your petitioner will ever pray.

Dated at ——— the ——— day of ———, A. D. 18—.

A. B.

59.—Petition for allowance of appeal.

In the court of the United States consulate.

Between A. B. or C. D., appellant, and C. D. or A. B., defendant.

To ———, esq.,

Consul and judge in the court:

A. B. hereby petitions this court to receive the attached petition of appeal from the final judgment given in this case on the ——— of ———, 18—, and to allow the appeal, and to cite the defendant to appear in the circuit court of the United States for the district of California on (date stated), to answer to the appeal.

Dated at ——— the ——— day of ———, A. D. 18—.

A. B.

60.—Order allowing appeal to circuit court.

In the court of the United States consulate, ———, 18—.

Between A. B., appellant, and C. D., defendant.

Upon reading and filing the petition of A. B. to be allowed to appeal to the circuit court of the United States for the district of California, &c., it is ordered:

That the said appeal be and is hereby allowed. A bond conditioned in the sum of ——— dollars will be required from the appellant. Upon the approval of this bond, a citation will be served upon the defendant in appeal, citing him to appear in the said circuit court on (date stated).

[L. S.]

United States Consul, acting judicially.

61.—Citation on appeal to circuit court.

In the court of the United States consulate, ———, 18—.

Between A. B., appellant, and C. D., defendant.

To the marshal of the court:

You are hereby directed to serve a copy of the attached petition of appeal upon C. D., the defendant in appeal in this matter, and to cite
JUDICIAL EXTRATERRITORIAL RIGHTS.

him to appear in the circuit court of the United States for the district of California, on (date mentioned), to answer to the said appeal.

[L. S.]

United States Consul, acting judicially.

62.—Criminal complaint.

In the court of the United States consulate.

THE UNITED STATES OF AMERICA

versus

A. B.

To the United States consular court:

C. D. on oath complains that A. B., a citizen of the United States, and within the jurisdiction of the court at ———, on ———, 18——, unlawfully (here state the offense with sufficient fulness of detail).

C. D.

Subscribed and sworn to at ——— this ——— day of ———, A. D. 18——, before me.

[L. S.]

United States Consul, acting judicially.

63.—Warrant to apprehend accused.

In the court of the United States consulate.

THE UNITED STATES OF AMERICA

versus

A. B.

To the marshal of the court:

In the name of the United States of America, forthwith apprehend A. B., a citizen of the United States, and bring him before me to answer the complaint of C. D., charging him with the offense of ———, at ———, on the ———, 18——, for which this shall be your sufficient warrant.

Given under my hand and the seal of this consulate this ——— day of ———, 18——.

[L. S.]

United States Consul, acting judicially.

64.—Warrant without complaint or information.

In the court of the United States consulate.

THE UNITED STATES OF AMERICA

versus

A. B.

To the marshal of the court:

Upon facts within my own knowledge, or which I have reason to believe true, you are directed, in the name of the United States of
JUDICIAL EXTRATERRITORIAL RIGHTS.

America, forthwith to apprehend A. B., a citizen of the United States of America, and bring him before me to answer to a charge of ———, at ———, 18——, for which this shall be your sufficient warrant.

Given under my hand and the seal of this consulate this ——— day of ———, 18——.

[L. S.]

United States Consul, acting judicially.

65.—Bail bond in criminal case.

In the court of the United States consulate.

THE UNITED STATES OF AMERICA

versus

A. B.

We, A. B., a citizen of the United States, as principal, and E. F. and G. H., citizens of the United States, as sureties, acknowledge ourselves jointly and severally responsible for the immediate personal appearance of A. B. before this court, whenever called for, and to pay to the court ——— dollars and ——— cents, on demand, for the use of the United States of America, whenever the court shall adjudge that said A. B. has failed to appear and answer to a criminal prosecution for ———, pending against him before said court on the complaint of C. D., or to abide and fulfil any decree, order or judgment of the court relative thereto.

Witness our hands and seals at ———, on the ——— day of ———, 18——.

A. B., Principal. [L. S.]
C. D., Surety. [L. S.]
E. F., Surety. [L. S.]

66.—Schedule of bail's property.

In the court of the United States consulate.

THE UNITED STATES OF AMERICA

versus

A. B.

To the United States consular court:

I, E. F., who offer myself as bail for A. B., a prisoner charged with the offense of ——— before said court, solemnly swear that I am the sole and unconditional owner and possessor of all the unencumbered personal property named in the following schedule, worth at least ——— dollars. (Here write in a list of the property.)

E. F.

Subscribed and sworn to before me at ——— this ——— day of ———, 18——.

[A. D. 18——.]

[L. S.]

United States Consul, acting judicially.

S. Mis. 89——7
67.—Surrender of prisoner by bail.

In the court of the United States consulate.

THE UNITED STATES OF AMERICA

versus

A. B.

To the United States consular court:

E. F. asks leave to surrender A. B., charged with the offense of—

before said court, whose bail he became on the —— day of ——, A. D.

18—.

E. F.

Filed, petition granted, and prisoner committed.

[L. S.]

United States Consul, acting judicially.

68.—Execution for costs against informant.

In the court of the United States consulate, ——, 18—.

THE UNITED STATES OF AMERICA

versus

A. B.

To the marshal of the court:

C. D. having filed a complaint (or information) under oath in this
court, on the —— day of ——, 18—, against A. B., a citizen of the
United States, charging him with the offense of ——, and A. B. having
been tried and honorably acquitted by me, and the complaint (or infor-
mation) of C. D. being in my opinion groundless and vexatious, originat-
ing in corrupt or vindictive motives, I have awarded judgment against
C. D. in favor of A. B. for —— dollars and —— cents costs, dated
——, 18—. You are therefore directed to demand the same from C.

D., and if unpaid after (three) days to seize any of his property within
the jurisdiction of the court, and sell sufficient thereof at public auction,
after due notice; and for want thereof to arrest the debtor's person, and
bring him before this court, making due return thereon.

Given under my hand and the seal of the consulate.

[L. S.]

United States Consul, acting judicially.

69.—Certificate of drawing names of associates in criminal case.

In the court of the United States consulate, ——, 18—.

We, the undersigned, do hereby certify that in the case of the United
States versus ——, we, by order of the consul, drew lots for associates,
and that the first lot fell upon —— (who is absent from this port, or
is dead); the second lot fell upon ——; and the third upon ——.

Clerk of the Court.

United States Marshal.
JUDICIAL EXTRATERRITORIAL RIGHTS.

70.—Judgment in criminal case.

In the court of the United States consulate, ———, 18——.

THE UNITED STATES OF AMERICA
versus
A. B.

Having heard and tried the foregoing complaint (or information), filed by C. D. on the ——— day of ———, 18——, I find A. B. guilty of the offense of ———, wherewith he was charged, having at ——— on ———, 18——, unlawfully (state the substance of the offense proved), and I adjudge and sentence him therefor to imprisonment for ——— from this day, in the prison for American convicts at ———.

[Signature]
United States Consul, acting judicially.

Assented to:

[Signature]
United States Consul, acting judicially.

71.—Warrant of commitment.

In the court of the United States consulate, ———, 18——.

To the marshal of the court:

You will commit to jail for confinement, for ——— years, ——— months, ——— days, or until further command, the body of ———, and of this writ make due return.

The charge against the prisoner is ———, and he is committed (for examination, for trial, under judgment, or as the case may be).

[Signature]
United States Consul, acting judicially.

72.—Marshal's return, to be made on the above warrant of commitment.

I have committed the person named, and the following is his true description:

Description: Age, ———; Height, ———; Face, ———; Forehead, ———; Eyes, ———; Nose, ———; Chin, ———; Build, ———; Marks, ———.

[Signature]
United States Marshal.

73.—Proof of will.

In the court of the United States consulate.

Before me, the undersigned, consul of the United States at ———, has personally appeared A. B., who acknowledged to me that C. D., the testator, signed, sealed, and delivered the foregoing will, dated the ——— day of ———, 18——, in his presence and in the presence of E. F. and G. H., whose names are subscribed as witnesses thereto, and that
the testator at the same time declared it to be his last will and testament.

Subscribed and sworn to at ______ day of ______, A. D. 18____, before me.  

[L. S.]  

United States Consul, acting judicially.  

74.—Order admitting will to probate.

In the court of the United States consulate, ______, 18____.

In the matter of the last will and testament of A. B.

On reading and filing the last will and testament of A. B., deceased; the proofs that he was a citizen of the United States; that he died at ______ on the ______ day of ______, 18____; and that he executed the said last will and testament; and no other last will and testament having come to the knowledge of the court, it is ordered:

That the said will be, and is hereby admitted to probate.  

[L. S.]  

United States Consul, acting judicially.  

75.—Order upon filing executor's inventory of estate.

In the court of the United States consulate, ______, 18____.

In the matter of the last will and testament of A. B., C. D. and E. F., the executors named in said will having signified their readiness to accept the trust contained in said will, and having produced to me an inventory and appraisal of the estate real and personal, and having sworn that the said inventory and appraisal are complete and just to the best of their knowledge and belief, I now order that the said persons be and are hereby confirmed in the said trust, and that a copy of this order be given to them upon their filing a bond, with two sureties, in double the amount of the value of the estate, such bond to be approved by the court.

[L. S.]  

United States Consul, acting judicially.  

76.—Appointment of administrator.

In the court of the United States consulate, ______ 18____.

In the matter of the estate of A. B., deceased.

It appearing that said deceased was a citizen of the United States; that he died at ______, on the ______ day of ______, 18____, and has left property to the value of ______ dollars, more or less, within this consular district; and no will having been brought to the notice of the court; and C. D. having applied to be appointed administrator, and having filed a bond for the faithful performance of his trust, as such administrator, which bond has been approved, I now order that the said C. D. be, and is hereby, appointed administrator of the estate of said deceased,
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and that the said administrator file a full statement of the assets and liabilities of the estate, with an appraisal of the property, real and personal, within thirty days from this date.

[L. S.]

United States Consul, acting judicially.

77.—Attest of copy.

In the court of the United States consulate, ———, 18——.

I, the undersigned, consul of the United States at ————, China, do hereby certify that I have compared the above and foregoing copy with the original document on file in this office (or exhibited to me this day), and that it is a true and correct transcript of the same.

In witness whereof I have hereunto set my hand and the seal of the consulate.

[L. S.]

United States Consul, acting judicially.

78.—Attest of affidavit.

In the court of the United States consulate, ———, 18——.

On this ——— day of ———, A. D. 18——, has appeared before me, the undersigned, consul of the United States at ————, A. B., personally known to me, who, being sworn on the Evangelists of Almighty God, has deposed that the declarations contained in the foregoing statement in writing upon ——— pages, are correct and true to the best of his knowledge and belief.

[L. S.]

United States Consul, acting judicially.
APPENDIX VIII.

REGULATIONS IN FORCE IN THE CONSULAR COURTS OF THE UNITED STATES IN THE OTTOMAN DOMINIONS.

RULES FOR THE CONSULAR COURTS OF THE UNITED STATES OF AMERICA, IN TURKEY: WITH FORMS AND A TABLE OF COSTS AND FEES.

I.—Ordinary Civil Proceedings.

1. Civil proceedings between American citizens must commence by written petition verified by oath before the consul.

2. Ordinary personal civil actions are of three classes, viz:

   Three classes of ordinary actions.

   1. Contract—comprising all cases of contract or debt.
   2. Wrong—when damages are claimed for a wrong.
   3. Ex parte—when possession of a specific article is claimed.

3. In contract, the petition must aver that payment or a performance of the conditions of the contract has been demanded and withheld; and in replevin, that the articles to be replevied have been demanded.

4. The petitioner shall be required to deposit a reasonable sum to defray the probable expenses of court and defendant's costs. Subsequent deposits may be required, if found necessary.

5. Upon deposit of the money, the consul shall order notice on the petition in writing, directing defendant to appear before him at a given day and hour to file his written answer on oath.

6. Notice must be served on each defendant at least five days before return day, by delivery of an attested copy of the petition and order and of any accompanying account or paper.

7. Personal service should always be required when practicable.

8. On proof of due notice, judgment by default shall be pronounced against any defendant failing to appear and file his answer as required; but the default may be taken off for good cause, within one day after (exclusive of Sunday).

9. But in actions of wrong and all others where the damages are in their nature unliquidated and indefinite, so that they cannot be calculated with precision from the statements of the petition, the amount of the judgment shall be ascertained by evidence, notwithstanding the default.

10. If defendant appears and answers, the consul, having both parties before him, shall, before proceeding farther, encourage a settlement by mutual agreement or by submission of the case to referees agreed on by the parties, a majority of whom shall decide it.

11. Parties should at the trial be confined as closely as may be to the averments and denials of the statement and answer, which shall not be altered after filing except by leave granted in open court.
JUDICIAL EXTRATERRITORIAL RIGHTS.

12. On application of either party and advance of the fees, the consul shall compel the attendance of any witness within his jurisdiction, before himself, referees, or commissioners.

13. Each party is entitled, and may be required, to testify.

14. Judgment may be given summarily against either party failing to obey any order or decree of the consul.

ATTACHMENT AND ARREST.

15. For sufficient cause and on sufficient security, the consul, on filing a petition, may grant a process of attachment of any defendant's property to a sufficient amount, or of arrest of the person of any defendant not a married woman, nor in the service of the United States under commission from the President, nor otherwise exempted by law.

16. Defendant may at any time have the attachment dissolved by depositing such sum or giving such security as the consul may require.

17. Perishable property, or such as is liable to serious depreciation under attachment, may, on petition of either party, be sold by the consul's order and its proceeds deposited in the consulate.

18. Any defendant arrested or imprisoned on civil petition shall be released on tender of a sufficient bond, deposit of a sufficient sum, or assignment of sufficient property.

19. Any person under civil arrest or imprisonment may have his creditor cited before the consul to hear a disclosure of the prisoner's affairs under oath, and to question him thereon, and if the consul shall be satisfied of its truth and thoroughness, and of the honesty of the debtor's conduct toward the creditor, he shall forever discharge him from arrest upon that debt, provided the prisoner shall offer to transfer and secure to his creditor the property disclosed or sufficient to pay the debt, at the consul's valuation.

20. The creditor must advance to the jailer his fees and payment for his prisoner's board until the ensuing Monday, and afterwards weekly, or the debtor will be discharged from imprisonment and future arrest.

EXECUTION.

21. On the second day after judgment (exclusive of Sunday) execution may issue enforcing the same, with interest at 12 per cent. a year, against the property and person of the debtor, returnable in 30 days and renewable.

22. Sufficient property to satisfy the execution and all expenses may be seized and sold at public auction by the officer after due notice.

23. Property attached on petition and not advertised for sale within ten days after final judgment shall be returned to the defendant.

24. When final judgment is given in favor of defendant, his person and property are at once freed from imprisonment or attachment, and all security by him given discharged. And the consul may, at his discretion, award him compensation for any damage necessarily and directly sus-
tained by reason of such attachment, arrest, or imprisonment.

EXEMPTION AND DISCHARGE.

25. The consul may exempt from attachment, seizure, or assignment any articles of personal property indispensable to the comfort of the owner or his family, and he may at any time release or bail any debtor, discharge any security or dissolve the whole, or a part, of any attachment, when justice requires.

OFFSET.

26. In actions of contract, defendant may offset petitioner's claim by any contract claim, filing his own claim under oath with his answer. Petitioner shall be notified to file his answer seasonably on oath, and the two claims shall then be tried together and but one judgment given for the difference, if any proved, in favor of either party; otherwise for defendant's costs.

COST.

27. Except as hereinafter provided, the party finally prevailing recovers costs, to be taxed by him and revised by the consul.

TRUSTEE PROCESS.

28. In contract, the consul may order defendant's property or credits in a third party's hands within the jurisdiction of the United States to be attached on the petition, by serving him with due notice as trustee, provided petitioner secures trustee his costs by adequate special deposit.

29. If adjudged trustee, the third party may retain his costs from the amount for which he is adjudged trustee, if sufficient; otherwise, the balance of trustee's costs must be paid out of petitioner's special deposit, as must the whole of his costs if not adjudged trustee.

30. The amount for which a trustee is charged must be inserted in the execution and demanded of him by the officer within ten days after judgment, or all claim on him ceases. Process against the property or person of trustee may issue ten days after demand.

31. If petitioner recovers judgment for less than $10, or if less than $10 of defendant's property or credits is proved in the third party's hands—in either case the third party must be discharged, with costs against petitioner.

REPLEVIN.

32. Before granting a writ of replevin, the consul shall require petitioner to file a sufficient bond, with two responsible sureties, for double the value of the property to be repleived, one an American citizen, or petitioner may deposit the required amount.

II.—TENDER, ETC.

33. Before a creditor files his petition in contract, his debtor may make an absolute and unconditional offer of the
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amount be considered due by tendering the money in the sight of the creditor or his legal representative.

34. If not accepted, the debtor shall, at his own risk and demand or paying the charges, deposit the money with the consul, who shall receipt to him and notify the creditor.

35. It shall be paid to the creditor at any time if demand unless previously withdrawn by depositor.

36. If the depositor does not withdraw his deposit, and upon trial is not adjudged to have owed petitioner at the time of the tender more than its amount, he shall recover all his costs.

OFFER TO BE DEFAULTED.

37. At any stage of a suit in contract or wrong, defendant may file an offer to be defaulted for a specific sum and the costs up to that time, and if petitioner chooses to proceed to trial, and does not recover more than the sum offered and interest, he shall pay all defendant's costs arising after the offer, execution issuing for the balance only.

III.—REFERENCE.

38. When parties agree to a reference, they shall immediately file a rule and the case be marked "Referred"; a commission shall then issue to the referees, with a copy of all papers filed in the case.

39. The referees shall report their award to the consul, who shall accept the same and give judgment and issue execution thereon, unless satisfied of fraud, perjury, corruption, or gross error in the proceedings.

40. In cases involving more than $500, if his acceptance is withheld, the consul shall at once transmit the whole case, with a brief statement of his reasons and the evidence therefor, to the minister resident, who shall give judgment on the award or grant a new trial before the consul.

IV.—APPEAL.

41. Appeals must be claimed before three o'clock in the afternoon of the day after the judgment (excluding Sunday), but in civil cases only upon sufficient security.

42. Within five days after judgment, the appellant must set forth his reasons by petition filed with the consul, which shall be transmitted as soon as may be through the consul-general to the minister, with a copy of the docket entries and of all papers in the case.

43. The consul-general may allow any prisoner (by law entitled to appeal) sent to Constantinople for imprisonment on sentence of a consul, to file his appeal within ten days after notice of his arrival, if in his judgment justice would be promoted thereby, requiring such prisoner to file with the appeal his petition, which shall be at once transmitted to the minister.

V.—NEW TRIAL.

44. On proof of the perjury of any important witness of the prevailing party upon a material point affecting the de-
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cision of a suit, the consul who tried it may within a year after final judgment grant a new trial, on such terms as he may deem just.

Generally.

45. Within one year after final judgment in any suit involving not more than $500, the consul who tried it, or his successor, may upon sufficient security grant a new trial, when justice manifestly requires it; if exceeding $500, with concurrence of the minister.

VI.—HABEAS CORPUS.

46. No consul shall recognize the claim of any American citizen to hold any person in slavery or bondage within the Turkish Empire.

Habeas corpus.

47. Upon application of any person in writing and under oath, representing that he or any other person is enslaved, unlawfully imprisoned, or deprived of his liberty by any American citizen within the jurisdiction of a consul, such consul or the consul-general may issue his writ of habeas corpus directing such citizen to bring said person, if in his custody or under his control, before him, and the question shall be determined summarily, subject to appeal.

VII.—DIVORCE.

48. Libels for divorce must be signed and sworn to before the consul, and on the trial each party may testify.

Parties are witnesses.

49. The consul, for good cause, may order the attachment of libellee’s property to such an amount and on such terms as he may think proper.

Attachment.

50. He may also, at his discretion, order the husband to advance to his wife or pay into court a reasonable sum to enable her to prosecute or defend the libel, with a reasonable monthly allowance for her support pending the proceedings.

Husband to advance money.

51. Alimony may be awarded or denied the wife on her divorce at his discretion. Custody of the minor children may be decreed to such party as justice and the children’s good may require.

Alimony.

52. Divorce releases both parties, and they shall not be remarried to each other.

Children.

53. Costs are at the discretion of the consul.

Release of both.

VIII.—MARRIAGE.

54. Each consul shall record all marriages solemnized by him, or in his official presence, and at the end of each year transmit a copy to the Secretary of State and to the consul-general.

Record and return.

IX.—BIRTHS AND DEATHS.

55. The birth and death of every American citizen or protegé within the limits of his jurisdiction shall likewise be recorded and annually transmitted.
X.-LIST OF CITIZENS AND PROTEGES.

56. Each consul shall prepare and keep a correct list of all adult male citizens of the United States living within his jurisdiction, with their age, birthplace, occupation, residence, and year of arrival in Turkey, and the names, &c., of the members of their families; adding the date and court in case of naturalized citizens.

57. Also a similar list of all protegés of the United States, adding the year of their original protection, by whom it was granted, and where; also the date of their last permit of residence and by whom issued.

58. A copy of said lists shall be transmitted to the Secretary of State, to the minister resident and to the consul-general, when completed, and a memorandum of the changes at the end of each year. And every citizen and protege is required to register himself and family at the consulate each December.

XI.-BANKRUPTCY, PARTNERSHIP, PROBATE, &C.

59. Until promulgation of further regulations, consuls will continue to exercise their former lawful jurisdiction and authority in bankruptcy, partnership, probate of wills, administration of estates, and other matters of equity, admiralty, ecclesiastical and common law not specially provided for in the foregoing orders, according to such reasonable rules, not repugnant to the Constitution, treaties, and laws of the United States, as they may find necessary or convenient to adopt.

XII.-SEAMEN.

60. In proceedings or prosecutions instituted by or against American seamen, the consul may, at his discretion, suspend any of these rules in favor of the seaman, when, in his opinion, justice, humanity, and public policy require it.

XIII.-CRIMINAL PROCEEDINGS.

61. Complaints and informations against American citizens should always be signed and sworn to before the consul, when the complainant or informant is at or near the consul's post.

62. All complaints and informations not so signed and sworn to by a citizen of the United States, and all complaints and informations in capital cases, must be authenticated by the consul's certificate of his knowledge or belief of the substantial truth of enough of the complaint or information to justify the arrest of the party charged.

63. No citizen shall be arraigned for trial until the offense charged is distinctly made known to him by the consul in respondent's own language; in cases of magnitude, and in all cases when demanded, an attested copy (or translation) of the complaint, information, or statement authenticated by the consul shall be furnished him in his own language as soon as may be after his arrest.
64. The personal presence of the accused is indispensable throughout the trial.

65. He shall always have and be informed of his right to testify, and cautioned that if he chooses to offer himself as a witness, he must answer all questions that may be pro pounded by the consul or his order, like any other witness.

66. The government and the accused are equally entitled to compulsory process for witnesses within the jurisdiction of the United States; and if the consul believes the accused unable to advance the fees, his necessary witnesses shall be summoned at the expense of the United States.

67. When punishment is by fine, costs may be included or remitted at the consul's discretion; an alternative sentence of not less than 30 days' imprisonment may take effect on non-payment of any part of the fine or costs adjudged in any criminal proceeding.

68. Any prisoner before conviction may be admitted to bail by the consul who tries him, except in capital cases.

69. No prisoner charged with a capital offense shall be admitted to bail where the proof is evident or the presumption of his guilt great.

70. After conviction and appeal, the prisoner may be admitted to bail only by the minister or consul-general.

71. Any citizen of the United States offering himself as bail shall sign and swear before the consul to a schedule of unencumbered property of a value at least double the amount of the required bail.

72. Any other proposed bail or security shall sign and swear before the consul to a similar schedule of unencumbered personal property within the local jurisdiction of the consulate, or he may be required to deposit the amount in money or valuables with the consul.

73. Unless such sufficient citizen becomes bail, or such deposit is made, at least two sureties shall be required.

74. Any American bail may have leave of the consul to surrender his principal on payment of all costs and expenses.

75. Any complainant, informant, or prosecutor may be required to give security for all costs of the prosecution, including those of the accused; and every complainant, &c., not a citizen of the United States shall be so required, unless in the consul's opinion, justice will be better promoted otherwise; and when such security is refused the prosecution shall abate.

HONORABLE ACQUITTAL.

76. When the innocence of the accused both in law and in intention is manifest, the consul shall add to the usual judgment of acquittal, the word "Honorable."

77. In such case judgment may be given and execution issued summarily against any informer, complainant, or prosecutor for the whole costs of the trial, including those of the accused, or for any part of either or both, if the proceeding appears to have been groundless and vexatious, originating in corrupt, malicious, or vindictive motives.
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78. Consuls will ordinarily encourage the settlement of all prosecutions not of a heinous character by the parties aggrieved or concerned.

XIV.—OATHS.

79. Oaths shall be administered in some language that the witness understands.

80. A witness not a Christian shall be sworn or examined according to his religious belief.

81. An avowed atheist shall not be sworn, but may affirm under the pains and penalties of perjury, the credibility of his evidence being for the consideration of the consul.

82. A Christian conscientiously scrupulous of an oath may affirm under the pains and penalties of perjury.

XV.—DOCKETS, RECORDS, &c.

83. Each consul shall keep a regular docket or calendar of all civil actions and proceedings, entering each case separately, numbering consecutively to the end of his term of office, with the date of filing, the names of the parties in full, their nationality, the nature of the proceeding, the sum or thing claimed, with minutes and dates of all orders, decrees, continuances, appeals, and proceedings until final judgment.

84. He shall keep another regular docket for all criminal cases with sufficient similar memoranda.

85. Upon final judgment each case shall be recorded in a book of records, at sufficient length to identify it and prevent a second proceeding for the same cause.

86. Civil proceedings are to be kept distinct from criminal and recorded in separate books, and returns of each made to the consul-general at the end of each year.

87. Each docket and book of records shall contain an index.

88. All original papers shall be filed at once and never removed; no person but an officer of the consulate or the minister should be allowed access to them; all papers in a case must be kept together in one inclosure and numbered as in the docket with the parties' names, the nature of the proceeding, the year of filing the petition and of final judgment conspicuously marked on the inclosure and each year's cases kept by themselves in their order.

XVI.—LIMITATION OF ACTIONS AND PROSECUTIONS.

89. Heinous offenses, not capital, must be prosecuted within six years; minor offenses within one.

90. Civil actions based on written promise, contract, or instrument must be commenced within six years after the cause of action accrues; others within two.

91. In prosecutions for heinous offenses, not capital, and in civil cases involving more than $500, any absence of respondent or defendant for more than three months at a time from Turkey shall be added to the limitation; and in civil cases involving more than $100 the period during which the cause of action may be fraudulently concealed by defendant shall likewise be added.
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Minimum.
92. No action in contract, replevin, or wrong shall be commenced for less than $5, no trustee process for less than $10, no property attached for less than $25; nor the person arrested for less than $50; and if petitioner recovers less than the respective amount in either case, he shall pay all costs unless for special reasons to the contrary.

XVII.—GENERAL PROVISIONS.

Trials public.
93. All trials and proceedings in the United States consular courts in Turkey shall be open and public and conducted in the English language.

In English.
94. Papers and testimony in a foreign language shall be translated into English by a sworn interpreter appointed by the consul; in civil cases to be paid by petitioner. Oaths and questions shall be translated by the interpreter from the English for any witness who does not understand English.

Interpreter.
95. Parties may be required to file their petitions, answers, complaints, informations, and all other papers addressed to the court, in English, or they may be translated by the interpreter, at the consul's discretion. All testimony must be taken in writing in open court by the consul or his order and signed by the witness after being read over to him for his approval and correction, and it shall form part of the papers in the case.

Translations.
96. The consul may adjourn his court from time to time and place to place within his jurisdiction, always commencing proceedings and giving judgment at the consulate.

Testimony.
97. The first Monday of each month shall be a regular court day to which civil actions will stand adjourned unless otherwise provided for.

First Monday.
98. No court shall sit on February 22, July 4, December 25, or on any Sunday.

Holidays.
99. All processes not served by the consul personally must be executed by an officer of the consulate, who shall sign and swear to his return before the consul, specifying the time and mode of service and annexing an account of his fees; process from the consul-general shall be served by the marshal or his deputy.

Officer.

Copies on appeal.
100. On appeal, copies of all the papers must be paid for in advance by the appellant, except in criminal cases where respondent is unable to pay.

Copies.
101. Any person interested is entitled to a copy of any paper on file on prepayment of the fee.

102. Reasonable clearness, precision, and certainty should be required in the papers, and substantial justice and all practicable dispatch is expected in the decisions; but technical accuracy is not essential.

Definition of "consul."
103. The word "consul" is intended to include the consul-general and any vice-consul or deputy consul actually exercising the consular power at any consulate, unless the sense requires a more limited construction.

104. Each associate in a consular trial shall, before entering on his duties, be sworn by the consul. Before taking the oath, he may be challenged by either party and for sufficient cause excused and another drawn.
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105. Consuls will always preserve order in court, punishing summarily any contempt committed in their presence or any refusal to obey their lawful summons, or order, by imprisonment not exceeding 24 hours, or by fine not exceeding $50, and costs.

106. Every party to a civil or criminal proceeding may be heard in person or by attorney of his choice, or by both, but the presence of counsel shall be under the exclusive control and discretion of the consul.

107. The accounts of the consular courts shall be kept in United States currency, and every order or deposit, decree of costs, taxation of fees, and generally every such paper issuing originally from the court, shall be expressed in dollars and cents, and satisfied in United States metallic money or its equivalent coin as fixed by law.

XVIII.—PROCEEDINGS WITH FOREIGNERS.

108. All petitions, informations, complaints, and other papers from subjects of the Sublime Porte, or subjects or citizens of any other friendly power, should be communicated through the Turkish authorities or the consulate of such other power.

109. All notices, answers, &c., should be communicated to such subject or citizen through said authorities or such consulate, respectively.

XIX.—MIXED COMMISSIONS.

110. When any foreign petitioner is entitled to a mixed commission the suit shall be tried at the United States consulate or such place as the United States consul may direct, and proceedings shall be conducted as nearly as may be as in suits between citizens of the United States.

111. Every commissioner nominated by a foreign authority must have his appointment acknowledged and approved by the United States consul before taking his seat on the commission; and all objections to the approval of the nomination or appointment of either commissioner shall be heard and determined by the consul summarily and without appeal.

112. The commissioner appointed by the United States consul should be a citizen of the United States, when practicable; he will always preside, and his presence is indispensable throughout the proceedings.

XX.—DESIGN OF THE RULES.

The promulgation of these rules abrogates no authority hitherto lawfully exercised by consuls not inconsistent herewith.

XXI.—CHANGES.

Whenever, in the opinion of the consul, a change becomes necessary in the rules, the proposed change, with the reasons, shall be communicated in writing to the minister, and, the change approved by him, be submitted to the other consuls and published over his signature before going into effect.
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FORMS.

1.

Petition in contract. [Rules 1, 2, 3.]

P. against D.

To the United States consular court at C., in Turkey:

P., of C., a citizen of the United States, represents that D., of C., a citizen of the United States, is indebted to him—piasters, being—dollars and—cents in United States silver money, according to the accompanying account, payment whereof having been demanded and withheld, he asks the court to enforce.

C., (Signed) 18—.

P.

United States consular court at C.,—, 18—.

Signed and sworn to, received, and filed.

Y. Z.

United States Consul.

2.

Petition in wrong.

P. against D.

To the United States consular court at C.:

P., of C., &c., represents that D., of &c., &c., on the—day of—, 18—, at C., in Turkey, unlawfully [state briefly but clearly the substance of the wrong], occasioning P.—piasters, being in United States silver money—dollars, damage, for which he claims recompense.

Dated, signed, sworn to, and certified like No. 1.

3.

Petition in replevin.

P. against D.

To the United States consular court at C.:

P. of C., &c., represents that D., of &c., is in unlawful possession of personal property of P., described in the following schedule, worth—piasters, being in United States silver money—dollars and—cents, to the immediate possession of which P. believes himself entitled. Delivery having been demanded and withheld, P. claims his property at this court.

Schedule.—No. —; description, ——; value, piasters, ——; value, $——, C.

Dated, signed, sworn to, and certified like No. 1.
4.

Replevin bond. [Rule 32.]

P. against D.

In the United States consular court at C., 18-. We, P., of, &c., petitioner in replevin, as principal, and S., of, &c., a citizen of the United States, and U., of, &c., as sureties, acknowledge ourselves jointly and severally bound for dollars, United States silver money, to D., of C., citizen of the United States, defendant, to pay all costs of said suit, and for P. to return all the property replevied, in the same condition he received it, whenever such shall be the final judgment, upon immediate full compliance with which by P. this bond will be canceled.

Witness our hands and seals.

(Signed)

P., Principal. [L. S.]
S., Surety. [L. S.]
U., Surety. [L. S.]

Signed and sealed before me approved, and filed.

Y. Z.,
United States Consul.

5.

Order of notice to defendant. [Rule 5.]

P. against D.

United States consular court at C., 18-. To the officer:

Sir: Notify Mr. D. to appear at the United States consulate at C., on day, 18-, at o'clock in the noon, to present under oath his written answer to the foregoing petition, by serving him (personally) with an attested copy of the petition (and account) and of this order at least five days beforehand, making return of your service herein under oath.

[ L. S. ]

Y. Z.,
United States Consul.

6.

Officer's return of service. [Rules 7, 99.]

P. against D.

To the United States consular court at C.:

I have to-day served an attested copy of the foregoing petition and accompanying account, and of the order of court, on Mr. D. (personally), or as directed, at C.

Dated, signed, sworn to, and certified like No. 6.

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7.

Attest of a copy. [Rule 6.]

United States consular court at C., 18—.

The foregoing is a copy of the original filed in this court.

Attest:

[L. 8.]

Y. Z.,
United States Consul.

8.

Defendant's answer. [Rules 5, 10.]

P. against D.

To the United States consular court at C.:

D., of C., a citizen of the United States, summoned to answer the petition of P., in (contract), replies: [Here deny any statement of P. which you are able to controvert, and add any statement or explanation of your own.]

Dated, signed, sworn to, and certified like No. 1.

9.

Judgment by default. [Rule 8.]

P. against D.

United States consular court at C., 18—.

D., of C., citizen of the United States, having been duly served with (personal) notice of this suit, 18—, as appears by the officer's sworn return thereon, and failing to appear and answer to-day, as required, judgment is given in favor of P., of, &c., &c., against D. by default for plasters, being dollars and cents, in United States silver money (debt), or damages, and dollars and cents costs.

Y. Z.,
United States Consul.

10.

Agreement to settle. [Rule 10.]

P. against D.

In United States consular court at C.

We, P. and D., parties to a suit in (contract), pending before this court, by advice of the consul, voluntarily settle the case, as follows, viz: [Here state the terms of settlement distinctly.]

C., 18—.

(Signed)

P., Petitioner.

D., Defendant.

Done and acknowledged in my presence, filed, and case dismissed.

Y. Z.,
United States Consul.
11.

Agreement to refer. [Rules 10, 38.]

P. against D.

In United States consular court at C.,——, 18—.

We, P., of, &c., and D., of, &c., parties to a suit in (contract), pending before this court, encouraged by the consul, voluntarily agree to submit the controversy to the decision of Messrs. R., of C., citizen of the United States, E., of, &c., &c., and F., of, &c., &c., referees agreed on by us, a majority of whom shall decide it. And after suitable notice to both parties, the referees may proceed ex-parte.

Witness our hands and seals.

(Signed) P., Petitioner. [L. S.]

D., Defendant. [L. S.]

Agreed to and acknowledged before me, filed, and case marked “Referred.”

Y. Z.,
United States Consul.

12.

Commission to referees. [Rule 38.]

P. against D.

United States consular court at C.,——, 18—.

To Messrs. R., of, &c., &c., E., of, &c., and F., of, &c.:

Gentlemen: Messrs. P., of, &c., and D., of, &c., parties to a suit in (contract), pending before this court, having agreed to submit it to your decision, you are appointed referees to hear, a majority of you having power to decide, the case. After suitable notice to each party of the time and place of meeting for trial, you may proceed ex-parte, in case either refuses or neglects to appear. You will patiently and impartially hear the parties and their witnesses, taking down all the evidence in writing in open court, carefully reading his testimony to each witness before allowing him to sign the same.

You will report your award, sealed, to me, returning this commission with the testimony and all copies and papers, taxing your own fees and the parties’ costs.

Y. Z.,
United States Consul.

13.

Award of referees. [Rule 39.]

P. against D.

To the United States consular court at C.:

We, the referees commissioned to hear and decide the suit of Mr. P., of, &c., against Mr. D., of, &c., in (contract), have the honor to report that we gave each party suitable notice of the time and place of our meeting
for trial, and (both) or Mr. P., appeared (personally) [or by attorney] and the case was fully and impartially heard on [state each of the days], and (we) [a majority of us] this day award judgment in favor of Mr. P. against Mr. D. for —— piasters, being —— dollars and —— cents, in United States silver money (debt), or damages, and —— dollars and —— cents, costs of reference; costs of court to be taxed by the court.

And we return our commission, with all the testimony taken down in open court and signed by each witness after hearing the same read to him, with the copies of petition, answer, and all other papers filed in the case.

D., ———, 18—.

(Signed) R.

E.

F.

14.

Consul's acceptance of award.

P. against D.

United States consular court at C., ———, 18—.

Received, filed, and accepted. Judgment given on the award in favor of Mr. P. for —— piasters, being —— dollars and —— cents, United States silver money (debt), or damages, and —— dollars and —— cents costs.

[L. s.]

Y. Z.,

United States Consul.

15.

Consul's transmission of unaccepted award to the minister. [Rule 40.]

P. against D.

To the minister resident of the United States of America near the Sublime Porte at Constantinople.

SIR: I have the honor to transmit the award of Messrs. R., E., and F., referees agreed on by the parties, and commissioned by me ———, 18—, to hear and decide the suit of Mr. P. against Mr. D. in (contract), pending before this court, and all the copies, testimony, and papers filed in the case. I regret that I cannot accept the award for the following reasons: [State the reasons and the evidence therefor.]

Y. Z.,

United States Consul.

16.

Summons to witness. [Rule 12.]

P. against D.

United States consular court at C., ———, 18—.

To Mr. W., of C., a citizen of the United States:

SIR: At the request of the petitioner, $—— is hereby tendered you as fees, and you are required, in the name of the United States, to ap-
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17.

Summons to witness in criminal proceeding. [Rule 66.]

United States of America against R.

United States consular court at C., ———, 18—.

To Mr. W., of C., a citizen of the United States:

Sir: In the name of the United States, your are required to appear (before this court at the consulate) forthwith, or on, &c., &c., to testify in a prosecution against Mr. R.

Y. Z., United States Consul.

18.

Summary judgment on neglect to obey order or decree of consul. [Rule 14.]

P. against D.

United States consular court at C., ———, 18—.

P. (petitioner), not having obeyed my order of ———, 18—, requiring him to [state the order], judgment is given against him in favor of D. (defendant), summarily, for his full costs, taxed at $——— [or any other appropriate judgment].

Y. Z., United States Consul.

19.

Application for attachment of defendant's property or arrest of his person. [Rule 15.]

P. against D.

To the United States consular court at C.:

P., of, &c., petitioner, solicits the attachment of $——— of the property or the arrest of the person of D., defendant in a suit in (contract), commenced to-day before this court, for the following reasons [state the reasons and the evidence].

Dated, signed, etc.

20.

Bond of applicant for attachment or arrest.

P. against D.

[First part similar to replevin bond, No. 4, with condition] to pay all loss or damage that may be adjudged by the court to have been occa-
21. **Process of attachment.**

P. against D.

United States consular court at C., ———, 18——.

To the officer:

Sir: In the name of the United States attach any personal property of Mr. D., defendant, within the jurisdiction of this court (except [name any property thought proper to exempt under Rule 25] to the value of $——), and hold it until further order of court, making immediate return of your action under oath.

[L. S.]

Y. Z.,
United States Consul.

22. **Application for sale of attached property.** [Rule 17.]

P. against D.

To the United States consular court at C.:

P., petitioner, or D., defendant in said suit pending before this court, requests that the following personal property attached on said suit, ———, 18——, and now held by the officer, being perishable, or liable to serious depreciation under attachment, may be sold, to wit: [annex a schedule].

Dated, signed, and filed.

23. **Consul's order of sale.**

P. against D.

United States consular court at C., ———, 18——.

To the officer:

Sir: In the name of the United States sell at public auction for cash the property above named, giving public notice thereof, and serving the parties seasonably with an attested copy of the application and of this order, making return to court under oath.

[L. S.]

Y. Z.,
United States Consul.

24. **Public notice of sale.**

P. against D.

By order of the United States consular court at C., dated ———, 18——, I shall sell at public auction for cash to the highest bidder, on ———.
JUDICIAL EXTRATERRITORIAL RIGHTS.

day ——, 18—, at ——— o'clock in the —— noon, at ——— in C.,
the following personal property of Mr. D., of, &c., (attached) or seized
by me on a (petition) or execution in favor of Mr. P. [annex a schedule].
O. Officer, ———.
C., ———, 18—.

25.

Order of dissolution of attachment. [Rule 25.]

P. against D.

United States consular court at C., ———, 18—.

To the officer:

Sir: The attachment on the property of Mr. D., defendant in said
suit, is dissolved.

[L. s.]

Y. Z.,
United States Consul.

26.

Process of civil arrest. [Rule 15.]

P. against D.

United States consular court at C., ———, 18—.

To the officer:

Sir: In the name of the United States arrest the person of Mr. D.,
of C., a citizen of the United States, defendant in said suit, and bring
him before this court to show why he should not be committed to jail on
petition of Mr. P., filed to-day.

[L. s.]

Y. Z.,
United States Consul.

27.

Process of commitment on civil arrest.

P. against D.

United States consular court at C., ———, 18—.

To the officer:

Sir: In the name of the United States commit forthwith to jail Mr. D.,
of C., a citizen of the United States, defendant in said suit in (contract),
pending before this court, on petition of Mr. P., of C., and there let him
be safely kept, unless discharged by said P., until further order.

[L. s.]

Y. Z.,
United States Consul.

28.

Bail bond of defendant arrested on petition. [Rule 18.]

P. against D.

[Similar to replevin bond, No. 4, conditioned] that D., the defendant,
principal, shall, within ten days after final judgment against him in
said suit, pay the amount thereof, and all legal charges, or surrender himself into the custody of this court.

[Dated, signed, approved and filed like No. 4.]

29.

Citation of defendant or debtor to petitioner or creditor. [Rule 19.]

P. against D.

To the United States consular court at C.:

I, D., of, &c. (defendant in said suit, arrested on petition of P., of, &c., pending before this court), or debtor of P., of, &c., by judgment of this court, dated ——, 18—, and now under arrest [or committed to jail thereon by order of this court], desire to cite P. before this court on —— day ——, 18—, at —— o'clock in the —— noon, at the consulate, to hear my disclosure of my affairs on oath, and to question me thereon, if he thinks proper.

C., ——, 18—.

(Signed) D.

30.

Consul's notice to petitioner or creditor.

United States consular court at C., ——, 18—.

To the officer:

Six: Notify Mr. P., petitioner (or creditor), that the foregoing prayer of Mr. D. (said defendant), or his debtor, is granted, and that he, Mr. P., is cited to appear at the time and place and for the purpose named, by serving, &c. [like notice to defendant No. 5.]

31.

Oath, schedule and assignment of defendant or debtor.

P. against D.

In United States consular court at C.

I, D., of, &c. (defendant in said suit in contract, pending before this court), or judgment debtor of P., of, &c., and (under arrest) or imprisonment by said P. (on petition dated ——, 18—), or on execution from this court dated ——, 18—, issued on a judgment of ——, 18—, for $— debt, and $— costs, solemnly swear that the following is a faithful schedule of all the property which I own, or in which I have any interest, and I am ready to assign it, or such part as the court may order, to said P. (petitioner, towards payment, to take effect whenever he shall recover judgment against me) or to said P., my creditor, towards payment of my debt.

Schedule.—No., description, locality, nature of interest, value, P., $ c.

[Dated, signed, sworn to, and certified like No. 1.]

Assignment.

I hereby assign to P. (petitioner) all my interest in all the property described in the foregoing schedule, for $—, being the valuation of
JUDICIAL EXTRATERRITORIAL RIGHTS.

32.

Consul's certificate to defendant or debtor of discharge, on disclosure or on security.

P. against D.

United States consular court at C., ———, 18—.

To Mr. D., of, &c.:

Sirs: (Having made a satisfactory disclosure of your affairs), or having given sufficient security to Mr. P., of, &c., petitioner, before this court to-day, you are hereby forever discharged from arrest or imprisonment by reason of [describe the judgment and execution or petition].

[LR. 8.]

Y. Z.,
United States Consul.

33.

Consul's order of release. [Rule 25.]

P. against D.

United States consular court at C., ———, 18—.

To the officer:

Sirs: In the name of the United States, forthwith release Mr. D., of, &c., now in your custody (on petition) or judgment in favor of Mr. P.

[LR. 8.]

Y. Z.,
United States Consul.

34.

Final judgment on trial.

P. against D.

United States consular court at C., ———, 18—.

Having heard and tried the foregoing action in (contract), commenced before this court, ———, 18—. I adjudge that Mr. D., defendant, pay Mr. P., petitioner, ——— dollars and ——— cents, in United States silver money (debt), or damages, and ——— dollars and ——— cents, costs.

[LR. 8.]

Y. Z.,
United States Consul.
JUDICIAL EXTRATERRITORIAL RIGHTS.

35.

Defendant's offset statement. [Rule 26.]

P. against D.

[Add to defendant's answer, No. 8] and D. also represents that P., the petitioner, is indebted to him ——— piasters, being ——— dollars and ——— cents, according to the accompanying claim, which he desires to file in offset to P.'s account, and to have the whole matter tried together.

[Dated, signed, sworn to, and certified like No. 1.]

36.

Application for trustee process. [Rule 28.]

P. against D. and T., trustee.

To the United States consular court at C.:

P., of, &c., petitioner in said suit, represents that T., of C., a citizen of the United States, is, as he is satisfied, indebted to D., defendant, or has effects, credits, means, or property of defendant in his hands and possession, within the Turkish empire, which P. asks to have attached in T.'s hands, and that T. may be summoned as D.'s trustee, and directed to pay the same to P., for the following reasons:

[State the reasons.]

Dated, signed, sworn to, and certified like No. 1.

37.

Order of notice to trustee.

P. against D. and T., trustee.

United States consular court at C., ———, 18——.

To the officer:

Sir: Notify Mr. T., of C., a citizen of the United States, to appear at the United States consulate at C., on ——— day, ———, 18——, at ——— o'clock in the ——— noon, to file on oath his reasons why he should not be adjudged trustee of Mr. D., of, &c., by serving him personally with an attested copy of his application and of this order, at least five days beforehand, making return of your service hereon under oath.

[Signature]

United States Consul.

38.

Common execution. [Rule 21.]

P. against D.

To the officer:

United States consular court at C.

Sir: Final judgment having been given by this court in favor of Mr. P., of, &c., against Mr. D., of, &c., for ——— dollars, and ——— cents,
JUDICIAL EXTRATERRITORIAL RIGHTS.

in United States silver money (debt), or damages, and —— dollars, —— cents, costs, dated ——, 18—, you are required, in the name of the United States of America, to collect the same, amounting to $——, with interest at 12 per cent. a year from said date of judgment, and $ (1) more for this (and another) execution, besides your legal fees; and, unless paid on demand, you are directed to seize any of his property within the jurisdiction of this court that may be shown you by Mr. P., and sell sufficient thereof at public auction after due notice; and for want thereof to arrest said debtor's person and bring him before this court, making return hereon of all your acts within 30 days. Given under my hand and the seal of the United States, this —— day of ——, A. D. 18—, and of the independence of the United States the ——.

[LS]

Y. Z.,
United States Consul.

39.

Trustee execution. [Rule 30.]

P. against D. and T., trustee.

United States consular court at C.

To the officer:

Sir: Final judgment having been given by this court in favor of Mr. P., of, &c., against Mr. D., of, &c., as principal defendant, for —— dollars, and —— cents (debt), or damages, and —— dollars, and —— cents, costs, and against Mr. T., of, &c., as trustee of Mr. D., for —— dollars and —— cents, all in United States silver money, dated ——, 18—, you are required, in the name of the United States of America, to collect the same, amounting to $——, with interest at 12 per cent. a year from said date of judgment, and $ (1) more for this (and another) execution, besides your legal fees; and unless paid by Mr. D. on demand, to demand the same [or the amount for which he is adjudged trustee less his costs taxed at $——] of Mr. T., within ten days after said date of judgment; and if still unpaid, you are directed to seize any of the principal defendant's property within the jurisdiction of this court that may be shown you by Mr. P., and sell sufficient thereof at auction after due notice; and for want thereof to arrest his person and bring him before this court, or after ten days subsequent to your demand on said trustee, to proceed in the same manner against his property and person, making return (&c., like common execution No. 38).

40.

Replevin execution against defendant. [Rule 32.]

P. against D.

United States consular court at C.

Final judgment having been given by this court in favor of Mr. P., of, &c., against Mr. D., defendant in replevin, for possession of the personal property repleived by him, ——, 18—, and for his costs, taxed at $——, dated ——, 18—, you are required [&c., like common execution, No. 38].

Also to deliver up to Mr. P. the accompanying bond, filed by him ——, 18—; and cancelled by me.

Given [&c., like No. 38.]
41.

Replevin execution against petitioner.

P. against D.

To the officer:

Sir: Final judgment having been given by this court in favor of Mr. D., of, &c., against Mr. P., petitioner in replevin, for a return of (all) or a part of the personal property repleived from him ——, 18—, and for his costs, taxed at $——-—, dated ——, 18—, you are required, in the name of the United States of America, to demand and receive of Mr. P., the immediate return of said property, to wit: [schedule of property returned on as good condition as he received it, and payment of said costs and interest at 12 per cent. a year and $ (1) more for this (and another) execution, besides your legal fees.

Making return hereon [&c., as common execution No. 38].

42.

Appellant's petition. [Rule 42.]

D., appellant against P.

To the Minister Resident of the United States:

Sir: D., of, &c., a citizen of the United States, appeals from the judgment of the United States consular court at C., given ——, 18—, against him and in favor of P., of, &c., in a suit of (contract) for [state the judgment] because Mr. A., one of the associates, disents from said judgment, as appears by the record, and because [state your reasons.]

(Signed) D.

C., ——, 18—,

United States consular court at C., ——, 18—.

Sir: Mr. D., appellant, having seasonably filed his appeal, with sufficient security, I have allowed it, and now have the honor to transmit his petition, with copies of all the papers.

Y. Z., United States Consul.

To the Minister Resident of the United States of America near the Sublime Porte, at Constantinople.

43.

Petition for new trial. [Rules 44, 45.]

D. against P.

To the United States consular court at C.:

D., of, &c., represents that he was defendant, or petitioner, in a suit in (contract) before this court, against P., of, &c. That judgment was
rendered against him for $——, debt (or damage) and $—— costs, ———, 18— (and execution issued ———, 18—).

(That W., a material interest for P., has since been proved to have testified falsely on said trial touching a material point, affecting the decision of the case). [If for other cause than perjury, state the reasons, instead of the words in parenthesis.] Wherefore he asks for a new trial.

[Dated, signed, sworn to, and certified like No. 1.]

44.

**Grant of new trial.**

D. against P.

United States consular court at C., ———, 18—.

The foregoing petition of Mr. D. for a new trial of the suit in (con-
tract) wherein judgment was given against him and in favor of Mr. P. for $—— (debt), and $——, cost, ———, 18—, is granted, and a new trial of the suit ordered before this court, for the following reasons, and on the following conditions:
[Name them.]

Y. Z.,
United States Consul.

——, 18—. Mr. D., having performed the foregoing conditions,
—— day, ———, 18—, is assigned for a new trial of the suit.

Y. Z.,
United States Consul.

45.

**Petition for habeas corpus.** [Rule 47.]

P. against D.

To the United States consular court at C.:

P., of, &c., represents that he, or V., of, &c., is unlawfully deprived of
his liberty by D., of C., a citizen of the United States, at C., in Turkey,
and solicits relief.

[Dated, signed, sworn to, and certified like No. 1.]

46.

**Writ of habeas corpus.**

P. against D.

United States consular court at C., ———, 18—.

To the officer:

Sir: Notify Mr. D., of, &c., a citizen of the United States, to appear
at the United States consulate at C., and to bring with him Mr. P., of,
&c., if he has him in his custody or under his control, by serving Mr.
D. (personally) with an attested copy of the petition and of this order,
making return of your service hereon under oath.

Y. Z.,
United States Consul.
Execution in habeas corpus.  [Rule 47.]

P. against D.

United States consular court at C., ———, 18—.

To the officer:

SIR: Final judgment having been given by this court in favor of Mr. P., of, &c. (petitioner), in habeas corpus against Mr. D. for unlawfully depriving him of his liberty at C., in Turkey, and for his costs, taxed at $———, in United States silver money, dated ———, 18—, you are required in the name of the United States of America forthwith to set Mr P. at liberty, and to collect [&c., like Common Execution No. 38].

Decree for husband to advance money on libel for divorce.  [Rule 50.]

L. against L., in divorce.

United States consular court at C., ———, 18—.

Ordered that Mr. L. pay into court within ——— days ——— dollars to enable his wife to prosecute her (or defend his) libel for divorce pending before me.  (Also that he advance or secure to her ——— dollars, monthly, for her support, payable on the first day of each month during the pendency of the libel, or until further order.)

Y. Z.,
United States Consul.

Certificate of divorce.

L. against L., in divorce.

United States consular court at C.

Upon the libel of Mr. or Mrs. L., of, &c., filed ———, 18—, against Mrs. or Mr. L., a full divorce was decreed by this court for [state the cause], and the bond of matrimony dissolved, ———, 18—.  [Given, &c., like No. 38.]

Criminal complaint.  [Rule 61.]

United States of America against R.

To the United States consular court at C. :

C., of, &c., on oath complains that R., of C., a citizen of the United States at C., in Turkey, on ———, 18—, unlawfully [state the offense].  [Dated, signed, sworn to, and testified, like No. 1.]
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51.

Warrant to apprehend accused.

United States of America against R.

United States consular court at C.

To the officer:

Sir: In the name of the United States of America forthwith apprehend Mr. R., of, &c., a citizen of the United States, and bring him before me to answer the complaint of Mr. C., charging him with the offense of —— at C., ———, 18——, for which this shall be your sufficient warrant. Given [&c., like No. 38].

52.

Warrant without complaint or information. [Rule 62.]

United States of America against R.

United States consular court at C.

To the officer:

Sir: Upon facts within my own knowledge, or which I have reason to believe true, you are required, in the name of the United States of America, forthwith to apprehend Mr. R., of, &c., a citizen of the United States of America, and to bring him before me to answer to a charge of —— [&c., like No. 51].

53.

Warrant to apprehend witness refusing to appear when summoned in any case. [Rules 12, 66.]

United States of America or P. against R.

United States consular court at C.

To the officer:

Sir: In the name of the United States of America, forthwith apprehend and bring before me Mr. W., of, &c., a citizen of the United States, to testify in said case, and to explain his failure to appear and testify, ———, 18——, as summoned.

[For which, &c., like No. 38.]

54.

Bail bond in criminal case. [Rule 68.]

United States of America against R.

In the United States consular court at C.

We, R., of C., a citizen of the United States, as principal, and S., of C., citizen of the United States, and T., of, &c., as sureties, acknowledge ourselves jointly and severally responsible for the immediate personal appearance of Mr. R. before this court whenever called for, and to pay
to the United States consul at C., or his successor, —— dollars on demand, for the use of the United States of America, whenever the consul shall adjudge that said R. has failed to appear and answer to a criminal prosecution for ——, pending against him before said court on complaint of Mr. C., or to abide and fulfill any decree, order, or judgment of court relative thereto. Witness our hands and seals at C., ——, 18—.

[Signed, sealed, approved, and filed like replevin bond No. 4.]

55.

Schedule of bail's property. [Rules 71, 72.]

United States of America against R.

To the United States consular court at C.:

I, B., of, &c., who offer myself as bail for R., a prisoner charged with the offense of —— before said court, solemnly swear that I am the sole and unconditional owner and possessor of all the unincumbered personal property named in the following schedule, worth at least —— dollars.

[Schedule, date, signature, oath, and certificate like No. 31.]

56.

Surrender of prisoner by bail. [Rule 74.]

United States of America against R.

To the United States consular court at C.:

B., of, &c., a citizen of the United States, asks leave to surrender R., of, &c., a citizen of the United States, charged with the offense of —— before said court, whose bail he became ——, 18—.

(Signed)

B.

Filed, petition granted, and prisoner committed.

[1. 8.]

Y. Z.,

United States Consul.

57.

Execution for costs against informant, &c. [Rule 77.]

United States of America against R.

United States consular court at C.

To the officer:

SIR: Mr. C., of, &c., having filed a complaint or information under oath in this court, ——, 18—, against Mr. R., of, &c., a citizen of the United States, charging him with the offense of ——, and Mr. R. having been tried and honorably acquitted by me, and Mr. C.'s complaint or information being, in my opinion, groundless and vexatious, originating in corrupt or vindictive motives, I have awarded judgment against Mr. C. in favor of Mr. R. for —— dollars and —— cents, costs, in United States silver money, dated ——, 18—. You are therefore required [&c., like common execution, No. 38].
JUDICIAL EXTRATERRITORIAL RIGHTS.

58.

Usual oath of witness. [Rule 79.]

You solemnly swear on the Holy Evangelists of Almighty God that the evidence you shall give in the case now on trial (before the consul) shall be the truth, the whole truth, and nothing but the truth.

So help you God.

59.

Oath of person examined by consul.

You solemnly swear that you will truly answer all questions propounded to you by the consul or his order.

So help you God.

60.

Oath to affidavit.

You solemnly swear that the foregoing —— by you subscribed is true.

So help you God.

61.

Interpreter's oath. [Rule 94.]

You solemnly swear that you will faithfully and impartially interpret and translate whatever shall be submitted to you verbally or in writing by the consul or his order upon this trial.

So help you God.

62.

Associate's oath. [Rule 104.]

You solemnly swear that you will impartially discharge the duties of associate in this trial before the United States consular court at C.

So help you God.

63.

Commitment for contempt. [Rule 105.]

United States of America against R.

United States consular court at C.

To the officer:

Sir: In the name of the United States, forthwith commit Mr. R., of, &c., to jail for (21) hours and collect of him $ (50) fine for his contempt of this court and of the United States of America, committed to-day in my presence in court (at the United States consulate) by [state the substance of his acts]. And if Mr. R. does not on demand pay said fine and the costs, taxed at $ ________, with your legal fees, you will imprison him for 30 days more, for all which this shall be your sufficient warrant. Given [&c., like No. 38].

S. Mis. 89—9
JUDICIAL EXTRATERRITORIAL RIGHTS.

64.

Judgment on criminal proceeding.

United States of America against R.

United States consular court at ———.

Having heard and tried the foregoing (complaint) or information filed by Mr. C. ———, 18——, I find Mr. R. guilty of the offense of ———, wherein he is charged, having at C, in Turkey, on ———, 18——, unlawfully [state the substance of the offense proved] and I adjudge and sentence him therefore to imprisonment and hard labor for ——— from this day, in the prison for American convicts in Turkey at Constantinople, and that he be confined at hard labor in the ——— at S., until removed to Constantinople.

[L. S.]

United States Consul.

Y. Z.

Concurred in.

A., Associate.

B., Associate.

65.

Warrant of commitment on sentence.

United States of America against R.

United States consular court at C.

To the officer and to the keeper of the American prison:

In the name of the United States of America, forthwith commit Mr. R., of C., a citizen of the United States, to the prison for American convicts in Turkey at Constantinople, and safely keep him confined at hard labor for ——— from the ——— day of ———, 18——, in execution of the sentence of this court against him of that date, for the offense of ———, of which he stands convicted. For all which this shall be your sufficient warrant. [Given, &c., like No. 58.]

66.

Communication to foreign consulate. [Rule 109.]

Consular court of the United States of America at C., ———, 18——.

To the honorable consulate of ——— at C.:

I have the honor to transmit the inclosed petition [or other paper] filed in this court (requesting that it may receive early attention). I have the honor to assure you of my high respect and regard.

Your obedient servant,

Y. Z.

United States Consul.
JUDICIAL EXTRATERRITORIAL RIGHTS.

67.

Petition of American citizen against foreign defendant.

P., American citizen against D., subject of ——.

To the consular court of the United States at C.:

P., of C., a citizen of the United States, represents that Mr. D., of C., subject of ——, is indebted to him —— (piasters), according to the accompanying account, payment whereof has been demanded and withheld. P., therefore, asks that two attested copies of this petition and account be communicated to the consulate of —— at C., and that said D. may be compelled forthwith to pay him said amount, interest, costs, and expenses occasioned by his delinquency. And P. is ready to comply with any order of this court or of the consulate of —— at C.

C., ——, 18—.

(Signed) P.

UNITED STATES CONSULAR COURT AT C., ——, 18—.

Filed.

Y. Z.,

United States Consul.

68.

Commission to commissioners. [Rule 111.]

P., subject of ——, against D., American citizen.

To Messrs. C., of D., citizen of the United States, O., of C., subject of ——, and M., subject of ——:

GENTLEMEN: You having been duly nominated, and being approved by me, as members of a mixed commission upon the petition of Mr. P., of, &c., against Mr. D., of, &c., dated ——, 18—, filed in the consulate ——, and transmitted to this court by copy, are hereby commissioned with full power to hear, and a majority of you to decide, the case. Mr. C. is appointed your chairman and will preside at all your sessions, his presence being essential to your proceedings, which will be conducted as nearly as may be as in suits tried in this court. You will give due notice to each party of the time and place of each of your sessions, and you will proceed notwithstanding the absence of either without good cause. You will patiently [&c., like Commission to Referees, No. 12].

69.

Officer's return of service on execution.

P. against D.

To the United States consular court at C.:

I have to-day served the within execution on Mr. D. at C., by [State accurately the mode of service, giving a concise account of your proceedings and their results].

[If the execution has been paid or settled, be careful to add:] And I accordingly return the execution fully satisfied, with all my fees.

[If only a part has been paid, say:] And I accordingly return the execution satisfied in part, to wit, the amount of —— dollars and —— cents, 18—.

O., Officer.

[Add a detailed account of your fees and disbursements.]
70.

Officer’s return of execution unserved.

P. against D.

To the United States consular court at C.:

Being unable to find the person or property of Mr. D., I return the within execution which I received for service, ———, 18——, wholly unsatisfied.

C. ———, 18——.

O., Officer.

71.

Officer’s return of service on warrant.

United States of America against R.

To the United States consular court at C.:

I have to-day arrested Mr. R., at C., and now have him before the court as directed.

C. ———, 18——.

[Add detailed account of your fees and disbursements.]

————

TABLE OF COSTS AND FEES.

COURT FEES.

<table>
<thead>
<tr>
<th>Service</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filing petition</td>
<td>$1.00</td>
</tr>
<tr>
<td>Filing answer</td>
<td>0.50</td>
</tr>
<tr>
<td>Communication of any paper through dragoman</td>
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<tr>
<td>Communication of any paper through court</td>
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<tr>
<td>Setting down case for hearing, including notices</td>
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<td>Hearing fee, including judgment—</td>
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</tr>
<tr>
<td>In cases under $100</td>
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<tr>
<td>In cases from $100 to $1,000</td>
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<tr>
<td>In cases above $1,000</td>
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<tr>
<td>In cases seeking judicial relief, but not money</td>
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<tr>
<td>Execution</td>
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</tr>
<tr>
<td>Commissions to referees, commissioners, &amp;c.</td>
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</tr>
<tr>
<td>Summons for witness</td>
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<td>And if exceeding 250 words, for each 100 words</td>
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</tr>
<tr>
<td>Certificate</td>
<td>0.50</td>
</tr>
<tr>
<td>Commission on money or valuables deposited, 2 per cent.</td>
<td></td>
</tr>
<tr>
<td>Warrant</td>
<td>0.50</td>
</tr>
<tr>
<td>Searching records, ordinarily</td>
<td>0.50</td>
</tr>
<tr>
<td>Recognizance, or discharging</td>
<td>0.50</td>
</tr>
<tr>
<td>Approving bond, or other paper</td>
<td>0.25</td>
</tr>
<tr>
<td>Recording marriage</td>
<td>1.00</td>
</tr>
</tbody>
</table>
JUDICIAL EXTRATERRITORIAL RIGHTS.

Certificate of marriage ........................................ $1.00
Recording birth ..................................................     25
Official travel, each mile .................................... 10
   (Also all actual certified expenses.)
Adjournment fee .................................................. 25
Any decree or order ............................................. 25
Interpreter, each day .......................................... 2.50
Attendance of dragoman on Turkish tribunal, or elsewhere, each
day, from $2.50 to ............................................... 5.00
Filing agreement to settle ..................................... No fee.
Registration of citizen .......................................... No fee.
Recording death .................................................. No fee.
Seamen, in civil cases, at discretion of consul, to pay ........ No fee.
Any other fees as in United States courts.

COSTS FOR PREVAILING PARTY.

A general fee in each case, of .................................... $5.00
In cases above $500, 1 per cent. on the amount recovered (if
defendant prevails, on amount sued for).
Necessary travel, each mile .................................... 10
Necessary attendance at court, each day ....................... 2.00
All necessary court and witness fees, &c., actually paid out.

FOR MARSHAL OR OFFICER.

Service of execution ........................................... 1.00
Also, on the first $100 collected, a commission of 5 per cent.; on
the second $100, 4 per cent.; on the third, 3 per cent.; on the
fourth, 2 per cent.; and beyond $400, 1 per cent.
Civil arrest ......................................................... 1.00
Arrest on criminal warrant ..................................... 1.00
Bringing up or remanding prisoner .............................. 50
Service of any other paper ..................................... 50
Official travel, each mile ..................................... 10
Also any reasonable sum actually and necessarily paid to aid or
for expenses.
Other services as in United States courts.

MISCELLANEOUS.

Associates on consular trial, each day ........................ 3.00
Assignees in bankruptcy, each public meeting ............. 3.00
Surveyors .......................................................... 5.00
Referees and commissioners, $3 for each day, or the fee customary
at consulates of other nations.
Official travel of the foregoing officials, each mile ....... 10
APPENDIX IX.

REGULATIONS IN FORCE IN THE CONSULAR COURTS OF THE UNITED STATES IN JAPAN.

Regulations for the consular courts of the United States of America in Japan, 1870.

Legation of the United States of America in Japan,
November 16, 1870.

Notice is hereby given that the within regulations are in force from this date.

[U. S. LEGATION SEAL.] C. E. De Long,
Minister Resident.

REGULATIONS FOR THE CONSULAR COURTS OF THE UNITED STATES OF AMERICA IN JAPAN.

In pursuance of section 5 of the act of Congress approved June 22, 1860, entitled "An act to carry into effect certain provisions in the treaties between the United States, China, Japan, Siam, Persia, and other countries, giving certain judicial powers to ministers and consuls, or other functionaries of the United States in those countries, or for other purposes," I, C. E. De Long, minister resident of the United States to the empire of Japan, do hereby decree the following rules and regulations, which shall have the force of law in the consular courts of Japan.

1. Every citizen of the United States, residing within the limits of the ports open to foreign trade in the empire of Japan, is required to be enrolled in the consular register; and shall apply in person at the consulate, within thirty days after the publication of notice of this decree. Every American citizen who may arrive within the limits of a port, save and except one who may be enrolled on the muster-roll of an American vessel, shall apply within ten days at the consulate to be enrolled. Any American citizen neglecting to be so enrolled will not be entitled to claim the protection or intervention of the authorities, unless he can furnish a valid reason for not doing so, and shall be subject to a fine of ten dollars.

2. In all cases when an applicant to be enrolled cannot furnish a passport or other legal proof of his citizenship, he shall make an affidavit in writing that he is a citizen of the United States, which shall be filed by the consul, and the consul may also require other and further proof of the fact before enrolling him.

CIVIL PROCEEDINGS.

1. All civil actions in courts of the United States in Japan must be commenced by a complaint or petition in writing, verified by the oath of the party, his agent or attorney, before the judge of such court.

2. There shall be but one form of civil action for the enforcement or protection of private rights, and the redress or prevention of private wrongs. In such action, the party complaining shall be known as the plaintiff, and the adverse party as the defendant.
3. Every action shall be prosecuted in the name of the real party in interest, except as otherwise provided in this decree.

4. In case of an assignment of a thing in action the action by the assignee shall be without prejudice to any set-off or other defense existing at the time of or before notice of the assignment; but this section shall not apply to a negotiable promissory note or bill of exchange transferred in good faith, and upon good consideration before due.

5. When a married woman is a party, her husband shall be joined with her, except when the action concerns her separate property, or when the action is between herself and her husband, when she may sue or be sued alone.

6. When an infant is a party, he shall appear by guardian, who may be appointed by the court, if none has already been appointed at the time.

7. All persons having an interest in the subject of the action may be joined as plaintiffs; and any person who has or claims to have an interest in the controversy adverse to the plaintiff, or who is a necessary party to a complete determination or settlement of the question involved therein, may be made a defendant.

8. Persons severally liable upon the same obligation or instrument, including the parties to bills of exchange and promissory notes, and sureties on the same or separate instruments may all or any of them be included in the same action, at the option of the plaintiff.

9. An action shall not abate, by the death or other disability of a party, or by a transfer of any interest therein, if the cause of action survive or continue; but, in case of the death or disability of a party, the action may be continued by or against his representative or successor in interest, or the court may allow the person to whom the transfer is made to be substituted in the action.

10. Actions shall be brought and may be tried in the port or city wherein one or more of the parties to the action resides, or wherein the cause of controversy accrued, subject to the power of the court to change the place of trial, when the convenience of witnesses and the ends of justice would be promoted thereby, or when, from any cause, the judge is disqualified from acting in the action.

11. The complaint shall be at once filed by the court, with a specification of the day, month, and year when the same was received for filing; and at any time within one year thereafter summons may be issued thereon as desired by the plaintiff. The summons shall be signed by the court, directed to the defendant, and issued under the seal of the court. It shall state the parties to the action, the court in which it is brought, the general nature of the action, and require the defendant to appear and answer the complaint, within the time mentioned in the next section, after the service of summons, exclusive of the day of service; or that a judgment by default will be taken against him according to the prayer of the complaint, stating the sum of money or other relief demanded in the complaint; but the court, in all cases when the default of one or all of the defendants is entered, shall require proof to be made in support of the plaintiff’s cause of action, and shall only allow a judgment for such relief as the evidence offered shows the plaintiff to be entitled to.

12. The time in which the summons shall require the defendant to answer the complaint shall be as follows:

1st. If served on the defendant in the port or city wherein the action is brought, within three days.

2d. If elsewhere within the empire of Japan, within twenty days; or,
3d. If without said empire, within forty days. The court may for good cause shown, at any time within six months from the date of entry of any judgment by default, vacate, and set the same aside.

15. The summons shall be served by the marshal to whom it is directed, or by some person specially deputed by him, or by the court; and it shall be returned, with the written certificate of such person, showing where, when, and upon whom it was served. If the defendant can be found, service shall be made by delivering to him a copy thereof. If the suit be against a corporation, by delivery of a copy to the president, secretary, or other managing agent thereof. If against a minor, by delivery of a copy to such minor, and also to his father, mother, or other guardian, if he have such, residing in the empire. And if against a person judicially declared to be of unsound mind, and for whom a guardian has been appointed, by delivery of a copy to such guardian; provided, that, when the person on whom service is to be made resides out of the empire of Japan, or has departed therefrom, or cannot after due diligence be found therein, or conceals himself to avoid the service of summons, and such facts be made to appear to the satisfaction of the court, service may be made by publication of the summons in some newspaper, if there be one, published at the port or the city wherein the action is brought; but if there be none, in a newspaper published the nearest to said port, for such length of time, and in such manner as the court may direct; not less, however, than once a week for the period of three weeks. Proof of service of summons so made shall be by the affidavit of the printer or publisher of such newspaper. The voluntary appearance of the defendant shall in all cases be deemed equivalent to a personal service upon him of the summons, and a person shall be deemed to appear when he answers or demurs to the complaint in writing, or files a written and verified statement in the action confessing plaintiff's right of action, or some portion thereof, and consenting that judgment for such amount be entered.

14. The pleadings on the part of the plaintiff shall be limited to a complaint or petition, and a demurrer to the defendant's answer; and on the part of the defendant, to a demurrer and answer to plaintiff's complaint; provided, however, that the defendant may in his answer claim affirmative relief against the plaintiff, and all matters contained in the defendant's answer shall be deemed to be denied by the plaintiff unless specially admitted by him. The pleadings shall concisely state the cause of action or defense, with a prayer for the relief asked for, and all answers, except demurrers raising issues of law alone, shall be verified as the complaint and petition are required to be. All pleadings shall be filed by the court, with a note of the day, month, and year, and if a defendant in his answer prefer a cross demand, or other affirmative relief against the plaintiff, the plaintiff shall be allowed, if he require it, the same length of time in which to prepare for the trial of the cause as that which the defendant was allowed for answering in the case after service of the summons upon him.

15. A pleading may be demurred to if upon its face it shows that the court has no jurisdiction over either of the parties, or the cause of action; or that the plaintiff has not the legal capacity to sue, or that there is a defect of parties, or an improper joinder of several causes of action, or that no cause of action or defense is stated in the pleading. The demurrer must distinctly state the grounds upon which it is based, and in case a demurrer to a pleading is sustained, the court shall in all cases allow the party against whom the judgment on demurrer is rendered a reasonable length of time in which to amend, serve, and file his
amended pleadings. All material allegations contained in the complaint, and not denied specifically in the answer thereto, shall be considered as admitted.

16. The cross-demand mentioned in section fourteen shall be one existing in favor of the defendant or plaintiff, and against a plaintiff or defendant between whom a several judgment might be had in the action, and arising out of one of the following causes of action:

1st. A cause of action arising out of the transaction set forth in the complaint or answer as the foundation of the plaintiff's claim, or defendant's defense, or connected with the subject of the action.

2d. In an action arising upon a contract, any other cause of action arising also upon contract and existing at the time of the commencement of the action.

17. It shall not be necessary for a party to set forth in a pleading the items of the account therein alleged, but he shall deliver to the adverse party, within three days after demand thereof, in writing, a copy of the account, or he may be precluded from giving evidence thereof.

18. The plaintiff may unite several causes of action in the same complaint, when they all arise out of—

1st. Contracts express or implied.

2d. Claims to cover specific real property, with or without damages for waste or detention thereof, and the rents and profits of the same.

3d. Claims to cover specific personal property, with or without damages for the detention thereof.

4th. Injuries to character, person, or to property; but the causes of action so united shall all belong to one only of these causes of action, and shall affect all of the parties to the action, and not require different places of trial, and be distinctly and separately stated.

19. The court may in furtherance of justice allow amendments to pleadings by adding or striking out the name of a party, or by correcting a mistake in the name of a party, or any other mistake; it may also enlarge the time for filing an answer or demurrer, or a demurrer to an answer, or relieve a party from a judgment obtained against him by fraud, or through his mistake, inadvertence, surprise, or excusable neglect.

20. If the defendant appears and answers, the court having both parties before it, shall, before proceeding further, encourage a settlement by mutual agreement or by submission of the case to referees agreed on by the parties; a finding by a majority of whom shall decide the case, and be entered as a judgment by the court, subject to appeal or motion for a new trial, as in cases of other judgments, and upon similar grounds.

21. On application of either party and on advance of the fees, any American citizen residing in the empire of Japan may be compelled to attend as a witness upon any court in the empire, and may be compelled to bring with him, and produce in such court, all necessary books, papers, &c., in his possession or under his control.

22. An order to arrest the defendant in a civil action may be made by the court in which the action is brought, or is pending, whenever it shall be made to appear to the satisfaction of the court, by an affidavit in writing, that the defendant is about to depart from the empire with the intent to defraud his creditors; or that the defendant has, while acting in either an official, fiduciary, or professional character, embezzled or fraudulently misapplied, or converted to his own use, monies or property of his principal; or when the action is to recover the possession of personal property, when the property or any portion thereof has been
concealed, removed, or disposed of so that it cannot be found, or taken possession of by the marshal; or when the defendant has been guilty of a fraud, in contracting the debt or incurring the obligation for which the action is brought; or in concealing or in disposing of the property, for the taking, detention, or conversion of which the action is brought; or when the defendant has removed or disposed of his property or is about to do so, with intent to defraud his creditors. Before making the order, the court shall require the plaintiff to enter into an undertaking, with two sureties, citizens of the United States, and residents of the empire of Japan, in a sum of not less than five hundred dollars, conditioned to pay the defendant such costs and damage as he may sustain by reason of the arrest if judgment be in his favor, not exceeding the amount mentioned in the bond. The sureties shall justify on the bond, by affidavit showing that they are American citizens, residents of the empire, and worth the sum mentioned in the undertaking, which bond shall be at once filed by the court.

23. The order may be made at any time after the summons is issued; it shall be directed to the marshal, and shall direct him to arrest the defendant, and to hold him to bail in a specified sum, and return the order within a time specified to the court that issued it. A copy of the affidavit and order of arrest shall be delivered to the marshal, who, upon arresting the defendant, shall deliver unto him a copy of each; and shall execute the order by arresting the defendant, and holding him in custody until he shall be discharged according to law.

24. The defendant at any time before execution shall be discharged from arrest, either upon giving bail in the amount stated in the order of arrest, with two sureties, citizens of the United States, who shall justify as such on said bond, and to the further effect that they are residents of the empire of Japan, and worth respectively the amount stated in the order; conditioned that the defendant will at all times render himself amenable to the process of the court, during the pendency of the action, and to the execution of the judgment therein; or that he will pay the plaintiff any judgment that may be recovered in said action; or the defendant may be discharged from arrest by depositing with the court the amount of money mentioned in the order of arrest.

25. In an action brought to recover specific personal property, if the plaintiff make and file with the court, at any time before the defendant appears and answers in the action, an affidavit showing that he, the plaintiff, is the owner or entitled to the possession of the property (particularly describing it), that the property is unlawfully detained by the defendant, the value thereof, the cause of the detention to the best of his knowledge, and that the same has not been taken or seized by process issued out of any court, he shall be entitled to claim the delivery to himself of such property as hereinafter provided.

26. The plaintiff or his attorney may, by indorsement in writing on such affidavit, require the marshal to deliver the property therein mentioned to him, and it shall be the duty of the marshal to whom the same is directed, upon receipt of the affidavit and notice, with a sufficient undertaking executed by the plaintiff with two or more sufficient sureties, to be approved by the marshal, to the effect that they are bound to the defendant in double the value of the property as stated in the affidavit, for the prosecution of the action, for the return of the property to the defendant, if return thereof be adjudged, and for the payment to him of such sum as may for any cause be recovered against the plaintiff, the marshal shall forthwith take the property into his possession, if he find it in the possession of the defendant, or his agent, and he shall also without de-
lay serve on the defendant a copy of the affidavit, notice, and undertaking, by delivering the same to him personally if he can be found, but if he cannot be found, by leaving the same at his usual or last place of residence.

27. At any time before the delivery of the property to the plaintiff, the defendant may require the return thereof, upon giving to the marshal a written undertaking executed by two or more sufficient sureties, to be approved by the marshal, to the effect that they are bound in double the value of the property as stated in the affidavit of the plaintiff, for the delivery thereof to the plaintiff, if such delivery be adjudged; and for the payment to him of such sum as may for any cause be recovered against the defendant. If a return of the property be not so required within three days after the service of the notice on the defendant and the taking of the property, it shall be delivered to the plaintiff, unless it be claimed by some third person, in which case the marshal must at once notify the plaintiff of such claim; and unless the plaintiff, within two days thereafter, give to the marshal an undertaking, with two sufficient sureties in double the value of the property so claimed as stated in the affidavit, conditioned to save him, the marshal, harmless against any cost or damages he may be put to by said claimant, if he holds the same or delivers it to the plaintiff, he, the marshal, may surrender such property to the said claimant.

28. In all cases, sureties, to be sufficient on any undertaking, must, by affidavit attached to such undertaking, affirm on oath that they are citizens of the United States, residents of the empire of Japan, and worth respectively the sum for which they therein bind themselves in property situated in said empire, not exempt from execution, and over and above all of their just debts and legal liabilities.

INJUNCTION.

29. An injunction is a writ or order, requiring a person to refrain from a particular act. This order or writ may be granted by the court in which an action is brought, when it shall appear that the plaintiff is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of the act complained of, or when it shall appear that the commission or continuance of some act during the litigation would produce great or irreparable injury to the plaintiff, or when it shall appear that the defendant is doing, or threatens, or is about to do, or is procuring or suffering to be done some act in violation of the plaintiff's rights, respecting the subject of the action, and tending to render the judgment ineffectual.

30. The injunction may be granted at the time of issuing the summons, or at any time afterward, before judgment is rendered in the action; before issuing which, however, the court shall require (except when the people of the United States are a party plaintiff) a written undertaking on the part of the plaintiff, with two or more sufficient securities, to the effect that the plaintiff will pay to the party enjoined such damages, not exceeding an amount to be specified, as such party may sustain by reason of the injunction, if the court shall finally decide that the plaintiff was not entitled thereto.

31. The party against whom an injunction is granted may, upon notice to the opposite party, move the court that it be dissolved or modified, and upon the hearing the court may consider the application solely upon the pleadings on file, or may allow the parties respectively to file affidavits; and if it satisfactorily appears that there is not sufficient ground
JUDICIAL EXTERRITORIAL RIGHTS.

for the injunction it shall be dissolved, or it may be modified if it appears that the extent of the writ granted is too great.

ATTACHMENT.

32. The plaintiff at the time of the issuance of summons, or at any time afterward, may have the property of the defendant attached as security for the satisfaction of any judgment that may be recovered, unless the defendant give security to pay such judgment as hereinafter provided, in the following cases:

1st. In an action upon a contract, express or implied, for the direct payment of money, which contract is not secured by a mortgage, lien, or pledge upon real or personal property, or, if so secured, that such security has been rendered nugatory by the act of the defendant.

2d. In an action upon a contract, express or implied, against a defendant not residing in this empire.

33. The court shall issue the writ of attachment upon receiving an affidavit, by or on behalf of the plaintiff, which shall be filed, showing—

1st. That the defendant is indebted to the plaintiff (specifying the amount of such indebtedness over and above all legal set-offs as counter-claims) upon a contract, expressed or implied, for the direct payment of money, and that the payment of the same has not been secured by any mortgage, lien, or pledge upon real or personal property; or,

2d. That the defendant is indebted to the plaintiff (specifying the amount) over and above all legal set-offs or counter-claims, and that the defendant is a non-resident of this empire; and,

3d. That the sum for which the attachment is asked is an actual, bona fide, existing debt, due and owing from the defendant to the plaintiff.

34. Before issuing the writ the court shall require a written undertaking on the part of the plaintiff, in a sum not less than one-half of nor exceeding the amount claimed by the plaintiff, with sufficient sureties, to the effect that the defendant recover judgment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not exceeding the sum specified in said undertaking.

35. The writ shall be directed to the marshal of the consulate within the jurisdiction of which the property of such defendant may be, and shall require him to attach and safely keep all the property of such defendant within said consular jurisdiction, not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand (the amount of which shall be stated as in the complaint in the action), unless the defendant give him security by the undertaking of at least two sufficient sureties, in an amount sufficient to satisfy such demand, besides costs, or in an amount equal to the value of the property which has been or is about to be attached, in which case, to take such undertaking, several writs may be issued at the same time, to different marshals of different consulates.

36. The rights or shares which the defendant may have in the stock of any corporation or company, together with the interest and profit thereon, and all debts due such defendant, and all other property in this empire of such defendant, not exempt from execution, may be attached, and, if judgment be recovered, be sold to satisfy the judgment and execution.

37. The marshal to whom the writ is directed and delivered shall execute the same without delay, and if the undertaking mentioned in section 35 be not given, as follows:

1st. Real property, or any interest in or right of possession thereto, of
which the defendant may be the owner and in the possession, shall be attached by leaving a copy of the writ with the occupant thereof, or, if there be no occupant, by posting a copy of the writ in a conspicuous place thereon, and filing a copy, together with a description of the property attached, with the United States consul at that port. If the same shall not be in the possession of the defendant, but in that of some other person, the same shall be attached by leaving with such person, or his agent, a copy of the writ, and a notice that such real property (giving a description thereof), and any interest therein, belonging to the defendant is attached pursuant to such writ, and posting a copy of said writ and notice in a conspicuous place on said property, and filing a copy of such notice and writ with the United States consul for that jurisdiction.

2d. Personal property capable of manual delivery shall be attached by taking it into custody.

3d. Stock or shares, or interest in stock or shares of any corporation or company, shall be attached by leaving with the president, secretary, cashier, or other managing agent thereof, a copy of the writ, and a notice stating that the stock or interest of the defendant is attached in pursuance of such writ.

4th. Debts and credits, and other personal property not capable of manual delivery, shall be attached by leaving with the person owing such debts, or having in his possession, or under his control, such credits, or other personal property, or with his agent, a copy of the writ, and a notice that the debts owing by him to the defendant, or the credits and other personal property in his possession or under his control, belonging to the defendant, are attached in pursuance of such writ.

38. Upon receiving information in writing from the plaintiff, or his attorney, that any person has in his possession or under his control any credits or other personal property belonging to the defendant, or is owing any debt to the defendant, the marshal shall serve upon such person a copy of the writ, and a notice that such credits or other property or debts, as the case may be, are attached in pursuance of such writ.

39. All persons having in their possession or under their control any credits or other personal property belonging to the defendant, or owing any debts to the defendant at the time of service upon them of a copy of the writ and notice, as provided in the last two sections, shall be, unless such property be delivered up or transferred, or such debts be paid to the marshal, liable to the plaintiff for the amount of such credits, property, or debts until the attachment be discharged, or any judgment recovered by him be satisfied.

40. Any person (a citizen of the United States) owing debts to the defendant, or having in his possession or under his control any credits or other personal property belonging to the defendant, may be required to attend before the court, and be examined on oath respecting the same. The defendant may also be required to attend, for the purpose of giving information respecting his property, and may be examined on oath. The court may, after such examination, order personal property capable of manual delivery to be delivered to the marshal on such terms as may be just, having reference to any liens thereon or claims against the same; and a memorandum to be given of all other personal property containing the amount and the description thereof.

41. The marshal shall make a full inventory of the property attached and return the same with the writ. To enable him to make such return as to debts and credits attached, he shall request, at the time of service, the party owing the debt or having the credit to give him a memoran-
dum stating the amount and description of each, and if such memoran-
dum be refused, he shall return the fact of the refusal with the writ.
The party refusing to give the memorandum (if a citizen of the United
States) may be required to pay the costs of any proceedings taken for
the purpose of obtaining information respecting the amounts and de-
scription of such debt or credit.

42. If any property attached be perishable the marshal may sell the
same in the manner in which such property is sold on execution. The
proceeds and other property attached by him shall be retained by him
to answer another judgment that may be recovered in the action unless
sooner subjected to execution upon another judgment recovered previous
to the issuing of the attachment. Debts and credits attached may be
collected by him if the same can be done without suit. The marshal's
receipt shall be a sufficient discharge for the amount paid.

43. If any personal property attached be claimed by a third person
as his property, the marshal shall notify the plaintiff, or his attorney,
of the amount, value, and nature thereof, and by whom claimed, and if
within two days after such notice is given the plaintiff fail to indem-
nify the marshal by giving him a good and sufficient bond in double the
value thereof, with two sufficient securities, securing him against any
cost or loss that he may be put to by holding the same as the property
of the defendant, he may release the same to the said claimant, reciting
what he has done relative thereto in his return upon the original writ.

44. If the plaintiff recovers a judgment, the marshal shall satisfy the
same out of the property attached by him which has not been deliv-
ered to the defendant or a claimant, as hereinbefore provided, or sub-
jected to execution on another judgment recovered previous to the
issuing of the attachment, if it be sufficient for that purpose—
1st. By paying to the plaintiff the proceeds of all sales of perishable
property sold by him, or of any debts or credits collected by him, or so
much as shall be necessary to satisfy the judgment.

2d. If any balance remain due and an execution shall have been is-
ioned on the judgment, he shall sell, under the execution, so much of
the property, real or personal, as may be necessary to satisfy the bal-
ance, if enough for that purpose remains in his hands. Notices of the
sale shall be given, and the sale conducted as in other cases of sales on
execution.

45. If, after selling all the property attached by him remaining in his
hands, and applying the proceeds, together with the proceeds of any
debts or credits collected by him, and deducting his fees, to the pay-
ment of the judgment, any balance shall remain due, the marshal shall
proceed to collect such balance as upon an execution in other cases.
Whenever the judgment shall have been paid, the marshal, upon rea-
sonable demand, shall deliver over to the defendant the attached prop-
erty remaining in his hands, and any proceeds of the property attached
unapplied on the judgment.

46. If the execution remain unsatisfied, in whole or in part, the plain-
tiff may prosecute any undertaking given by the defendant pursuant
to this chapter of this decree; or he may proceed as in other cases upon
the return of an execution.

47. If the defendant recover judgment against the plaintiff, any un-
dertaking received in the action, all of the proceeds of sales, and
money collected by the marshal, and all of the property attached re-
main ing in the marshal's hands, shall be delivered to the defendant, or
his agent, the order of attachment shall be discharged and the property
released therefrom.
48. Whenever the defendant shall have appeared in the action, he may, upon reasonable notice to the plaintiff, apply to the court in which the action is pending for an order to discharge the attachment, wholly or in part, and upon the execution of the undertaking mentioned in the next section such order may be granted, releasing from the operation of the attachment any or all of the property attached; and all of the property so released, and all of the proceeds of the sales thereof, shall be delivered to the defendant, upon the justification of the sureties on the undertaking, if required by the plaintiff.

49. Before granting such order the court shall require an undertaking on behalf of the defendant, by at least two sureties, American citizens residents of Japan, to the effect, that in case the plaintiff recover a judgment in the action, defendant will, on demand, redeliver such property attached, so released, to the proper officer, to be applied to the payment of the judgment, and that in default thereof, the defendant and sureties will on demand pay to the plaintiff the full value of the property so released. The court granting such release shall fix the sum for which the undertaking shall be given, and if necessary, in fixing the sum, to know the value of the property released, the same may be appraised by three disinterested persons appointed for the purpose. The sureties may be required to justify before the court, and the property attached shall not be released from the attachment without their justification, if the same be required.

50. The defendant may also at any time before the time for answering expires, apply, on motion, upon reasonable notice to the plaintiff, to the court in which the action is brought that the attachment be discharged, on the ground that the writ was improperly or irregularly issued.

51. When the motion is made upon affidavits on the part of the defendant, but not otherwise, the plaintiff may oppose the same by affidavits, or other evidence, in addition to those on which the attachment was made. If upon such application it shall satisfactorily appear that the writ of attachment was improperly or irregularly issued, it shall be discharged.

52. The marshal shall return the writ of attachment with the summons, if issued at the same time, unless the court otherwise direct; in all other cases within twenty days of its issuance, and receipt by him, with a certificate of his proceedings indorsed thereon.

DEPOSIT IN COURT.

53. When it is admitted by the pleading or examination of a party, that he has in his possession or under his control any money or other thing capable of delivery, which, being the subject of the litigation, is held by him as trustee for another party, or which belongs or is due to another party, the court may order the same, upon motion, to be deposited in court or delivered to such party upon such conditions as may be just, subject to the further direction of the court.

54. A receiver may be appointed by the court in which an action is pending:

1st. Before judgment, provisionally, on the application of either party, when he establishes a prima facie right to the property, or to an interest in the property, which is the subject of the action, and which is in the possession of an adverse party, and the property or its rents and profits are in danger of being lost or materially injured or impaired.

2d. After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal; and,
3d. In such other cases as are in accordance with the practice of
courts of equity jurisdiction.

OF TRIAL AND JUDGMENT.

55. A judgment is the final determination of the rights of the parties
in the action or proceeding.

56. Judgment may be given for or against one or more of several
plaintiffs or defendants, and it may, when the justice of the case re-
quires it, determine the ultimate rights of the parties, on each side, as
between themselves.

57. In an action against several defendants, the court may, in its dis-
cretion, render judgment against one or more of them, leaving the action
to proceed against the others whenever a several judgment is proper.

58. The relief granted to the plaintiff, if there be no answer, shall
not exceed that which he shall have demanded in his complaint; but in
any other case the court may grant him any relief consistent with the
case made by the complaint, and embraced within the issue.

59. An action may be dismissed, or a judgment of non-suit entered,
in the following cases:

1st. By the plaintiff himself at any time before trial upon the pay-
ment of costs, if a counter-claim has not been made; if a provisional
remedy has been allowed, the undertaking shall thereupon be delivered
by the clerk to the defendant who may have his action thereon.

2d. By either party, upon the written consent of the other.

3d. By the court when the plaintiff fails to appear on the trial, and
the defendant appears and asks for the dismissal.

4th. By the court when upon the trial, and before the final submission
of the case, the plaintiff abandons it.

5th. By the court, upon motion of the defendant, when upon the trial
the plaintiff fails to prove a sufficient case. A judgment of dismissal
shall in all cases be entered in the court's docket and judgment book.

60. In all other cases judgment shall be rendered upon the merits.

61. Judgment may be had if the defendant fail to answer the com-
plaint, as follows:

1st. The court in any action, if no answer has been filed with it within
the time specified in the summons, or within such further time as may
have been granted upon application of the plaintiff, or his attorney, shall
enter the default of the defendant, and immediately thereafter enter
judgment; but before entering judgment in the case, the court shall
require proof to be made by the plaintiff, and shall enter such judgment
only as the evidence under the pleadings will justify; and when the
amount demanded in such a case exceeds the sum of five hundred dollars,
assessors shall be selected and participate in the judgment as in other
cases.

2d. In actions where the service of the summons was by publication,
the plaintiff, upon the expiration of the time designated in the order of
publication, may, upon proof of the publication, and that no answer has
been filed, apply for judgment; and the court shall thereupon require
proof to be made of the demand mentioned in the complaint; and if
the defendant be not a resident of the empire, shall require the plaintiff,
or his agent, to be examined on oath, respecting any payments that have
been made to the plaintiff, or to any one for his use, on account of such
demand, and may render judgment for the amount which he is entitled
to recover.
OF ISSUES AND THE MANNER OF THEIR DISPOSITION.

62. An issue arises when a fact, or conclusion of law, is maintained by the one party and is controverted by the other, and are of two kinds, to wit, of law and of fact. An issue of law arises upon a demurrer to the complaint or answer, or to some part thereof. An issue of fact arises when a material allegation in either the complaint or answer is controverted.

63. Issues of law shall be tried and disposed of by the court, constituted in the same manner as by law it should be constituted, to try and dispose of the isamable facts in the same case, and when there are issues of law and fact in the same case, the issues of law shall be first disposed of.

64. All causes shall be entered by the court upon its trial calendar, according to the date of issue and trial, and disposed of according to their respective order of precedence; unless, for good cause, such disposition shall be postponed by order of the court, in writing, entered in its journals, assigning the reason for delay.

65. A motion to postpone a trial, on the grounds of the absence of evidence, shall only be made upon affidavit, showing the materiality of the evidence expected to be obtained, and that due diligence has been used to procure it, setting forth specifically what acts such diligence consists of. The court may also require the moving party to state upon affidavit the evidence which he expects to obtain, and if the adverse party thereupon admits that such evidence would be given, and that it be considered as actually given on the trial, or offered, and overruled as improper, the trial shall not be postponed.

TRIAL WITH ASSESSORS.

66. When the action is called for trial by the court, assisted by assessors, the consul or his clerk shall prepare separate ballots containing the names of all the persons who have been nominated by such consul to serve as assessors, and whose nomination has been approved by the minister, and deposit them in a box. He shall then in the presence of the parties present draw from the box the number of tickets that the law enjoins that there shall be assessors to aid him upon the trial, and the persons whose names are therein shall, by the marshal, be summoned forthwith to appear and act as such assessors. If the persons whose names are so drawn are temporarily absent from the port when the court is sitting, or if any such persons be too unwell to serve, to be proven by a physician's certificate to that effect, or if the marshal returns upon the summons that such persons after diligent search cannot be found, or if such person be challenged, as hereinafter provided, and such challenge be allowed, the consul shall proceed in a similar manner to draw other names from the box, which persons whose names are so drawn the marshal shall proceed to summon in the same manner, until the court shall be organized as by law directed.

67. When the persons thus summoned shall appear they shall be sworn by the court to truthfully answer such questions as may be put to them in relation to their eligibility to serve as assessors in that action, after which they may be examined relative thereto by the respective parties or their counsel, and when the formation of the board of assessors is completed, they shall be sworn by the consul to well and truly try the said action then pending, wherein ——— is plaintiff and ——— is defendant, and a true judgment therein to render according to their best belief.

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68. Either party to the action may challenge any person so called to act as an assessor, when it appears from his examination or otherwise:

1st. That he is related to any of the parties in the action by either the ties of consanguinity or affinity within the third degree.

2d. That he holds the relation of guardian or ward, master or servant, employer or clerk, or principal, or agent, to either party, or that he is a member of the family of either party, or a partner in business with either party, or that he is a surety on any undertaking in the action for either party.

3d. That he has served as an assessor, or been a witness on a previous trial between the same parties for the same cause of action, or that he has formed or expressed an unqualified opinion or belief as to the merits of the same; or,

4th. That he entertains such an enmity against, or bias to, either of the parties to the action as would influence his mind in forming his judgment in the action.

And when the challenge is sustained by sufficient evidence, the consul shall allow the same, discharge the person, and proceed to select another.

69. If, after the organization of the court with assessors, one of the assessors become sick, he shall be discharged, a new selection made, as hereinbefore provided, and the trial of the case shall commence anew.

70. A consular court sitting with assessors shall in all cases render a judgment in writing, signed by the consul and the assessors, if they agree with him in his judgment, but if either of them dissent, he shall express such dissent with his reasons therefor in writing, duly signed, and such dissenting opinion of said assessor shall, by the consul or his clerk, be filed and entered in the judgment book with the judgment in the case.

71. A minute book shall be kept by the consular court, in which shall be entered the opinions and judgment in each case immediately after being received, and placed on file; also in said book shall be entered the names of the persons called as assessors, with a note of the action of the consul relative thereto, on any challenge made by either party, the names of all witnesses called and sworn on the trial, and the date of the rendition of the judgment.

**Exceptions.**

72. An exception is an objection taken at the trial to a decision upon a matter of law, at any time from the time of the calling of the action for trial until the time of rendition of the judgment therein, and may be made in writing at the time, or entered by the consul or the clerk of his court in the minute book thereof, but no exception shall be regarded on a motion for a new trial, or on an appeal, unless the exception be material and affect the substantial rights of the parties.

73. If the court or the counsel in any case refuse to allow an exception to be filed, or fail or refuse to enter the same in the minute book of the court in accordance with the facts, any party aggrieved thereby may petition the ministerial court, or other appellate court having jurisdiction, on notice to the opposite party, for leave to prove the same, and shall have the right so to do, in such manner as said court may rule direct.

74. No particular form of exception shall be required. The objection shall be stated with so much of the evidence or other matter as is necessary to explain it, but no more, and as briefly as possible.

75. The final judgment of the court in an action shall be deemed in all cases to be excepted to by the party against whom the same is rendered, without any especial notice that an exception is taken thereto.
NEW TRIALS.

76. The judgment rendered in an action may be vacated and a new trial granted on the application of the party aggrieved, for any of the following causes materially affecting the substantial rights of said party:

1st. Irregularity in the proceedings of the court, or any order of the court, or abuse of discretion, by which either party was prevented from having a fair trial.

2d. Accident or surprise which ordinary prudence could not have guarded against.

3d. Newly discovered evidence, material for the party making the application, which he could not, with reasonable diligence, have discovered and produced at the trial.

4th. Excessive damages, appearing to have been given under the influence of passion or prejudice.

5th. Insufficiency of the evidence to justify the judgment or other decision, or that it is against law.

6th. Error in law occurring at the trial, and excepted to by the party making the application.

77. When the application is made for a cause mentioned in the first, second, and third subdivisions of the last section, it shall be made upon affidavit; for any other cause it shall be made upon a statement, prepared as provided in the next section.

78. The party intending to move for a new trial shall give written notice of the same as follows: When the action has been tried by a consul, sitting with assessors, within five days after the rendition of the judgment; and within two days after judgment when tried by the consul alone. The notice shall designate generally the grounds upon which the motion will be made. Within five days after giving such notice, or within such further time, not exceeding twenty days, as the court may by order grant, the said party shall file with the court the affidavit or statement required by the last section. If no affidavit or statement be filed within five days after the notice, or within such further time as the parties may agree upon, or the court may by order grant, the right to move for a new trial shall be deemed waived. When the notice designates as the ground upon which the motion will be made, the insufficiency of the evidence to justify the judgment, or other decision, the statement shall specify the particular errors upon which the party will rely. When the notice designates as the ground of the motion in law, occurring at the trial, and excepted to by the moving party, the statement shall specify the particular errors upon which the party will rely. If no such specifications be made, the statement may be disregarded. The statement shall contain so much of the evidence, or reference thereto, as may be necessary to explain the particular points thus specified, and no more. Such statement, when not agreed to by the parties, shall be settled by the judge of the court upon notice. When agreed to, it shall be accompanied by the certificate of parties, or their attorneys, that the same has been agreed upon, and is correct. When settled by the judge, the same shall be accompanied with his certificate that the same has been allowed by him, and is correct. On the argument, reference may also be made to the pleadings, depositions, and documentary evidence on file and the minutes of the court. If the application be made upon affidavits filed, the adverse party may use counter affidavits on the hearing. Any counter affidavits shall be filed with the court, one day at least before the hearing. The affidavits, and counter affidavits, or the statement thus used in connection with such
pleadings, depositions, and minutes of the court as are read or referred to on the hearing, shall constitute, without further statement, the papers to be used on any appeal that may properly be made from the order granting or refusing the new trial. Such affidavits, depositions, and such portion of the minutes of the court as are referred to, may, to be designated, be indorsed by the judge of the court, as having been read on the hearing of the motion, and referred to in his certificate. The application for a new trial shall be heard by the court at the earliest practicable period after the filing of the affidavits or statement; and the decision of the court thereon shall be in writing, stating the grounds upon which the same is granted or refused.

79. The judgment of the court shall be entered within twenty-four hours after the trial is concluded, unless the court order the case to be reserved for argument or further consideration, or grant a stay of proceedings.

80. If a counterclaim established at the trial exceeds the plaintiff's demand so established, judgment for the defendant shall be given for the excess; or if it appears that the defendant is entitled to any other affirmative relief, judgment shall be given accordingly.

81. In an action to recover the possession of personal property, judgment for the plaintiff may be for the possession, or the value thereof, in case a delivery cannot be had; and damages for the detention. If the property has been delivered to the plaintiff, and the defendant claim a return thereof, judgment for the defendant may be for the return of the property or the value thereof, in case a return cannot be had, and damages for taking and withholding the same.

82. The court shall keep among its records a book for the entry of judgments, to be called the judgment book, in which such judgment shall be entered, and shall specify clearly the relief granted, or other determination of the action.

83. If a party die after a verdict or decision upon any issue of fact, and before judgment, the court may nevertheless render judgment thereon.

84. Immediately after entering the judgment, the court shall have the following papers attached together and filed, which shall constitute the judgment roll:

1st. In case the complaint be not answered by any defendant, the summons, with the affidavit or proof of service, and the complaint, with a memorandum indorsed thereon that the default of the defendant in not answering was entered, and a copy of the judgment.

2d. In all other cases the summons, pleadings, findings, or opinion of the court, or any of its assessors; all bills of exception taken and filed in said action; copies of orders sustaining or overruling demurrers; a copy of the judgment, and copies of any orders relating to a change of parties.

85. The court shall keep a book to be called the docket book, with each page divided into eight columns, and headed as follows: judgment debtors, judgment creditors, judgment, time of entry, when entered in judgment book, appeals when taken, judgment of appellate court, satisfaction of judgment when entered. The names of the defendants shall be entered in the book in alphabetical order.

86. The docket book shall be open at all times during office hours for the inspection of the public, without charge.

87. Satisfaction of a judgment may be entered in the docket book upon an execution returned satisfied, or upon an acknowledgment of satisfaction filed with the court by the judgment creditor, or within one year.
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after the judgment was rendered by the attorney of record of the party, unless a revocation of his authority be previously filed. Whenever a judgment shall be satisfied in fact, otherwise than upon an execution, it shall be the duty of the party, or his attorney, to give such acknowledgment, and upon motion the court may compel it; or may order the entry of satisfaction to be made without it.

THE EXECUTION.

88. The party in whose favor judgment is given may, at any time within five years after the entry thereof, have issued for its enforcement a writ of execution, as hereinafter provided.

89. The writ shall be issued in the name of the people of the United States of America, sealed with the seal of the court, and shall be directed to the marshal, and shall intelligibly refer to the judgment, stating the court where the judgment-roll is filed; and if it be for money, the amount thereof, and the amount actually due thereon, and shall require the marshal substantially as follows:

1st. If it be against the property of the judgment debtor, it shall require the marshal to satisfy the judgment, with interest, out of the personal property of such debtor; and if sufficient personal property cannot be found, then out of his real property.

2d. If it be against real or personal property in the hands of the personal representatives, heirs, devisees, legatees, or tenants of real property, or trustees, it shall require the marshal to satisfy the judgment, with interest, out of such property.

3d. If it be against the person of the judgment debtor, it shall require the marshal to arrest such debtor, and commit him to jail until he pay the judgment, with interest, or be discharged according to law.

4th. If it be for the delivery of real or personal property, it shall require the marshal to deliver the possession of the same, particularly describing it, to the party entitled thereto; and may, at the same time, require the marshal to satisfy any costs, damages, rents, or profits recovered by the same judgment out of the personal property of the person against whom it was rendered; and the value of the property to be specified therein, if a delivery thereof cannot be had; and if sufficient personal property cannot be found, then out of the real property, as provided in the first subdivision of this section.

90. When a writ of execution is issued on a judgment recovered against two or more persons in an action upon a joint contract, in which all of the defendants were not served with summons, it shall direct the marshal to satisfy the judgment out of the joint property of all of the defendants, and the individual property only of the defendants who were served.

91. The execution may be made returnable at any time not less than ten nor more than sixty days after its receipt by the marshal, to the court where the judgment-roll is filed.

92. When the judgment requires the payment of money, or the delivery of real or personal property, the same may be enforced by a writ of execution; when it requires the performance of any other act, a certified copy of the judgment may be served on the party against whom the same is rendered, or upon the person or officer required thereby or by law to obey the same. Obedience thereto may be enforced by the court; and, after a final judgment of partition, the court shall have power to enforce a sevancock of the possession.

93. In all cases, other than for the recovery of money, the judgment
may be enforced after five years from the date of its entry by an order of the court upon application therefor.

94. Notwithstanding the death of a party, after the judgment, execution thereon may be issued; in case of the death of the plaintiff, the same as if he were living, upon the application of his executor, or administrator, or successor in interest, by the court in which the judgment was rendered or exists; and in case of the decease of the defendant, if the judgment be for the recovery of real or personal property, execution may be issued and executed against the property recovered in the same manner, and with the same effect, as if he were still living.

95. When the execution is against the property of the judgment debtor, it may be issued to the marshal of any consulate in the empire; when it requires the delivery of real or personal property, it shall be issued to the marshal of the consulate where the property or some part thereof is situated. Execution may be issued at the same time to different consulates.

96. All goods, chattels, moneys, and other property, both real and personal, or any interest therein of the judgment debtor, not exempt by decree or law from execution, and all property and rights of property seized and held under attachment in the same action, shall be liable to execution. Shares and interests in any corporation or company, and debts and credits on all other property, both real and personal, or any interest in either real or personal property, and all other property not capable of manual delivery, may be attached, on execution, in like manner as upon writs of attachments. Until a levy, property shall not be affected by execution or attachment.

97. If the property levied on be claimed by a third person as his property, the marshal shall notify the person in whose favor the execution is issued of such claim, by whom it was preferred, and what the value of the same is; and, as a condition precedent to holding the same under execution, he may require the execution creditor to execute to him a good and sufficient bond of indemnity, in double the value of the said property, conditioned to save him (the marshal) harmless if he shall hold and sell the said property under the execution. And if said indemnity bond shall not be given within two days after service of such notice, the marshal may release the said property to the claimant, making return of the notice of claim, and his proceedings thereunder, to the court that issued the execution.

98. The following property shall be exempt from execution, to wit: First, chairs, tables, desks, and books, to the value of one hundred dollars, belonging to the judgment debtor; second, necessary household, kitchen, and table furniture belonging to the judgment debtor, including stove, stove-pipe, and stove furniture; wearing apparel, beds, bedding, and bedsteads; and provisions actually provided for individual or family use, sufficient for one month, not exceeding in value the sum of six hundred dollars; and third, tools or implements of a mechanic or artisan necessary to carry on his trade; the instruments or chests of a surgeon, physician, surveyor, and dentist, necessary to the exercise of their profession, with their scientific and professional libraries; the law libraries of attorneys and counselors; and the libraries of ministers of the Gospel.

99. The marshal shall execute the writ against the property of the judgment debtor by levying on a sufficient amount of property, if there be sufficient, collecting or selling the things in action, and selling the other property, and paying to the plaintiff, or his attorney, so much of the proceeds as will satisfy the judgment, or depositing the
amount with the court; any excess in the proceeds over the judgment
and the marshal's fees shall be returned to the judgment debtor. Where
there is more property of the judgment debtor than is sufficient to
satisfy the judgment and the marshal's fees, within view of the marshal,
he shall levy on such part only of the property as the judgment debtor
may indicate; provided that the judgment debtor be present at and
indicate at the time of the levy such part.

100. Before the sale of property on execution, notice thereof shall be
given as follows:

1st. In case of perishable property, by posting written or printed
notices of the time and place of sale in public places of the port or city
where the sale is to take place, for such a time as may be deemed reason-
able, considering the character and condition of the property.

2d. In case of other personal property, by posting a similar notice in
public places in the port or city when the same is to take place, and
publishing a copy of the same in some newspaper published in the place
(if there be one published there) not less than five nor more than ten
days successively.

3d. In case of real property, by posting a similar notice (particularly
describing the property), for twenty days successively, in public places
of the port or city where the property is situated, and publishing a copy
thereof once a week, for the same period, in some newspaper published
at the port or city, if there be one.

101. An officer selling without the notice prescribed by the last sec-
tion shall forfeit $500 to the aggrieved party, in addition to his actual
damages; and the willful taking down or defacing of such a notice be-
fore the sale, or satisfaction of the judgment, shall be a misdemeanor,
punishable as such by either fine or imprisonment, or both.

102. All sales of property under execution shall be made at auction to
the highest bidder, and shall be made between the hours of ten in the
morning and five in the afternoon; and, after sufficient property has
been sold to satisfy the execution, no more shall be sold. Neither the
officer holding the execution nor his deputy shall become a purchaser,
or be interested in any purchase at such sale. When the sale is of per-
sonal property, capable of manual delivery, it shall be within view of
those who attend the sale, and be sold in such parcels as are likely to
bring the highest price; and when the sale is of real property, and con-
sisting of several known lots or parcels, they shall be sold separately;
or, when a portion of such real property is claimed by a third person,
and he requires it to be sold separately, such portion shall thus be sold.
The judgment debtor, if present at the sale, may also direct the order in
which property, real or personal, shall be sold, where such property
consists of several known lots or parcels, or of articles which can be
sold to advantage separately; and the marshal shall be bound to follow
such direction.

103. If a purchaser refuses to pay the amount bid by him for property
struck off to him at a sale under execution, the officer may again sell the
property, at any time, to the highest bidder; and if any loss be occa-
sioned thereby, the officers may sue such person (if a citizen of the
United States) and recover the amount of such loss, with costs, in the
consular court of the port or city where such sale was held; and the
same proceeding may be had against any American citizen who, being
a subsequent purchaser, shall refuse to pay the price bid by him for
an article struck off to him; and the officer may, in his discretion, there-
after reject the bid of any person so refusing.

104. The two preceding sections shall not be construed to make the
officer liable for any more than the amount bid by the second or subsequent purchaser, and the amount collected from the purchaser refusing to pay.

105. When the purchaser of any personal property capable of manual delivery shall pay the purchase money, the officer making the sale shall deliver to the purchaser the property, and, if desired, shall execute and deliver to him a certificate of the sale and payment. Such certificate shall convey to the purchaser all the right, title, and interest which the debtor had in and to such property on the day the execution was levied.

106. When the purchaser of any personal property not capable of manual delivery shall pay the purchase money, the officer making the sale shall execute and deliver to the purchaser a certificate of sale and payment. Such certificate shall convey to the purchaser all right, title, and interest which the debtor had in and to such property on the day the execution was levied.

107. Upon a sale of real property, the purchaser shall be substituted to and acquire all the right, title, interest, and claim of the judgment debtor thereto; and, when the estate is less than a leasehold of two years, the sale shall be absolute. In all other cases the property shall be subject to redemption, as provided in this chapter. The officer shall give to the purchaser a certificate of sale, containing—

1st. A particular description of the real property sold;
2d. The price bid for each distinct lot or parcel;
3d. The whole price paid; and
4th. When subject to redemption, it shall be so stated.

108. Property sold subject to redemption, as provided in the last section, or any part sold separately, may be redeemed, in the manner hereinafter provided, by the following persons, or their successors in interest:

1st. The judgment debtor, or his successor in interest, in the whole or any part of the property.
2d. A creditor having a lien, by judgment, or mortgage on the property sold, or on some share or part thereof, subsequent to that on which the property was sold. The persons mentioned in the second subdivision of this section are termed redemptioners.

109. The judgment debtor or redemptioner may redeem the property from the purchaser, within six months after the sale, on paying the purchaser the amount of his purchase, with twelve percent. thereon in addition, together with the amount of any land rental which the purchaser may have paid thereon to the Japanese government after the purchase, and interest on such amount; and if the purchaser be also a creditor having a prior lien to that of the redemption, other than the judgment under which such purchase was made, the amount of such lien, and interest thereon.

110. If the property be so redeemed by a redemptioner, either the judgment debtor or other redemptioner may, within sixty days after the last redemption, again redeem it from the last redemptioner, on paying the sum paid on such last redemption, with four per cent. thereon in addition, and the amount of any land rental which the said last redemptioner may have paid thereon to the Japanese government, with interest on such amount; as also the amount of any liens held by the last said redemptioner, prior to his own, with interest, provided that the judgment under which the property was sold need not be so paid as a lien. The property may again, and as often as the debtor or a redemptioner is so disposed, be redeemed from any previous redemptioner.
within sixty days after the last redemption, with four per cent. thereon in addition; and the amount of any government land rent which the last previous redemptioner paid after the redemption by him, with interest thereon; and the amount of any liens other than the judgment, under which the property was sold, held by the last said redemptioner previous to his own, with interest. Notice of redemption shall be given to the marshal. If no redemption be made within six months after the sale, the purchaser or his assignee shall be entitled to a conveyance; or if so redeemed, whenever sixty days have elapsed, and no redemption has been made, and notice thereof given, the time for redemption shall have expired, and the last redemptioner or his assignee shall be entitled to a marshal's deed. If the debtor redeem at any time before the time for redemption expires, the effect of the sale shall be terminated, and he be restored to his estate. The payments mentioned in this and the last preceding sections may be made to the purchaser or to the redemptioner, as the case may be, or for him to the officer who made the sale.

111. A redemptioner shall produce to the officer or person from whom he seeks to redeem, and served with his notice to the marshal—

1. A copy of the mortgage, or other lien, upon which he claims the right to redeem;

2. A copy of any assignment necessary to establish his claim, verified by his own or a subscribing witness's affidavit; and

3. His or his agent's affidavit, showing the amount then actually due on the lien.

112. Until the expiration of the time allowed for redemption, the court may restrain the commission of waste, by an order to that effect, upon notice. But it shall not be deemed waste for the person in possession of the property at the time of the sale, or entitled to possession afterward, during the period allowed for redemption, to continue to use it in the same manner in which it was previously used, or in any other reasonable manner.

113. The purchaser from the time of the sale until a redemption, and a redemptioner from the time of his redemption until another redemption, shall be entitled to receive from the tenant in possession the rents of the property sold, or the value of the use and occupation thereof.

114. If the purchaser of real property sold on execution, or his successor in interest, be evicted therefrom, in consequence of irregularities in the proceedings concerning the sale, or of the reversal or discharge of the judgment, he may recover the price paid, with interest, from the judgment creditor. If the purchaser of property at a marshal's sale or his successor in interest fail to recover possession, in consequence of irregularity in the proceedings concerning the sale, or because the property sold was not subject to execution and sale, the court having jurisdiction thereof shall, on petition of such party in interest, or his attorney, revive the original judgment for the amount paid by such purchaser at the sale, with interest thereon, from the time of payment, at the same rate that the original judgment bore. When so revived, the said judgment shall have the same effect as an original judgment of the said court of that date, and bearing interest as aforesaid, and any other or after-acquired property, rents, issues, or profits of the said debtor shall be liable to levy and sale under execution in satisfaction of such debt; provided that no property of such debtor sold bona fide before the filing of such petition shall be subject to the lien of said judgment. The said judgment shall be revived in the name of the original party plaintiff, for the use of said petitioner, the party in interest.
115. When an execution against property of the judgment debtor, or any one of several debtors in the same judgment, issued to the marshal of the port or city at which he resides, or if he does not reside in this empire, to the marshal of the consulate where the judgment-roll is filed, is returned unsatisfied, in whole or in part, the judgment creditor, at any time after such return is made, shall be entitled to an order from the consular court requiring such debtor to appear and answer concerning his property before such court, at a time and place specified in the order; but no judgment debtor shall be required to attend before a court out of the port or city in which he resides when proceedings are taken under the provisions of this chapter.

116. After the issuing of an execution against the property, and by proof by affidavit, to the satisfaction of the court, that any judgment debtor has property which he unjustly refuses to apply toward the satisfaction of the judgment, such court may, by an order, require said debtor to appear at a specified time and place before such court, to answer concerning the same; and such proceedings may thereupon be had for the application of the property of the judgment debtor toward the satisfaction of the judgment as are provided upon the return of an execution. If it be made to appear to the court by affidavit that there is danger of the judgment debtor absconding, the court may order the marshal to arrest the debtor, and bring him before the court; and upon his appearance, he may be ordered to enter into an undertaking, with sufficient security, that he will attend from time to time before the court, as shall be directed, during the pendency of the proceeding, and until final determination thereof will not dispose of any portion of his property not exempt from execution. In default of such undertaking, he may be committed to prison.

117. After the issuing of an execution against property, any person indebted to the judgment debtor may pay to the marshal the amount of his debt, or so much thereof as may be necessary to satisfy the execution; and the marshal’s receipt shall be a sufficient discharge for the amount so paid.

118. After the issuing or return of an execution against property of a judgment debtor, or one of several debtors in the same judgment, upon proof by affidavit to the satisfaction of the court that any person or corporation has property of such judgment debtor, or is indebted to him in an amount exceeding fifty dollars, the court may by order require such person, or a proper officer of such corporation (American citizens), to appear at a specified time before the court to answer concerning the same.

119. Witnesses may be required to appear and testify before the court in any proceeding under this chapter in the same manner as upon the trial of an issue.

120. The court may order any property of the judgment debtor not exempt from execution, in the hands of such debtor or other person, or due to the judgment debtor, to be applied to the satisfaction of the judgment.

121. If any person, party, or witness disobey an order of the court, properly made in the proceedings before him under this chapter, he may be punished by the court for contempt.

FORECLOSING MORTGAGES.

122. There shall be but one action for the recovery of any debt or the enforcement of any right secured by mortgage upon real or personal
property; which action shall be in accordance with the provisions of
this chapter. In actions for the foreclosure of mortgages, the court
shall have power by its judgment to direct a sale of the encumbered
property (or so much thereof as may be necessary), and the application
of the proceeds of the sale to the payment of the costs of the court and
the expenses of the sale, and the amount due to the plaintiff; and if it
appear from the marshal’s return that the proceeds are insufficient, and
a balance still remains due, judgment shall then be docketed for such
balance against the defendant or defendants personally liable for the
debt, and shall then become a lien on the real estate of such judgment
debtor, as in other cases on which execution may issue. All persons
having liens or mortgages registered in the consulate of the port or city
where the property is situated, shall be joined in the action, and their
respective rights thereto shall all be determined and settled in one
action.

123. If there be surplus money remaining after the amount due has
been paid on the mortgage, lien, or incumbrance, with costs, the court
may secure the same to be paid to the person entitled to it, and in the
mean time may direct it to be deposited in court.

124. If the debt for which the mortgage, lien, or incumbrance is held
be not all due, so soon as sufficient property has been sold to pay
the amount due, with costs, the sale shall cease; and afterward as often as
more becomes due, for principal or interest, the court may, on motion,
order more to be sold. But if the property cannot be sold in portions
without injury to the parties, the whole may be ordered to be sold in
the first instance, and the entire debt and costs paid, there being a re-
bate of interest when such rebate is proper.

APPEALS.

125. A judgment or order in a civil action, except when expressly
made final by a statute of the United States, may be waived, as pre-
scribed in this chapter, and not otherwise. The party appealing shall
be known as the appellant, and the adverse party as the respondent.

126. An appeal may be taken from a final judgment in an action or
special proceeding commenced in the court in which the same is rendered
(when the same is not made final by law) within one year after the rendi-
tion of judgment.

2d. From an order granting or refusing a new trial; from an order
granting or dissolving, or modifying an injunction; from an order dis-
solving or refusing to dissolve an attachment; from any special order
made after final judgment, within sixty days after such order is made
and entered in the minutes of the court.

3d. The appeal shall be made by filing with the court by whom the
judgment or order appealed from was rendered, a notice stating the
appeal from the same or some specific part thereof, and serving a copy
of the notice upon the adverse party or his attorney.

128. When the party who has the right to appeal wishes a statement
of the case to be annexed to the record of the judgment or order, he
shall, within twenty days after the entry of such judgment or order,
prepare such statement, which shall state specifically the particular
errors or grounds upon which he intends to rely on the appeal, and shall
contain so much of the evidence as may be necessary to explain the
particular errors or grounds specified, and no more; and shall serve a
copy thereof upon the adverse party. The respondent may, within five
days thereafter, prepare amendments to the statement and serve a copy
on the appellant. The statement and amendments which may be served
shall be presented to the judge who tried or heard the case, upon notice of two days to the respondent; and a true statement shall thereupon be settled by the judge. If no amendments are served, the statement may be presented to the judge for settlement without notice to the respondent.

128. If the party shall omit to make a statement within the time above limited, he shall be deemed to have waived his right thereto; and when a statement is made, and the parties shall omit within the several times above limited, the one party to propose amendments, the other to notify an appearance before the judge, they shall, respectively, be deemed, the former to have agreed to the statement as prepared, and the latter to have agreed to the amendments as proposed; but the judge who heard the case shall, notwithstanding such admission or implied argument, have power to correct any misstatement of fact or of his rulings which such statement may contain.

130. The several periods of time above limited for preparing or filing a statement or amendments thereto may be enlarged, upon good cause shown by the judge before whom the case was tried.

131. The statement, when settled by the judge, shall be signed by him, with his certificate that the same has been allowed and is correct; when the statement is agreed upon by the parties, they or their attorneys shall sign the same, with their certificate that it has been agreed upon by them and is correct. In either case, when settled or agreed upon, it shall be filed with the court.

132. A copy of the statement shall be annexed to a copy of so much of the judgment-rol as shall be included in the transcript on appeal, if the appeal be from a judgment; if the appeal be from an order, to a copy of such order.

133. The provisions of the last five preceding sections shall not apply to appeals taken from an order made upon affidavit filed, but such affidavit shall be annexed to the order in place of the statement mentioned in those sections.

134. Upon an appeal from a judgment the court may review any immediate order involving the merits and necessarily affecting the judgment.

135. Upon an appeal from a judgment or order the appellate court may revise, affirm, or modify the judgment or order appealed from, in the respect mentioned in the notice of appeal, and as to any or all of the parties, and may set aside or confirm or modify any or all of the proceedings subsequent to or dependent upon such judgment or order; and may, if necessary or proper, order a new trial. When the judgment or order is reversed or modified, the appellate court may make complete restitution of all property and rights lost by the erroneous judgment or order; and when it appears to the appellate court that the appeal was made for delay, it may add to the costs such damages as may be just.

136. On an appeal from a final judgment, the appellant shall furnish the court with a transcript of the notice of appeal, the pleadings, or amended pleading, as the case may be, which form the issues tried in the case, the judgment, and such other parts of the judgment-roll, and no more, as are necessary to present or explain the points relied on, and the statement (if there be one) certified by the attorneys of the parties to the appeal, or by the court below, to be correct. On an appeal from an order, the appellant shall furnish the court with a copy of notice of appeal, the judgment or order appealed from, and a copy of the papers used in the hearing of the court below, such copies to be certified in like manner to be correct. If any written opinion be placed on
file in rendering the judgment or making the order in the court below, a copy shall be furnished. If the appellant fail to furnish the requisite papers, the appeal may be dismissed.

137. To render an appeal effectual for any purpose in any case, a written undertaking shall be executed, on the part of the appellant, by at least two sureties, to the effect that the appellant will pay all damages and costs which may be awarded against him on the appeal, not exceeding three hundred dollars; or that sum shall be deposited with the court where the judgment or order was entered, to abide the event of the appeal. Such undertaking shall be filed or such deposit made within five days after the notice of appeal is filed.

138. If the appeal be from a judgment or order directing the payment of money, it shall not stay the execution of the judgment or order, unless a written undertaking be executed, on the part of the appellant, by two or more sureties, citizens of the United States, and residents of this empire, to the effect that they are bound in double the amount named in the judgment or order, that if the judgment or order appealed from, or any part thereof, be affirmed, the appellant shall pay the amount directed to be paid by the judgment or order, or the part of such amount as to which the judgment or order shall be affirmed (if affirmed only in part), and all damages and costs which shall be awarded against the appellant upon the appeal.

139. If the judgment or order appealed from direct the assignment or delivery of documents or personal property, the execution of the judgment or order shall not be stayed by appeal, unless the things required to be assigned or delivered be placed in the custody of such officer or receiver as the court may appoint, or unless an undertaking be entered into on the part of the appellant, with at least two sureties, and in such amount as the court may direct, to the effect that the appellant will obey the order of the appellate court upon the appeal.

140. If the judgment or order appealed from direct the execution of a conveyance or other instrument, the execution of the judgment or order shall not be stayed by the appeal until the instrument is executed and deposited with the court in which the judgment or order is entered, to abide the judgment of the appellate court.

141. If the judgment or order appealed from direct the sale or delivery of the possession of real property, the execution of the same shall not be stayed unless a written undertaking be executed on the part of the appellant, with two or more sureties, to the effect that during the possession of such property by the appellant, he will not commit or suffer to be committed any waste thereon, and that if the judgment be affirmed, he will pay the value of the use and occupation of the property, from the time of the appeal until the delivery of the possession thereof pursuant to the judgment or order, not exceeding a sum to be fixed by the court from which the appeal is to be taken, and which shall be specified in said undertaking. When the judgment is for the sale of mortgaged premises and the payment of a deficiency arising upon the sale, the undertaking shall also provide for the payment of such deficiency.

142. Whenever an appeal is perfected, as provided in the preceding sections of this chapter relative to appeals, it shall stay all further proceedings in the court below, upon the judgment or order appealed from or upon the matters embraced therein; and on appeal and filing an appeal bond on appeal from an order discharging an attachment, said attachment shall not be dissolved, but shall remain in full force until the cause be disposed of on appeal; but the court below may proceed upon
any other matter embraced in the action and not affected by the order appealed from, provided that an appeal shall not continue in force an attachment, unless an undertaking be executed and filed on the part of the appellant, by at least two sufficient sureties, in double the amount of the debt claimed by him, that the appellant will pay all costs and damages which the respondent may sustain by reason of the attachment, in case the order of the court below be sustained, and unless also notice of the appeal be given within five days after service of the notice of the entry of the order appealed from, and such appeal be perfected and the undertaking mentioned in this section be filed within five days thereafter. The undertakings mentioned in this and the preceding section of this chapter relative to appeals may be in one instrument or several, at the option of the appellant.

143. An undertaking upon an appeal shall be of no effect, unless it be accompanied by the affidavit of the sureties that they are each worth the amount specified therein, in property situated in the empire of Japan, over and above all of their just debts and legal liabilities, exclusive of property exempt from execution, except when the judgment exceeds the sum of three thousand dollars, and the undertaking is executed by more than two sureties, in which case they may state in their affidavits that they are severally worth amounts less than that expressed in the undertaking, if the whole amount be equivalent to that of two sufficient sureties. In all cases when an undertaking is required on appeal by the decree, a deposit in the court below of the amount of the judgment appealed from, and three hundred dollars in addition, shall be equivalent to filing the undertaking, and in all cases the undertaking or deposit may be waived by the written consent of the respondent.

144. When the judgment is rendered upon the appeal, it shall be certified by the court or clerk of the court to which the appeal has been taken, to the court with whom the judgment roll is filed, or the order appealed from is entered. In cases of appeal from the judgment, the court or clerk of the court with whom the roll is filed shall attach the certificate to the judgment roll and enter a minute of the judgment of the appellate court on the docket against the original entry. In cases of an appeal from an order, the court or its clerk shall enter at length in the records of the court the certificate received, and minute against the entry of the order appealed from a reference to the certificate, with a brief statement that such order has been affirmed, revised, or modified, as the case may be, by the appellate court upon appeal.

MISCELLANEOUS PROCEEDINGS.

145. When a judgment is recovered against one or more of several persons jointly indebted upon an obligation as hereinbefore provided, those who were not originally served with summons and did not appear in the action, may be summoned to show cause why they should not be bound by the judgment in the same manner as though they had been originally served with summons.

146. The summons, as provided in the last section, shall describe the judgment and require the person summoned to show cause why he should not be bound by it, and shall be served in the same manner and made returnable within the same time as the original summons. It shall not be necessary to file a new complaint.

147. The summons shall be accompanied by an affidavit of the plain- tiff, his agent, representative or attorney, that the judgment or some
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part thereof remains unsatisfied, and shall specify the amount due thereon.

148. Upon such summons the defendant may answer within the time specified therein, denying the judgment or setting up any defense which may have arisen subsequently, or he may deny his liability on the obligation upon which the judgment was recovered, except a discharge from such liability by the statute of limitations.

149. If the defendant in his answer deny the judgment, or set up any defense which may have arisen subsequently, the summons, with the affidavit annexed, and the answer, shall constitute the written allegations in the case. If he denies his liability on the obligation upon which the judgment was recovered, a copy of the original complaint and judgment, the summons, with the affidavit annexed, and the answer, shall constitute the written allegations.

150. The issues may be tried as in other cases, but when the defendant denies in his answer any liability on the obligation upon which the judgment was rendered, if a judgment be rendered against him, it shall be for the amount remaining unsatisfied on such original judgment, with interest thereon.

CONFESSION OF JUDGMENT WITHOUT ACTION.

151. A judgment by confession may be entered without action, either for money due, or to become due; or to secure any person against contingent liability on behalf of the defendant; or both in the manner prescribed by this chapter.

152. A statement in writing shall be made, signed by the defendant, and verified by his oath, to the following effect:

1st. It shall authorize the entry of judgment for a specified sum.

2d. If it be for money due, or to become due, it shall state concisely the facts out of which it arose, and shall show that the sum confessed therefor is justly due, or to become due.

3d. If it be for the purpose of securing the plaintiff against a contingent liability, it shall state concisely the facts constituting the liability, and shall show that the sum confessed therefor does not exceed the same.

153. The statement shall be filed with the court in which the judgment is to be entered, who shall indorse upon it and enter in the judgment book a judgment of such court for the amount confessed, with ten dollars costs. The statement and affidavit, with the judgment indorsed, shall therefore become the judgment roll.

SUBMITTING A CONTROVERSY WITHOUT ACTION.

154. Parties to a question in difference, which might be the subject of a civil action, may, without action, agree upon a case containing the facts upon which the controversy depends, and present a submission of the same to any court which should have jurisdiction if an action had been brought. But it must appear by affidavit that the controversy is real, and the proceedings in good faith, to determine the rights of the parties. The court shall thereupon hear and determine the case, and render judgment thereon as if an action were pending.

155. Judgment shall be entered in the judgment book as in other cases, but without costs, for any proceeding prior to the trial. The case, the submission, and a copy of the judgment, shall constitute the judgment roll.

156. The judgment may be enforced in the same manner as if it had
been rendered in an action, and shall be in the same manner subject to appeal.

OFFER TO COMPROMISE.

157. The defendant may, at any time before the trial or judgment, serve upon the plaintiff an offer to allow judgment to be taken against him for the sum or property or to the extent therein specified. If the plaintiff accept the offer and give notice thereof within five days, he may file the summons, complaint, and offer with an affidavit of notice of acceptance, and the court shall thereupon enter judgment accordingly. If the notice of acceptance be not given, the offer shall be deemed withdrawn, and shall not be given in evidence, and if the plaintiff fail to obtain a more favorable judgment, he shall not recover costs, but shall pay the defendant's costs from the time of the offer.

WITNESSES.

158. A subpoena may require not only the attendance of the person to whom it is directed at a particular time and place to testify as a witness, but may also require him to bring any books, documents, or other things under his control, to be used as evidence. No person shall be required to attend as a witness before any court or officer out of the city or treaty port in which he resides, unless the distance be less than thirty miles from the city or port of his residence to the place of trial.

159. To require attendance before a court, it shall be issued under the seal of the court before which the attendance is required. To require attendance out of court before an officer authorized to administer oaths, or take testimony in any matter, it shall be issued by such person or officer, or by the judge of any United States court. To require attendance before a commissioner appointed to take testimony, or before any officer or officers empowered by the laws of the United States, or of other countries, to take testimony, it may be issued by any United States consul in places within their respective jurisdiction, with like power to enforce attendance, and, upon certificate of contumacy to said consular court, to punish contempt of their process, as such consular court could exercise, if the subpoena directed the attendance of the witness before their courts, in a matter pending therein.

160. The service of a subpoena shall be made by showing the original, and delivering a copy to the witness personally, giving or offering to him at the same time, if demanded by him, the fees to which he is entitled for travel to and from the place designated, and one day's attendance there. Such service may be made by any person, proof thereof to be made by the affidavit of the person serving it, or the written admission of the person served, except in cases when served by the marshal, who shall return in writing on the original his certificate of his proceedings.

161. If a witness be concealed in a building or vessel of, or belonging to, or in the possession of, an American citizen, so as to prevent the service of a subpoena upon him, the court issuing the subpoena, on proof of the concealment and of the materiality of the witness, may order the marshal of the port to serve the subpoena, and he shall serve it accordingly, and for that purpose may break into such vessel or building wherein such witness is concealed. A person present in court may be required to testify in the same manner as if he were in attendance upon a subpoena issued by the court and served upon him.

162. It shall be the duty of a witness, duly served with a subpoena,
to attend at the time appointed with any papers under his control required by the subpoena, to answer all pertinent and legal questions, and, unless sooner discharged, to remain until the testimony is closed.

163. A witness shall answer questions legal and pertinent to the matter in issue, though his answer may establish a claim against himself, but he need not give an answer which will have a tendency to subject him to punishment for a felony, nor need he give an answer which will have a direct tendency to degrade his character, unless it be to the very fact in issue, or to a fact from which the fact in issue would be presumed. But the witness shall answer as to the fact of his previous conviction for felony.

164. Disobedience to a subpoena, or a refusal to be sworn, or to answer as a witness, or to subscribe an affidavit or deposition when required, may be punished as a contempt by the court or officer issuing the subpoena, or requiring the witness to be sworn, and if the witness be a party, his complaint may be dismissed, or his answer may be stricken out.

165. In case of failure of a witness to attend, the court or officer issuing the subpoena, upon proof of the service thereof, and of the failure of the witness, may issue a warrant to the marshal of the port or city to arrest the witness and bring him before the court or officer when required.

166. If a witness whose evidence is desired is in confinement in any prison of the United States of America in Japan, the court or officer by whose judgment or order he is so confined, upon proof of his materiality as a witness, may, by order, direct him to be taken before the officer or court when his evidence is required to therein testify, or may direct that the evidence of the witness may be taken in the prison.

167. Every person who has in good faith been served with a subpoena to attend as a witness before a court or other person in a case, when the disobedience of a witness might be punished as a contempt, shall be exonerated from arrest in a civil action while going to the place of attendance, necessarily remaining therein, and returning therefrom.

168. A party to an action may take the evidence of an adverse party, or call such party as a witness, but shall not be concluded or estopped from disproving the statements given in evidence by him, but may rebut the same by other testimony. If an adverse party refuse to attend and testify at the trial, or to give his deposition before a trial, or upon a commission when required, his complaint or answer may be stricken out, and judgment be taken against him, and he may also be punished by the court as another witness for contempt.

169. An affidavit to be used before any court, judge, or officer of this empire may be taken before any court of the United States in this empire. An affidavit taken in the United States may be taken before any judge or clerk of any court of record having a seal. An affidavit taken in a foreign country to be used in this empire, shall be taken before a minister, commissioner, secretary of legation, or consul of the United States in such foreign country. When an affidavit is taken before a judge of a court in the United States, the genuineness of the signature of the judge, the existence of the court, and the fact that such judge is a member thereof, shall be certified by the clerk of the court under the seal thereof.

OF DEPOSITIONS TAKEN IN THIS EMPIRE.

170. The testimony of a witness in this empire may be taken by deposition in an action, at any time after the service of a summons, or the S. Misi. 89——11
appearance of the defendant, and in a special proceeding after a question of fact has arisen therein, in the following cases:

1st. When the witness is a party to the action or proceeding, or a person for whose immediate benefit the action or proceeding is prosecuted or defended.

2d. When the witness resides out of the treaty port or city in which his testimony is to be used.

3d. When the witness is about to leave the treaty port or city where the action is to be tried, and will probably continue absent when the testimony is required.

4th. When the witness, otherwise liable to attend the trial, is nevertheless too infirm to attend.

171. Either party may have the deposition taken of a witness in this empire before any United States consul or other United States judicial officer in said empire, on serving on the adverse party previous notice of the time and place of examination, together with a copy of an affidavit showing that the case is one mentioned in the last section. At any time within the forty days immediately after the service of summons by publication has been completed, and at any time thereafter, when the defendant has not appeared, the notice required by this section may be served on the judge of the court where the action is pending. Such notice shall be at least five days, and in addition, one day for every twenty-five miles of the distance of the place of examination from the residence of the person to whom the notice is given.

172. Either party may attend such examination and put such questions, direct or cross, as may be proper. The deposition, when completed, shall be carefully read to the witness and corrected by him in any particular, if desired; it shall then be subscribed by the witness, certified by the officer taking the deposition, inclosed in an envelope, sealed, and directed to the court in which the action is pending, or to such person as the parties in writing may agree upon, and delivered to such court or person, or transmitted through the mail, or by some safe private opportunity; and, thereupon, such deposition may be used by either party upon the trial or other proceeding against any party giving or receiving the notice, subject to all legal exceptions. But if the parties attend at the examination, no objection to the form of an interrogatory shall be made at the trial, unless the same was stated at the time of the examination. If the deposition be taken by reason of the absence or intended absence from the port or city, of the witness, or because he is too infirm to attend, proof shall be made at the trial that the witness continues absent, or infirm, to the best of deponent's knowledge or belief.

The deposition thus taken may also be read in the case of the death of the witness. A deposition thus taken may be read in any stage of the same action or proceeding, by either party, and shall then be deemed the evidence of the party reading it.

DEPOSITIONS TAKEN OUT OF THE EMPIRE.

173. The testimony of a witness out of this empire may be taken by deposition in an action at any time after service of the summons or the appearance of the defendant, and in a special proceeding, at any time after a question of fact has arisen therein. The deposition shall be taken upon a commission issued from the court under the seal thereof, upon an order of the court or judge thereof, on the application of either party, upon five days' previous notice to the other. It shall be issued to a per-
son agreed upon between the parties, or if they do not agree, to some
officer selected by the officer granting the commission.

174. Such proper interrogatories, direct and cross, as the respective
parties may prepare, to be settled, if the parties disagree as to their
form, by the court or officer granting the order for the commission, or a
day fixed in the order may be annexed to the commission, or when the
parties agree to that mode, the examination may be without written
interrogatories.

175. The commission shall authorize the commissioner to administer
an oath to the witness, and to take his deposition in answer to the inter-
rogatories; or when the examination is to be without interrogatories, in
respect to the question in dispute; and to certify and dispatch the depo-
sition to the court sealed in an envelope, directed to the court or other
person designated, or agreed upon. A trial or other proceeding shall
not be postponed by reason of a commission not having been returned,
except upon evidence satisfactory to the court that the testimony of the
witness is necessary, and that proper diligence has been used to ob-
tain it.

ADMINISTRATION OF OATHS AND AFFIRMATIONS.

176. Every court of the United States in the empire of Japan, and
every clerk thereof and every officer authorized to take testimony or to
decide upon evidence, in any proceeding, shall have power to admin-
ister oaths or affirmations.

177. When a person is sworn who believes in any other than the
Christian religion, he may be sworn according to the peculiar ceremonies
of his religion, if there be any such: Provided, That any witness who
desires it may, at his option, instead of taking an oath, make his solemn
affirmation or declaration, by assenting when addressed in the following
form: "You do solemnly affirm that the evidence you shall give in this
issue (or matter) pending between ______ and ______ shall be the truth,
the whole truth, and nothing but the truth." Assent to this affirmation
shall be made by the answer, "I do." A false affirmation or declaration
shall be deemed perjury, equally with a false oath.

INSPECTION OF DOCUMENTS AND WRITINGS.

178. Any court in which an action is pending, or a judge thereof, may
upon notice order either party to give to the other, within a specified
time, an inspection and copy or permission to take a copy of any book,
document, or paper in his possession or under his control, containing
evidence relating to the events of the action. If compliance with the
order be refused, the court may exclude the book, document, or other
paper from being given in evidence; or if wanted as evidence by the
party applying, may presume it to be such as he alleges it to be, and
the court may also punish the party refusing for a contempt. This sec-
section shall not be construed to prevent a party from compelling another
to produce books, papers, or documents, when he is examined as a wit-
ness.

179. There shall be no evidence allowed of the contents of a writing,
other than the writing itself, except in the following cases:
1st. When the original has been lost or destroyed, in which case proof
of the loss or destruction shall first be made.
2d. When the original is in the possession of the party against whom
the evidence is offered, and he fails to produce it after reasonable
notice.
3d. When the original is a record or other document in the custody of a public officer of the United States.

4th. When the original is recorded, and a certified copy is made evidence by a law of the United States.

180. The party producing a writing as genuine which has been altered, or appears to have been altered after its execution, in a part material to the question in dispute, and such alteration is not noted on the writing, shall account for the appearance or alteration. He may show that the alteration was made by another, without his concurrence, or was made with the consent of the parties affected by it, or otherwise properly or innocently made. If he do that, he may give the writing in evidence, but not otherwise.

181. The records and judicial proceedings of any court of the United States in this empire may be proved by the production of the original, or a copy thereof, certified by the court, under the seal of the court, to be a true copy of such record.

182. The records and judicial proceedings of the courts of the United States, or of any State or Territory thereof, may be proved or admitted in the courts in this empire by the attestation of the clerk, and the seal of the court annexed, if there be a seal, together with a certificate of the judge, chief justice, or presiding magistrate, as the case may be, that the said attestation is in due form.

183. A judicial record of a foreign country may be proved by the production of a copy thereof, certified by the clerk, with the seal of the court annexed, if there be a clerk and seal, or by the legal keeper of the record, with the seal of his office annexed, if there be a seal, to be a true copy of such record, together with a certificate of a judge of the court that the person making the certificate is the clerk of the court, or the legal keeper of the record, and, in either case, that the signature is genuine and the certificate in due form; and also together with the certificate of the minister or commissioner of the United States, or of a consul of the United States, in such foreign country, that there is such a court, specifying generally the nature of its jurisdiction and verifying the signature of the judge and clerk, or other legal keeper of the record.

184. A copy of the judicial record of a foreign country shall also be admissible in evidence upon proof—

1st. That the copy offered has been compared by the witness with the original and is an exact transcript of the whole of it;

2d. That such original was in the custody of the clerk of the court or other legal keeper of the same; and

3d. That the copy is duly attested by a seal—which is proved to be the seal of the court where the record remains, if it be the record of a court—or if there be no such seal, or if it be not a record of a court, by the signature of the legal keeper of the original.

185. Printed copies in volumes of statutes, codes, or other written laws enacted by the United States, or any State or Territory thereof, or foreign governments, purporting or proved to have been published by the authority thereof, or proved to be commonly admitted as evidence of the existing law in the courts and judicial tribunals of such State, Territory, or government, shall be admitted by the courts and officers of this empire on all occasions as presumptive evidence of such laws.

186. A seal of a court or a public office, when required to any writ, or process, or proceeding, or to authenticate a copy of any record or document, may be impressed with wax, wafer, or any other substance, and then attached to the writ, process, or other proceeding, or to the copy of the record or document, or it may be impressed on the paper alone.
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WRIT OF CERTIORARI.

187. A writ of certiorari, or writ of review, may be granted on application by any court of the United States in this empire; the writ shall be granted in all cases when an inferior tribunal, board, or officer exercising judicial functions has exceeded the jurisdiction of such tribunal, board, or officer, and there is no appeal, nor, in the judgment of the court, any plain, speedy, and adequate remedy.

188. The application shall be made on affidavit by the party beneficially interested, and the court may require a notice of the application to be given to the adverse party, or may grant an order to show cause why it should not be allowed, or may grant the writ without notice.

189. The writ may be directed to the inferior tribunal, board, or to any person having the custody of the record or proceedings to be certified. When directed to a tribunal, the judge thereof, or the clerk, if there be one, shall return the writ with the transcript required.

190. The writ shall command the party to whom it is directed to certify fully to the court issuing the writ, at a specified time and place, and annex to the writ a transcript of the record and proceedings (describing or referring to them with sufficient certainty), that the same may be reviewed by the court, and requiring the party in the mean time to desist from further proceedings in the matter to be reviewed.

191. If a stay of proceedings be not intended, the words requiring the stay shall be omitted from the writ; these words may be omitted or inserted in the sound discretion of the court; but, if omitted, the power of the inferior court or officer shall not be suspended, nor the proceedings be stayed.

192. The writ shall be served in the same manner as a summons in a civil action, except when otherwise expressly directed by the court.

193. The review upon this writ shall not be extended further than to determine whether the inferior tribunal, board, or officer, has regularly pursued the authority of such tribunal, board, or officer.

194. If the return of the writ be defective, the court may order a further return to be made. When a full return has been made the court shall proceed to hear the parties, or such of them as may attend for that purpose, and may thereupon give judgment either affirming or annulling or modifying the proceedings below.

195. A copy of the judgment, signed by the judge of the court or the clerk thereof, shall be transmitted to the inferior tribunal, board, or officer, having the custody of the record or proceeding certified up.

196. A copy of the judgment, signed by the judge or clerk, entered upon or attached to the writ and return, shall constitute the judgment roll. An appeal, when allowed by law, may be taken from the judgment in the same manner and upon the same terms as from a judgment in a civil action.

WRIT OF MANDAMUS.

197. Writs of mandamus may be issued by any court of record of the United States in the empire of Japan to any inferior tribunal, corporation, board, or person, to compel the performance of an act, which the law specially enjoins as a duty resulting from an office, trust, or station; or to compel the admission of a party, to the use and enjoyment of a right or office to which he is entitled, and from which he is unlawfully precluded by such inferior tribunal, corporation, board, or person. This writ shall be issued in all cases, when there is not a plain, speedy, and adequate remedy at law in an ordinary course of procedure. It shall
be issued upon affidavit on the application of the party beneficially interested.

198. The writ shall be either alternative or peremptory. The alternative writ shall state generally the allegation against the party to whom it is directed, and command such party, immediately after the receipt of the writ, or at some other specified time, to do the act required to be performed; or to show cause before the court, at a specified time and place, why he has not done so. The peremptory writ shall be in a similar form; excepting the words requiring the party to show cause why he has not done as commanded, which shall be omitted, and a return day shall be inserted.

199. When the application to the court is made without notice to the adverse party, and the writ be allowed, the alternative writ shall be issued first; but if the application be upon due notice, and the writ be allowed, the peremptory may be issued in the first instance. The notice of the application when given shall be at least five days. The writ shall not be granted by default. The case shall be heard by the court, whether the adverse party appear or not.

200. On the return of the alternative, or the day on which the application of the writ is noticed, or such further day as the court may allow, the party on whom the writ or notice shall have been served may show cause by answer under oath, made in the same manner as an answer to a complaint in a civil action.

201. On the return day of the writ, unless a postponement should be asked for and granted, the court shall proceed to try and determine the issues of law and fact raised in the case in the same manner as the trials of other civil actions are conducted. If judgment be given for the applicant he may recover also such damages as by the evidence it appears he has sustained, together with costs; and for such damages and costs an execution may issue, and a peremptory mandate shall be issued without delay.

202. The writ shall be served in the same manner as a summons in a civil action, except when otherwise expressly directed by the court.

203. When a peremptory mandate has been issued and directed to any inferior tribunal, corporation, board, or person, if it appear to the court that any member of such tribunal, corporation, or board, or such person upon whom the writ has been personally served, has, without just excuse, refused or neglected to obey the same, the court may, upon motion, impose a fine not exceeding one thousand dollars. In case of persistence in a refusal of obedience, the court may order the party to be imprisoned for a period not exceeding three months, and may make any orders necessary and proper to the complete enforcement of the writ. If a fine be imposed upon a judge or consul, or other officer, who draws a salary from the United States Government, a certified copy of the order may be forwarded to the Secretary of the Treasury, and the amount thereof may be retained from the salary of such judge or officer. Such consul, judge, or officer, for his willful disobedience, shall also be deemed guilty of a misdemeanor in office.

CONTEMPTS.

204. The following acts or omissions shall be deemed contempts:

1st. Disorderly, contumacious, or insolent behavior toward the judge while holding court, or engaged in his official duties at chambers, or toward referees or arbitrators while sitting on a reference or arbitration,
tending to interrupt the due course of the trial, reference, or arbitration, or other judicial proceeding.

2d. A breach of the peace, boisterous conduct, or violent disturbance in presence of the court, or in its immediate vicinity, tending to interrupt the due course of a trial or other judicial proceeding.

3d. Disobedience or resistance to any lawful writ, order, rule, or process issued by the court or judge at chambers.

4th. Disobedience of a subpoena duly served, or refusing to be sworn or answer as a witness.

5th. Rescuing any person or property in the custody of any officer by virtue of an order or process of such a court or judge at chambers.

205. When a contempt is committed in the immediate view and presence of the court or judge at chambers it may be punished summarily; for which an order shall be made, reciting the facts as occurring in such immediate view and presence, adjudging that the person proceeded against is thereby guilty of a contempt, and that he be punished as therein described. When the contempt is not committed in the immediate view and presence of the court or judge at chambers, an affidavit shall be presented to the court or judge, of the facts constituting the contempt, or a statement of the facts by the referees or arbitrators.

206. When the contempt is not committed in the immediate view and presence of the court or judge, a warrant of attachment may be issued to bring the person charged before the court to answer. The warrant may be made returnable forthwith, or at such time and place as the court may direct; it shall be directed to the marshal, who shall serve the same as directed, and return the warrant into court with his proceedings under it indorsed thereon.

207. When the person arrested has been brought up, or appeared, the court or judge shall proceed to investigate the charge and shall hear any answers which the person arrested may make to the same, and may examine witnesses for or against him, for which an adjournment may be had from time to time.

208. Upon the answer and evidence taken, the court, or judge, shall determine whether the person proceeded against is guilty of the contempt charged, and if it be adjudged that he is guilty of contempt a fine may be imposed on him not exceeding five hundred dollars, or he may be imprisoned not exceeding five days, or both.

209. When the contempt consists in the omission to perform an act which is yet in the power of the person to perform, he may be imprisoned until he have performed it, and in that case the act shall be specified in the warrant of commitment.

210. When the warrant of arrest has been returned served, if the person arrested do not appear on the return day, the court or judge may issue another warrant commanding his summary arrest and production, which shall at once be served by the marshal to whom it is directed, by his arresting and producing before the court, or judge, the person named.

211. Whenever by the provisions of this chapter an officer is required to keep a person arrested on a warrant of attachment in custody, and to bring him before a court or judge, the inability from illness or otherwise of the person to attend shall be a sufficient excuse for not bringing him up, and the officer shall not confine a person arrested upon the warrant in a prison, or otherwise restrain him of personal liberty, except so far as may be necessary to secure his personal attendance.
212. Every direction of a court or judge, made or entered in writing, and not included in a judgment, is denominated an order. An application for an order is a motion.

213. When a written notice of a motion is necessary it shall be given if the court be held in the same port or city with both parties, five days before the time appointed for the hearing; otherwise, ten days; but the court or judge may prescribe a longer or a shorter time.

214. When a notice of a motion is given, or an order to show cause is made, returnable before a judge or court, and at the time fixed for the motion, or on the return day of the order, the judge or court is unable then to hear the parties, the matter may be deferred for a reasonable length of time.

215. Written notices and other papers, when required to be served on the party or attorney, shall be served in the manner prescribed in the next three sections, where not otherwise provided; but nothing in this title shall be applicable to original or final process, or any proceedings, to bring a party into contempt.

216. The service may be personal, by delivery to the party or attorney on whom the service is required to be made, or it may be as follows:

1st. If upon an attorney, it may be made during his absence from his office by leaving the notice or other papers with his clerk therein, or with a person having charge thereof, or, when there is no person in the office, by leaving them, between the hours of eight in the morning and six in the afternoon, in a conspicuous place in the office; or if it be not open so as to admit of such service, then by leaving them at the attorney's residence with some person of suitable age and discretion; and if his residence be not known, then by putting the same, inclosed in an envelope, into the post-office, directed to such attorney.

2d. If upon a party, it may be made by leaving the notice or other paper at his residence, between the hours of eight in the morning and six in the evening, with some person of suitable age and discretion, and if his residence be not known, by putting the same, inclosed in an envelope, into the post-office, directed to the party.

217. Service by mail may be made when the person making the service and the person on whom it is to be made reside in different places, between which there is a regular communication by mail.

218. In case of service by mail, the notice or other papers shall be deposited in the post-office, addressed to the person on whom it is to be served at his place of residence, and the postage paid; and in such case the term of service shall be increased one day for every twenty-five miles' distance between the place of deposit and the place of address.

219. After appearance, a defendant or his attorney shall be entitled to notice of all subsequent proceedings of which notice is required to be given. But when a defendant has not appeared, service of notice or papers need not be made upon him unless he be imprisoned for want of bail.

220. When a plaintiff or a defendant who has appeared resides out of this empire, and has no attorney in the action or proceeding, the service may be made on the clerk of the court in which the action is brought for him, if the court have a clerk, and if it has not, by leaving the same with the judge of the court. But in all cases when a party has an attorney in the action or proceeding, the service of papers, when required, shall be upon the attorney instead of the party, except of subpoenas, writs and other process issued in the suit, and of papers to bring him into contempt.
221. Successive actions may be maintained upon the same contract or transaction whenever, after the former action, a new cause of action arises therefrom.

222. Whenever two or more actions are pending at one time, between the same parties and in the same court, upon causes of action which might have been joined, the court may order the actions to be consolidated into one.

223. An action may be brought by one person against another for the purpose of determining an adverse claim which the latter makes against the former for money or property upon an alleged obligation; and also, two or more persons for the purpose of compelling one to satisfy a debt due to the other, for which the plaintiff is bound as security.

224. The court shall keep among its records a register of action; it shall enter therein the title of the action, with brief notes under it from time to time of all papers filed and proceedings had therein.

225. The time within which an act is to be done, as provided in these regulations, shall be computed by excluding the first day and including the last; if the last be Sunday it shall be excluded. When the act to be done relates to the pleadings in the action, or the undertakings to be filed, or the justifications of sureties, or the service of notices other than of appeal, or the preparation of statements, or of bills of exceptions, or of amendment thereto, the time allowed in these regulations may be extended, for good cause shown, by the court in which the action is pending or a judge thereof; but such extension shall not exceed thirty days beyond the time herein prescribed, without the consent of the adverse party.

226. An affidavit, notice, or other paper without the title of the action or proceeding in which it is made, or with a defective title, shall be as valid and effectual for any purpose as if duly entitled, if it intelligibly refute such action or proceeding.

227. When a cause of action has arisen in the United States of America, or in some foreign country, and by the laws thereof an action thereon cannot be maintained there against a person by reason of lapse of time, an action thereon shall not be maintained against him here.

MARRIAGE.

228. Each consul shall record all marriages solemnized by him in a book to be kept in his office for that special purpose.

DIVORCE.

229. Divorces may be granted from the bonds of matrimony, upon the following grounds:

1st. Habitual drunkenness; 2d, extreme cruelty; 3d, willful desertion by one party of the other for a period of over two years; 4th, failing willfully to supply the wife with the common necessaries of life, having the ability so to do, for a period of over two years; 5th, adultery of either party, remaining uncondoned at the time the action is brought; and, 7th, conviction of either party of a felony. To entitle a party to maintain an action for a divorce in any of the United States courts in the empire of Japan, it must be alleged in the complain', and proved at the trial, that the applicant, for (6) six months next preceding the time of commencing the action, has been, and still is an actual resident of Japan. In proceedings of this nature, the courts are authorized to
JUDICIAL EXTRATERRITORIAL RIGHTS.

make and enforce all suitable orders in relation to the care and disposition of the children of the parties to the action and in relation to compelling the payment of alimony, either pendente lite or subsequent to the determination of the case; and also, to make suitable disposition of all common property of or belonging to the parties to the action.

BIRTHS AND DEATHS.

230. The births and deaths of every American citizen within the limits of his jurisdiction shall likewise be kept recorded by each American consul.

STEAMERS, VESSELS, AND BOATS.

231. All steamers, vessels, and boats, shall be liable—
1st. For services rendered on board, at the request of or on contract with their respective owners, masters, agents, or consignees.
2d. For supplies furnished for their use, at the request of their respective owners, masters, agents, or consignees.
3d. For materials furnished for their construction, repair, or equipment.
4th. For such wharfage, anchorage, and light dues, as may by subsequent convention or treaty between Japan and the United States be allowed to be charged against them in this empire.
5th. For non-performance or mal-performance of any contract for the transportation of persons or property, made by their respective owners, masters, agents, or consignees.
6th. For injuries committed by them to person or property.

The said several causes of action shall constitute liens upon all steamers, vessels, or boats, and have priority in their order herein enumerated, and shall have preference over all other demands: Provided, Such liens shall only continue in force for the period of one year from the time the cause of action occurred.

232. Actions for demands arising upon any of the grounds specified in the preceding section may be brought directly against such steamers, vessels, or boats.

233. The complaint shall designate the steamer, vessel, or boat by name, and shall be verified by the oath of the plaintiff, or some one on his behalf.

234. The summons attached to a certified copy of the complaint may be served on the master, mate, or any other person having charge of the steamer, vessel, or boat, or the owner thereof.

235. The plaintiff, at the time of issuing summons, or at any time afterward, may have the steamer, vessel, or boat, against which the action is brought, attached, as security for the satisfaction of any judgment that may be recovered therein, as provided for attachments in other cases by this decree, and upon similar conditions.

236. The marshal to whom the writ is directed and delivered shall execute the same without delay, and shall, unless an undertaking to release the attachment be given, attach and keep in his custody the steamer, vessel, or boat named therein, with its tackles, apparel, and furniture, until discharged by due course of law; but the marshal shall not be authorized by any such writ to interfere with the discharge of any merchandise on board of such steamer, vessel, or boat, nor with the removal of any trunks or other property of passengers, or of the captain, mate, seaman, steward, cook, or other person employed on board.

237. The owner, master, agent, or consignee of the steamer, vessel, or boat against which the action is brought may appear and answer or
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plead to the action, and may except to the sufficiency of the sureties, on
the undertaking filed on the behalf of the plaintiff, and may require
sureties to justify, as in actions against individuals, upon bail or arrest.

238. All proceedings in action under the provisions of this chapter
shall be conducted in the same manner as in actions against individuals,
except as otherwise herein provided, and in all proceedings subsequent
to the complaint, the steamer, vessel, or boat may be designated as de-
fendant.

239. After the appearance to the action of the owner, master, agent,
or consignee, the attachment may, on motion, be discharged in the same
manner and on like terms and conditions as attachments in other cases,
subject to the provisions of the second section following this.

240. If the attachment be not discharged, and a judgment be re-
covered in the action in favor of the plaintiff, and an execution be issued
thereon, the marshal shall sell at public auction, after publication of
notice of such sale for ten days, the steamer, vessel, or boat, with its
tackle, apparel, and furniture, or such interest therein as may be neces-
sary, and shall apply the proceeds of the sale as follows:

1st. When the action is brought for demands, other than the wages
of mariners, boatmen, and others employed in the service of the steamer,
vessel, or boat sold, to the payment of the amount of such wages, as
specified in the execution.

2d. To the payment of the judgment and costs, including his fees;
and,

3d. He shall pay any balance remaining to the owner, master, agent,
or consignee who may have appeared in the action; or if there [be] no
appearance, then into court, subject to the claim of any party or par-
ties legally entitled thereto.

241. Any mariner, boatman, or other person employed in the service
of the steamer, vessel, or boat attached, who may wish to assert his
claim for wages against the same (the attachments being issued for
other demands than such wages), shall file an affidavit of his claim, set-
ing forth the amount and the particular service rendered, with the clerk
of the court, and thereafter no attachment shall be discharged upon
filing an undertaking, unless the amount of such claim, or the amount
determined as provided in the next section, be covered thereby; in addi-
tion to the other requirements. And any execution issued against such
steamer, vessel, or boat, upon judgment recovered thereafter, shall di-
rect the application of the proceeds of any sale, first, to the payment of
the amount of such claims filed, or the amount determined as provided
in the next section, which the clerk shall insert in the writ; and, second,
to the payment of the judgment and costs, and marshal's fees, and shall
direct the payment of any balance to the owner, master, or consignee
who may have appeared in the action; but if no appearance be made
by them therein it shall direct the deposit of the balance in court.

242. If the claim of the mariner, boatman, or other person filed with
the court, or its clerk, as provided in the last section, be not contested
within five days after notice of the filing thereof by the owner, master,
agent, or consignee of the steamer, vessel, or boat against which the
claim is filed, it shall be deemed to be admitted; but if contested, the
court, or its clerk, shall indorse upon the affidavit thereof a statement
that it is contested and the grounds of the contest, and the court shall,
as soon as convenient thereafter, summarily hear and determine the
same.

243. The notice of the sale published by the marshal shall contain a
statement of the measurement and tonnage of the steamer, vessel, or boat, and a general description of her condition.

244. From orders and judgments under this chapter an appeal may be taken by the owner, master, agent, or consignee on the same terms and conditions as appeals in actions against individuals.

COSTS.

245. The measure and mode of compensation of attorneys and counsellors shall be left to the agreement, express or implied, of the parties, but there shall be allowed to the prevailing party his necessary costs and disbursements in the action, or special proceeding in the nature of an action, except as herein otherwise provided.

246. Where several actions are brought on one bond, undertaking, promissory note, bill of exchange, or other instrument in writing, or in any other case, for the same cause of action, against several persons, who might have been joined as defendants in the same action, no costs shall be allowed to the plaintiff in more than one of such actions, which may be at his election, if the party proceeded against in the other actions were at the commencement of the previous action openly within this empire; but the disbursements of the plaintiff shall be allowed to him in each action.

247. Costs shall be allowed of course to the defendant upon a judgment in his favor, except as herein otherwise provided. When there are several defendants in an action, making several defenses, such of the defendants as are not recovered against shall be allowed their proper costs. When a new trial is ordered, or a judgment is modified, the costs upon appeal shall be in the discretion of the appellate court.

248. When in an action for the recovery of money only the defendant alleges in his answer that before the commencement of the action he tendered to the plaintiff the full amount to which he was entitled, and thereupon deposits in court, for the plaintiff, the amount so tendered, and the allegation be found to be true, the plaintiff shall not recover costs, but shall pay costs to the defendant.

249. In an action prosecuted or defended by an executor, administrator, trustee of express trust, or a person expressly authorized by statute, costs may be recovered as in an action by or against a person prosecuting or defending in his own right; but such costs shall, by the judgment, be made chargeable only upon the estate, fund, or party represented, unless the court shall direct the same to be paid by the plaintiff or defendant personally for mismanagement or bad faith in the action or defense.

250. When the decision of a court of inferior jurisdiction, in a special proceeding, is brought before a court of higher jurisdiction, for a review in any other way than by appeal, the same costs shall be allowed as in cases of appeal, and may be collected by execution, or in such manner as the court may direct, according to the nature of the case.

251. The party in whose favor judgment is rendered in any action or proceeding, who claims his costs, shall deliver to the court or its clerk within two days after the decision is rendered (unless the court otherwise specially direct) a memorandum of the items of his costs and necessary disbursements in the action or proceeding, which memorandum shall be verified by the oath of the party or his attorney, stating that the items are correct and that the disbursements have been actually made or necessarily incurred and are to be paid in the action or proceeding.
252. In entering up a judgment, costs and interest shall be included to the date of entry, and if the judgment be for the recovery of money alone, or for the value of personal property taken and unjustly detained, the judgment shall bear interest at the rate of twelve per cent. per annum until paid, and when required execution shall issue for the amount of the payment and interest due thereon at the date of issuing such writ, with subsequent accrued costs.

253. When the plaintiff in an action resides out of this empire, or is a foreign corporation, security for the costs and charges which may be awarded against such plaintiff may be required by the defendant. When required, all proceedings in the action shall be stayed until an undertaking, executed by two or more persons, be filed with the court to the effect that they will pay such costs and charges as may be awarded against the plaintiff by judgment, or in the progress of the action, not exceeding the sum of three hundred dollars. Each of the sureties shall justify on the undertaking as required in attachment and other proceedings. A failure for thirty days after being served with such notice to give such security shall operate as a discontinuance of the action.

**FEES.**

254. In consular courts:

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>In all cases where the amount in question is not more than $300.</td>
<td>$5</td>
</tr>
<tr>
<td>In all cases where it is over $300.</td>
<td>$15</td>
</tr>
<tr>
<td>In personal actions and special proceedings, not brought for the recovery of money or damages; if the action or proceeding be not defended, and be determined without a trial.</td>
<td>$5</td>
</tr>
<tr>
<td>In such actions if a defense is made and a trial had</td>
<td>$15</td>
</tr>
</tbody>
</table>

255. Clerk’s fees:

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>For issuing all writs, warrants, attachments, or other compulsory process, including the seal.</td>
<td>$1.50</td>
</tr>
<tr>
<td>For docketing every suit commenced</td>
<td>$1</td>
</tr>
<tr>
<td>For issuing writs of execution, including seal</td>
<td>$1</td>
</tr>
<tr>
<td>For serving summons and subpoenas, including seal</td>
<td>$50</td>
</tr>
<tr>
<td>For recording the testimony in the case, for each hundred words</td>
<td>$30</td>
</tr>
<tr>
<td>For copying the same for transcript upon an appeal, or for any other purpose at the request of the party; or for making copies of any other documents or papers, when requested, on appeal or otherwise, for each one hundred words.</td>
<td>$30</td>
</tr>
<tr>
<td>For drawing notices, orders, or judgments, for each hundred words or a fraction thereof.</td>
<td>$20</td>
</tr>
<tr>
<td>For every sealed process issued, other than upon attachments, writs, warrants, summons, subpoenas, or other compulsory process.</td>
<td>$1</td>
</tr>
<tr>
<td>For filing paper upon the return of the same by the marshal, and for all papers filed in court in any action or proceeding for each.</td>
<td>$10</td>
</tr>
<tr>
<td>For administering each oath or affirmation</td>
<td>$35</td>
</tr>
</tbody>
</table>

256. Marshal’s fees:

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>For apprehending a deserter and delivering him on board the vessel be deserted from, to be paid by the vessel before leaving port.</td>
<td>$5.00</td>
</tr>
<tr>
<td>For searching for the same on request of the captain or owner, and if not found, his services to be certified by the constable, and on his order to be paid by the said ship.</td>
<td>$2.00</td>
</tr>
<tr>
<td>For serving any writ, warrant, attachment, or other compulsory process, for each person served.</td>
<td>$2.00</td>
</tr>
<tr>
<td>For serving summons, for each person.</td>
<td>$1.00</td>
</tr>
<tr>
<td>For returning all writs, attachments, warrants, and summons.</td>
<td>$5.00</td>
</tr>
<tr>
<td>For each bail bond made out and received by him, and approved.</td>
<td>$1.00</td>
</tr>
<tr>
<td>For receiving a prisoner under a commitment or discharging him from arrest by order of the court.</td>
<td>$2.00</td>
</tr>
<tr>
<td>For subpoenaing a witness.</td>
<td>$5.00</td>
</tr>
<tr>
<td>For copy of subpoena and return on the original.</td>
<td>$2.00</td>
</tr>
<tr>
<td>For each day's attendance upon court during a trial or an investigation.</td>
<td>$3.00</td>
</tr>
<tr>
<td>For levying an execution, or executing a writ of restitution.</td>
<td>$1.50</td>
</tr>
<tr>
<td>For advertising property for sale.</td>
<td>$2.00</td>
</tr>
</tbody>
</table>
JUDICIAL EXTRATERRITORIAL RIGHTS.

For releasing property from seizure under execution when ordered so to do by
the court or the plaintiff.................................................. $3 00
For traveling fees in serving all process, each mile actually going and returning ................................................................. 15
For serving every notice not heretofore provided for, upon order of the court or
one of the parties in action, in addition to the usual traveling fees ........ 50
For selling property under execution, or personal property held under an attach-ment, when the amount collected does not exceed one thousand dollars, 5 per cen-t.
If over one, and not exceeding five thousand dollars, 3 per cent.
If over five thousand dollars, 2 per cent.

257. Interpreter's fees:
For each day's attendance upon court during the progress of a trial or exami-
nation, upon order of the court ............................................ 3 00
For making any required translations of any document or paper containing not
over one hundred words ...................................................... 1 00
For each additional hundred words ........................................... 1 00

258. Witness's fees:
For every day's attendance at court under a subpoena .................................................. 1 50
For each mile of travel in going to or returning from court ............................................. 15

259. Assessors:
For each day's attendance upon court, when sworn and serving as such, includ-
ing traveling fees ............................................................... 3 00

260. Ministerial court:
The fees of the court and its officers shall be the same as heretofore prescribed
for consular courts, except in cases brought before said court, upon appeal, in all of which cases a court fee shall be charged of ......................... 15 00
In addition to which, the same fees as consuls are allowed to charge shall be
allowed for the issuance, filing, &c., of all papers and process, and also admin-
istering oaths, &c.
The fees of clerk, marshal, interpreters, &c., in a ministerial court, shall be the
same in appellate as in other cases.

Provided, That no other or greater charges shall in any action or pro-
ceeding be made for any service or services above specified by any court or
any officer thereof: And provided further, That after the determination
of every action and proceeding the court or its clerk shall enter in the
judgment-book, in which the judgment in the case is entered, a full and
particular statement of all fees of the court, marshal, interpreter, wit-
nesses, and assessors allowed and paid in the action; and shall, upon
the demand of any party to any action, or his attorney, furnish such
statement in detail, or a copy thereof, as a condition to the right to en-
force the collection of the same.

HABEAS CORPUS.

261. Any American citizen in Japan illegally restrained from his per-
sonal liberty may, by petition to any court of the United States in said
empire, obtain the benefit of the writ of habeas corpus.

262. The application for such writ shall be made by a petition veri-
fied by the petitioner, or some one on his behalf, setting forth the citi-
zenship and place of imprisonment of the applicant, with a brief state-
ment of the reasons that led to his imprisonment, to the best of his
knowledge and belief, and also a specific statement as to the person in
whose custody he then is.

263. The court to which such petition is presented shall forthwith is-
sue the writ, which shall be directed to the person named in said peti-
tion as being the person having the petitioner in his custody; and shall
require such person, at a specified time and place, to appear before the
JUDICIAL EXTRATERRITORIAL RIGHTS.

265. If from the return made it appears that the person so restrained is held by virtue of a commitment, warrant, or other process of a court having jurisdiction over him, and over the offense of which he stands charged or convicted, the court shall restrict its examination to the question of the regularity of the proceedings and process, by virtue of which the arrest and imprisonment was directed.

266. Any citizen of the United States, or officer thereof, who shall willingly neglect, or refuse to obey the order of any court of the United States in the empire in a proceeding of this nature, shall be liable to punishment for contempt of court, as in other cases.

ASSISSORS.

267. Persons to be qualified to be chosen, and to act as such, must be male citizens of the United States of America, over the age of twenty-one years, resident in this empire, nominated by the consul of the port or city where they reside to the minister of the United States of America in the empire, and their nomination approved by him within twelve months next preceding the time when they are called upon to act as assessors. And it is hereby made the duty of all consuls of the United States in the empire of Japan to nominate a list of persons in the month of January of each year to the minister as assessors, certifying upon the list sent up by him to the minister that all of the persons thereon named are known to him, the consul, to be citizens of the United States of America, and residents of said empire, and to be of good moral character, and to possess the proper qualifications to act as such; which list, when approved by the minister, shall be filed. A certified copy of the same shall be posted up and kept posted in some conspicuous place in the consulate.

CRIMINAL PROCEEDINGS.

1. Proceedings in criminal cases can only be commenced by a written complaint, sworn to by the complaining party, and before process under it shall issue against the person complained of, the judge of the court with whom the same is filed shall certify thereon in writing that he has reasonable grounds for believing that the contents of the same are true.

2. The party charged shall immediately after his arrest be provided with a certified copy of the complaint made against him, and in all cases shall be entitled to a speedy and a public trial.

3. When the offense charged is such that the party charged is entitled by law to the assessors sitting in the case with the judge, such assessors shall be selected in the manner provided in civil cases; they shall be similarly sworn, and may be similarly examined, and shall be
liable to challenge, either by the defendant or the people, upon any of the following grounds, to wit:

1. That such person has formed or expressed an unqualified opinion as to the guilt or innocence of the defendant of the crime with which he stands charged;

2. That such person is a material or necessary witness on behalf of one or both of the parties to the proceeding;

3. That such person is related by the ties of consanguinity or affinity to the complaining witness, or the defendant within the third degree;

4. Having served as an assessor or been a witness on a previous trial of the same person for the same offense; or

5. That the person is not a citizen of the United States of America; or, if such, that his name does not appear on a list of persons selected by the consul to serve as assessors, which was submitted to and approved by the minister, as required by law and these regulations.

4. The personal presence of the accused shall in all cases be required throughout the trial of a criminal case. Before the trial commences, the complaint against him shall be read over to him by the court, or its clerk, and he shall be required to plead thereto, which plea shall be guilty or not guilty; or he may demur to the complaint on any of the following grounds, to wit: That the court has no jurisdiction over the person or the offenses charged, or that more than one offense is charged in the complaint, or that the complaint is so ambiguous and uncertain that a person of common understanding cannot understand what offense is charged, with particulars of time, place, and person. In all cases the plea of the defendant must be personal, and in all cases of felony the defendant shall be allowed at least twenty-four hours in which to plead if he requires it; and in misdemeanors the court shall grant such time to plead as may be deemed reasonable. Immediately after pleading, the court shall enter the substance of the defendant's plea in its docket, and the trial shall proceed, unless for good cause shown the court shall grant an adjournment.

5. The accused shall in all cases be allowed to have the benefit of counsel in all stages of the case, if provided by himself; and in prosecutions for felony, if he have no counsel, the court may appoint some person to act for and assist him, if he requests it. Reasonable delay shall also be granted to either party, as in civil cases, to procure material testimony.

6. The testimony of an absent person may be taken and used in criminal, as in civil cases, when the attendance of such witness cannot be procured, or when from the nature of the application it does not appear that the application is made solely for delay; or when, if granted, it will not postpone the trial for an unreasonable length of time.

7. Persons subpoenaed as witnesses shall not be entitled, in a criminal proceeding, to demand any fees prior to attending as such; nor shall they be allowed fees in any criminal case, except so ordered by the court.

8. In all criminal trials the defendant shall be given the benefit of every reasonable doubt, and is to be considered innocent until he is proven to be guilty.

9. In all criminal proceedings the complaint shall not charge but one offense, but the defendant may be convicted of any lesser offense necessarily included within the greater one charged (as that of manslaughter when the charge is murder). The offense shall be stated with a reasonable degree of certainty as to the time, place, and manner of its commission; and the evidence admitted in the action shall be confined to
the allegations of the complaint, and the judgment shall be guilty or not guilty of the offense as charged.

10. In cases when an appeal is allowed by law, the mode of proceeding to perfect the appeal shall be the same in criminal as in civil cases.

11. Applications for a new trial in criminal cases shall in the first instance be addressed to the court in which the case was tried; and when an appeal is taken from the judgment, the appellate court shall have power to review the proceedings had in relation to the application made for a new trial; as also all interlocutory orders made in the case.

12. Applications for new trials in criminal cases may be made on either or all of the grounds stated in the provision in the regulations relative to applications for new trials in civil cases, except the fourth; and in the practice governing the making and disposition of the motion, the courts shall be governed by the said regulations relative to similar motions in civil cases.

13. A person charged with crime shall have permission to testify on his own behalf, and shall be informed of this right by the court before his trial is proceeded with; but the refusal of a person so charged to testify shall not be construed into being a confession of guilt, or be allowed to militate against him.

14. When a punishment is by a fine, costs may be included or remitted, at the court's discretion. An alternative sentence of not exceeding thirty days' imprisonment shall take effect on non-payment of any part of the fine or costs adjudged in any criminal proceeding.

15. Any prisoner, before conviction, may be admitted to bail by the court which issued the process for his arrest, except in capital cases, when the proof is evident, or the presumption of his guilt is great. After conviction and an appeal is perfected, the minister only can admit a person to bail.

16. A court applied to to release a person upon bail shall at once fix the amount of bail required (if the case be a bailable one), and the defendant may then give security in double that sum by an undertaking conditioned for his appearance at the trial, and that he will render himself amenable to the judgment of the court in the action as soon as rendered, and may be given by an undertaking, executed by one or more sureties, as is provided in cases of arrest and bail in civil cases, with like justification of the sureties.

17. Any security on any bail bond may, at any time before the trial of the defendant, surrender him to the court, and be released from his undertaking upon payment of all costs and charges of the prosecution to that date. The court, when a defendant is thus surrendered, shall at once remand him to custody for trial, but may accept new bail.

18. Excessive bail shall in no case be required or exacted.

19. Any complainant may be required to give security for costs of the prosecution, including those of the accused, and every complainant not a citizen of the United States of America, or a subject to the Japanese empire, shall be required to give such security, unless in the opinion of the court justice will be better promoted otherwise. When such security is required by the court and refused, the proceeding may be dismissed.

20. In any criminal proceeding if the defendant be acquitted, and the court in its judgment entered in the case include a finding that the prosecution was without probable cause, it shall direct the party making the complaint to pay the whole costs of the proceeding, and may by execution and in a summary manner compel the payment of the same.

21. Consuls will ordinarily encourage the settlement of all prosecu-
tions other than those for felonies. Compounding a felony shall not be allowed; and any person guilty thereof may be tried and punished, with a similar degree of punishment as by law is provided for the punishment of the felony itself.

22. The punishment of persons convicted of crimes in the courts of the United States in this empire, except in such cases as are otherwise provided by law, shall be as follows:

Murder in the first degree shall be punishable by death; murder in the second degree by imprisonment for life; murder in any other degree, or manslaughter, by imprisonment for not less than five, nor more than twenty years. All other felonies by imprisonment not exceeding ten years. For misdemeanors at the common law, the punishment shall not in any case exceed a fine of five hundred dollars, or imprisonment for the period of six months; or by both such fine and imprisonment.

23. A person convicted of felony, or twice convicted of misdemeanor, may be sentenced to deportation, and perpetual banishment from the empire.

24. All crimes shall be known as felonies or misdemeanors, as thus classified by the rules of the common law.

25. Costs shall be the same in criminal as in civil cases, except that of witnesses; but shall in no case be charged against the Government of the United States of America.

C. E. DE LONG.

LEGAL CONSUL OF THE UNITED STATES TO JAPAN,
Yokohama, September 1, 1870.

UNITED STATES CONSULATE, YEDDO, JAPAN, September 2, 1870.
Assented to. CHARLES O. SHEPARD,
United States Consul.

UNITED STATES CONSULATE, KANAGAWA, JAPAN, September 6, 1870.
Assented to. LEMUEL LYON,
United States Consul.

UNITED STATES CONSULATE, OSAKA
AND HIOGO, JAPAN, September 8, 1870.
Assented to. T. SCOTT STEWART,
United States Consul.

UNITED STATES CONSULATE, NAGASAKI, JAPAN, September 14, 1870.
Assented to. WILLIE P. MANGUM,
United States Consul.

UNITED STATES CONSULATE, HAKODADI, JAPAN,
September 21, 1870.
Assented to. E. E. RICE,
United States Consul.
APPENDIX X.

LAND MUNICIPAL REGULATIONS AT SHANGHAI.

LAND REGULATIONS.

1. Boundaries and limits defined.
3. Final settlement and title deeds.
4. Registration of land and charges thereon.
5. Transfer of lots.
6. Land surrendered to public use.
7. Boundary stones to be placed.
9. Road and jetée assessment on land and houses, rates, dues, and taxes.
   Consuls to convene meetings of renters, and other persons entitled to vote.
10. Land renters and others, &c., to appoint committee or council.
11. Committee or council to have power to make by-laws.
12. Accounts, how to be audited.
13. Defaulters, how to be sued.
14. How penalties, forfeitures on licenses, fees, &c., under by-laws, are to be recorded.
15. Consuls may at any time call meeting of land renters, &c.
17. Breach of regulations.
18. Election of council and qualifications of voters at public meetings.
20. Vacancies.
21. Tenure of office.
22. Questions and quorum.
23. Committees appointed by council.
24. Officers.
25. Funds.
26. Persons acting in execution of these regulations not to be personally liable.
27. Mode of suing the council.
28. Board of Chinese delegates.
29. That land renters and rate payers shall be taken to mean "electors."

PREAMBLE.

Whereas certain regulations, entitled land municipal regulations, for the peace, good order, and government of all persons residing on the land set apart by the Chinese authorities for the residence of foreigners, were settled and agreed upon by the representatives of England, France, and the United States of America, then being the three treaty powers, and under their instruction by the consuls of the above-mentioned states in communication with his excellency Woo, the chief local authority representing the Chinese Government at Shanghai; and whereas it was therein provided that hereafter, should any corrections be requisite in the aforesaid regulations, or should it be necessary to determine on further rules, or should doubts arise as to the construction of, or powers conferred thereby, the same should be consulted upon and settled by the foreign consuls and intendent of circuit, in communication together, who should equitably decide thereon, and submit the same for confirmation to the representatives of their respective countries in China, and to the Chinese imperial commissioner, managing the affairs at the five ports; and whereas it is expedient that the said regulations should be revised, and that further and better provisions should be made for the peace, good order, and government of all persons residing on the land so set apart as aforesaid: Be it ordered, That the following revised regulations which have been agreed to and settled by the undersigned consuls in communication with his excellency the intendent of circuit, and the by-laws annexed thereto, shall have effect and be binding upon all persons residing or being within the limits of the said land so set
apart, as to all matters and things comprised therein, from and after the expiration of one month after the same shall have been affixed and kept exhibited at the offices of the various foreign consulates.

Given under our respective hands and seals of office at Peking, China, this ——— day of ———, 1866.

REGULATIONS.

I. The boundaries of the land to which these regulations apply, are:

1. Those defined in the land regulations settled and agreed upon by Captain Balfour, Her Britannic Majesty’s consul, and Kung-Mookuen, intendant of circuit, on the 24th day of September, 1846, and further defined in the agreement entered into between Rutherford Alcock, esq., Her Britannic Majesty’s consul, and Lin, intendant of circuit, on the 27th day of November, 1846, and set forth in the copy hereunto annexed of the original map attached to the said agreement.

2. Those described in a proclamation issued by Lin Tsoutae, bearing date the 6th day of April, 1849, in consequence of an arrangement entered into between his excellency on the one part and M. de Montigny, the consul of France, on the other part, for the assignment of a space within which French subjects should be at liberty to acquire land and build residences, &c., an arrangement subsequently approved and confirmed by the minister of France, M. de Forth Rouen, and the Imperial Commissioner Sun, such boundaries being as follows:

To the south, the canal which extends round the walls of the city from the north gate; to the north, the Yang-King-Pang; to the west, the temple of Kwan-te and the bridge of the family Chow; to the east, the river Hwang-poo from the Hai-Kwan or Canton Consool house to the mouth of the Yang-King-Pang.

[NOTE TO 2D SECTION.—As the French Government appear to be desirous of establishing a separate system of regulations for the municipal control of that portion of the general settlement of Shanghai which is described in the second section hereof, it is understood that so long as the action of that government shall preclude the extension of the code of rules herein provided, these rules shall not be considered of any effect or force in the quarter referred to.]

And 3. On the Hongque side, north, the line from Yang tsze-poo to the point opposite the Defence Creek. South, Hwang-poo from the mouth of the Soochew Creek to the mouth of the creek entering the Hwang-poo, near the lower limit of the anchorage called the Yang-tsze-poo; west, the Soochew Creek from a point opposite the entrance of Defence Creek to the Hwang-poo; east, the bank three li along the line of the Yang-tsze-poo.

Within the boundaries defined in the map above referred to under the first head are certain sites, namely, the new custom-house and the temple of Rewards, together with the land set apart for the use of Her Britannic Majesty’s government, known as the British consulate site, which are exempted from municipal control, as well as any land hereafter to be settled or acquired by the governments of France or the United States of America, or other governments having treaties with China, for government purposes only; but the British and foreign consulate sites, the custom-house, and any lands acquired as above, shall bear their share of the public burdens and municipal taxes.

II. Any person desiring to rent land or purchase houses from the Chinese proprietors, within the said limits, shall do so in accordance
with the provisions laid down in the treaties of foreign powers with China.

III. It having been ascertained that no impediment exists to the renting of the land, the parties interested may settle with the Chinese proprietors the price and conditions of sale, and they will then report the transactions to their consular representatives, and lodge with him the Chinese proprietor's agreement or deed of sale, in duplicate, accompanied by a plan, clearly marking the boundaries. The said consular representative shall then transmit the same to the intendent of the circuit for examination. If the sale be regular the deeds will be returned to the consul sealed by the intendant of circuit, and the purchase money can then be paid. If there are graves or coffins on the land rented, their removal must be a matter of separate agreement, it being contrary to the custom of the Chinese to include them in the agreement or deed of sale.

IV. All such conveyance or leases of land so purchased as aforesaid shall, within one month from time of the completion of the sale, be registered in the office of the consular representative of the purchaser, and all charges by way of mortgage, whether of a legal or equitable character, shall also be registered in the like manner and within one month of their execution.

V. That all transfers of land shall be made at the consulate where the deeds are registered, and also be registered at that of the vendee or assignee.

VI. It is understood and agreed that land heretofore surrendered by the various foreign renters to public use, such as roads and the beach grounds of the rivers within the aforesaid limits, shall remain henceforth dedicated to the same uses, and as new lots are acquired such parts thereof as are beach ground shall be held under and subject to similar uses, and due provision shall be made for the extension of the lines of road at present laid down as means of communication in the settlement. To this end the counsel appointed by the land renters and others entitled to vote on the terms, and in the manner hereinafter mentioned, within the boundaries referred to, will, at the beginning of each year, examine the map and determine what new lines of road are necessary, and all lands subsequently rented shall only be rented on the terms of the renter surrendering to the public use the beach ground aforesaid, if any, and the land required for such roads, and in no case shall land so surrendered, or which shall now be dedicated to the use of the public, be resumed, except with the consent of the proper majority of land renters and others who may be entitled to vote as aforesaid in public meeting assembled, nor shall any act of ownership be exercised over the same by the renters thereof, notwithstanding any payment by them to the Chinese Government of any ground rent: Provided always, That no act of appropriation or dedication for public uses of the said beach ground, or of grounds for roads, other than those already defined shall, contrary to the will of the renters thereof, in any case, be sanctioned or held lawful under these regulations. On the admission by vote of public meeting of any tracts of land into the limits of the municipal authority, the municipal council shall give notice of all roads and public properties which they intend to set aside in the general interest, and should any citizen or subject of a treaty power, who may previously have acquired land within said tract, object to any part of
the reservation thus notified, he must, within 14 days after the issue of the notice, warn his own consul or the municipal council of his objection, in order that steps may be taken to adjust the claim: Provided always, That in the event of a failure to effect such adjustment on terms which may appear reasonable to the consul, the council shall have the option of declining to accept jurisdiction over the proposed annexation, which consequently cannot take place. It shall also be lawful for the land renters and others who may be entitled to vote as hereinafter mentioned, in public meeting assembled, to purchase land leading or being out of the settlement, or to accept land from foreign or native owners upon terms to be mutually agreed upon between the council and such foreign or native owners for the purpose of converting the same into roads or public gardens and places of recreation and amusement, and it shall be lawful for the council from time to time to apply such portion of the funds raised under article 9 of these regulations, for the purchase, creation, and maintenance of such roads, gardens, &c., as may be necessary and expedient: Provided always, That such road and gardens shall be dedicated to the public use, and for the health, amusement, and recreation of all persons residing within the settlement.

VII. When land is rented, stones having the number of the lot distinctly cut thereon, in English and Chinese, must be placed to define the boundaries thereof, under the supervision of the consul applying for the land, and of the Chinese local authorities. A time will be named for the boundary stones to be fixed, in the presence of an officer deputed by the consul, of the Tepean of the district, and of the Chinese proprietors of the renter, in such manner that they may not interfere with the lines of road or the boundaries, or in any other way give cause for litigation and dispute hereafter.

VIII. The annual rent on all lands leased by foreigners, reserved to the Chinese Government, shall be payable in advance on the 15th day of the 12th moon of each year. And all rent in arrear and unpaid on that day shall be recoverable in a summary manner, on the complaint of the intendant of circuits, in the court of the consular representative of the defaulting renter.

IX. It being expedient and necessary for the better order and good government of the settlement that some provision should be made for the making of roads, building of public jetties, offices, and bridges, and keeping them in repair, and for cleansing, lighting, watering, and draining the settlement generally, and establishing a watch or police force therein, paying the persons necessarily employed in any municipal office or capacity, or for raising money by way of loan for any of the purposes aforesaid, the foreign consuls shall so soon after the first day of April in each year, or when it may appear to them needful, or on the requisition of the municipal council, or of the renters of land and others entitled to vote, on the terms hereinafter mentioned, convene a meeting of such persons to devise ways and means of raising the requisite funds for these purposes, and at such meeting it shall be competent to the said persons, or a majority of them, in public meeting duly assembled, to declare an assessment in the form of a rate to be made on the said land or buildings: Provided always, That the proportion between the tax on land and on houses or buildings shall not exceed one-twentieth of one per cent. on the gross value of land, to one per cent. on the annual rental of houses; and it shall also be competent for the said persons, or a majority of them, as aforesaid, to impose other rates or taxes in the form
of dues on all goods landed or shipped or transshipped through the
Chinese custom-house at any place within the said limits; provided the
said rates or taxes levied in the form of dues shall in no case exceed the
amount of one-tenth of one per cent. on the value of goods landed,
shipped, or transshipped, and in such other forms as may appear requi-
site and necessary for the purposes aforesaid.

X. And whereas it is expedient that the said land renters and others
as aforesaid, in public meeting duly assembled, under and in accord-
ance with the provisions of the preceding article, should appoint in the
mode hereinafter provided, an executive committee or council, to con-
sist of not more than nine persons, for the purpose of levying the rates,
dues, and taxes hereinbefore mentioned, and applying the funds real-
ized from the same for the purposes aforesaid, and for carrying out the
regulations now made: Be it further ordered, that such committee when
appointed shall have full power and authority to levy and apply such
rates, dues, and taxes, for purposes aforesaid, and shall have power and
authority to sue for all arrears of such rates, dues, and taxes, and re-
cover the same from all defaulters in the courts under whose jurisdiction
such defaulters may be.

XI. When, in pursuance of these regulations, the above-mentioned
committee or council shall be duly elected, all the power, authority, and
control conferred by the by-laws now sanctioned and annexed to these
regulations, and all the rights and property which, by such by-laws, are
declared to belong to any committee or council, elected as aforesaid,
shall vest in and absolutely belong to such committee or council, and
to their successors in office, and such successors as are duly elected, and
such committee shall have power and authority from time to time to
make other by-laws for the better enabling them to carry out the object
of these regulations, and to repeal, alter, or amend any such by-laws: 
Provided, Such by-laws be not repugnant to the provisions of these
regulations, and be duly confirmed and published: And provided, also,
That no by-law made by the committee under the authority of these reg-
ulations, except such as relate solely to their council or their officers or
servants, shall come into operation until passed and approved by the
consuls and ministers of foreign powers having treaties, and the rate-
payers in special meeting assembled, of which meeting, and object of it,
ten days' notice shall be given.

XII. And whereas it is also expedient that due provision should be
made for the auditing of the accounts of the said committee, and for
the obtaining the approval and sanction of them by the rate-payers in
public meeting duly assembled, be it ordered that the result of the said
audit shall be made known, and the said sanction and approval shall
be made at the annual public meeting convened by the consuls as here-
inbefore mentioned.

XIII. And be it further ordered, that it shall be lawful for the said
committee or their secretary to sue all defaulters in the payment of all
assessments, rates, taxes, and dues whatsoever levied under these regu-
lations, and of all fines and penalties leviable under the by-laws ann-
xed to them in the consular, or the courts under whose jurisdiction
such defaulters may be, and to obtain payment of the same by such
means as shall be authorized by the courts in which such defaulters are
sued: Provided, That in case any one or more of the said defaulters, or
owners, shippers, or consignees of goods refusing to pay, have no consular
JUDICIAL EXTRATERRITORIAL RIGHTS.

representative to Shanghai, the said committee shall, with consent of the local authorities, be at liberty to detain and sell such portion of the goods, or use such other means as, with the consent of the local authorities, may be necessary to obtain such payment of such assessments, rates, taxes, dues, fines, and penalties, or in respect of land or house assessment to distrain on the land or houses to such an extent as may be required to satisfy such assessment or dues.

XIV. Be it also further ordered, that any penalty, or forfeiture, or fees, or licenses provided for in the by-laws framed under the authority of these regulations, and imposed in pursuance of such by-laws, may be recovered by summary proceedings before the proper consular or other authority, and it shall be lawful for such authority, upon conviction, to adjudge the offender to pay the penalty or incur the forfeiture as well as the costs attending the conviction as such authority may think fit. All fines and penalties levied under these regulations, and the by-laws framed and to be framed under them, shall be carried to the credit of the committee in diminution of the general expenditure authorized by the provisions of these regulations.

XV. Be it further ordered, that it shall be competent for the foreign consuls, collectively or singly, when it may appear to them needful, or at the requisition of the electors of land or buildings, to call a public meeting at any time, giving ten days' notice of the same, setting forth the business upon which it is convened, for the consideration of any matter or thing connected with the municipality: Provided always, That such requisition shall be signed by not less than ten of the said electors, and that it set forth satisfactory ground for such request. And all resolutions passed by a majority at any such public meeting, on all such matters aforesaid, shall be valid and binding upon the whole of the said electors, if not less than one-third of the said electors are present or represented. At such meeting the senior consul present shall take the chair, and in the absence of the consul, then such elector as the majority of voters present may nominate. In all cases in which electors in public meeting assembled as herein provided decide upon any matter of a municipal nature, not already enumerated, and affecting the general interests, such decision shall first be reported by the chairman to the consuls for their concurrence and approval, and unless such approval be officially given such resolution shall not be valid and binding: Provided always, That a term of two months shall elapse between the date of the resolution and the signification of approval by the consuls, during which time any person considering himself prejudiced in property or interests by the resolution may represent his case to the consuls for their consideration. After the expiration of the term of two months the consular approval, if signified, shall be considered binding.

XVI. Within the said limits lands may be set apart for foreign cemeteries. In no case shall the graves of Chinese on land rented by foreigners be removed without the express sanction of the families to whom they belong, who, also, so long as they remain unmoved, must be allowed every facility to visit and sweep them at the established period, but no coffins of Chinese must hereafter be placed within the said limits, or be left above ground.

XVII. Hereafter, should information of a breach of these regulations be lodged with any foreign consul, or should the local authorities address him thereon, he may, in every case within his jurisdiction, summon or cause to be summoned the offender before him, and if convicted
punish him, or cause him to be punished summarily, either by a fine not exceeding $300, or by imprisonment not exceeding six months, or in such other manner as may seem just. Should any foreigner who has no consular authority at Shanghai commit a breach of the said regulations, then and in such case the Chinese chief authority may be appealed to by the council, through one or more of the foreign consuls, to uphold the regulations in their integrity, and punish the party so infringing them.

XVIII. Every foreigner, either individually or as a member of a firm, residing in the settlement, having paid all taxes due, whose annual payment of assessment on land or houses, or both, exclusive of all payments in respect to licenses, shall amount to taels 15, or dollars 20, or upwards, or who shall be a householder paying a rental of not less than taels 450, or dollars 600 per annum, or who being a resident of 12 months’ standing shall be in receipt of an annual salary or income of 1,000 taels, shall be entitled to vote in the election of the said members of the council, and at the public meetings, and none shall be qualified to be a member of the said council unless he shall pay an annual assessment, exclusive of licenses, of taels 25, or dollars 33; or shall be a householder paying a rental of taels 900, or dollars 1,200 per annum.

XIX. It shall be competent to any two rate-payers entitled to vote to nominate any qualified rate-payer for election as a member of the council, and all such nominations shall be sent in in writing, with the signatures of the proposer and seconder, as also the assent in writing of the candidates proposed, that they will serve if elected, at least 14 days before the day appointed for the election, to the secretary or other officer appointed by the existing council to receive such nominations.

In the day after the expiration of the time allowed for sending in such nominations as aforesaid, the existing council shall cause a list of the rate-payers proposed for election to be advertised in the public journals, and shall likewise cause such list to be exhibited thenceforward until the day of election, in some conspicuous place in the council-room, between the hours of 10 a.m. and 4 p.m.

On the day appointed for the election, should the number of rate-payers proposed for election as councillors exceed nine, two officers, appointed by the existing council, shall attend at the place appointed for the election to receive the votes of the rate-payers. These officers shall be provided with a list of all the rate-payers duly qualified to vote, and shall give to each such rate-payer as may be present,* and may require it, a voting card or paper containing a list of the rate-payers proposed for election. The voter shall then mark on such voting list the names of any number of persons, not exceeding nine, for whom he intends to vote, and shall deposit the list, signed by himself with his own name so marked, in a close box, provided for the purpose of receiving such list.

The poll shall remain open for two consecutive days, from 10 a.m. to 3 p.m., at which hour on the second day the poll shall be closed. Immediately upon the close of the poll, two scrutineers, appointed by the council, shall, without delay, proceed to open the box or boxes, examine the voting lists, and declare the names of the nine rate-payers who have the greatest number of votes, and who shall thereupon be considered duly elected as the council for the ensuing municipal year.

Should the number of names proposed for election be exactly nine, it shall not be necessary to have a poll, but on the day after the expira-

* Under these regulations, voting by proxy is practically prevented, as the rate-payer must be present.
tion of the time appointed for sending in nominations, the existing council shall advertise and make known the names of nine rate-payers proposed, and they shall be considered to be duly elected as the council for the ensuing municipal year.

Should the number of names proposed for election be less than nine, then on the day after the expiration of the time appointed for sending in nominations, the existing council shall advertise and make known the names of the rate-payers, to be held on the day appointed for the election; at which meeting the rate-payers present shall proceed to elect, either by ballot or otherwise, as they may then decide, as many more rate-payers as may be requisite to make the number before proposed up to nine; and such nine rate-payers shall be considered duly elected as the council for the ensuing municipal year.

XX. In case of a vacancy or vacancies occurring during the municipal year, the existing council shall have the power to fill up such vacancy or vacancies by the vote of the majority of the council, providing such vacancies do not exceed three in number.

Should the vacancies exceed three, an election of the whole number of new members who have not been originally elected shall be called, in the manner previously provided in respect of an election when the number proposed were less than nine.

XXI. The council shall enter upon their office so soon after the accounts of the retiring committee shall have been audited and passed at the annual meeting in April, mentioned in Article IX; and at their first meeting the new council shall elect a chairman and vice-chairman, who shall hold office for one year. In their temporary absence the members present at any meeting of the council shall elect their chairman for such meeting.

XXII. On all questions in which the members of the council present are equally divided in opinion, the chairman shall have a second or casting vote.

Five members of the council shall constitute a quorum for the dispatch of business.

XXIII. The council may, from time to time, appoint out of their own body such and so many committees, consisting of such number of persons as they shall think fit, for all or any of the purposes wherein they are empowered to act, which, in the discretion of the council, would be better regulated and managed by means of such committees, and may fix the quorum of such committees.

XXIV. The council may, from time to time, appoint such officers and servants as they think necessary for carrying out these regulations, and fix the salaries, wages, and allowances of such officers and servants, and may pay the same out of the municipal funds; and make rules and regulations for the government of such officers and servants; and may discontinue or remove any of them from time to time as they shall think fit.

XXV. The council shall administer the municipal funds for the public use and benefit at their discretion, provided they do not exceed the sum voted at the annual meeting or any special meeting called to vote expenses; and a statement shall be drawn up by them at the end of each year for which the council has been elected, showing the nature and
amount of the receipts and disbursements of the municipal fund for that year; and the said statement shall be published for general information.

XXVI. No matter or thing done, or contract entered into, by the council, nor any matter or thing done by any member thereof, or by the secretary, surveyor, superintendent of police, or other officer or person whomsoever acting under the direction of the council, shall, if the matter or thing were done, or the contract entered into bona fide, for the purpose of executing these regulations, subject them, or any of them, personally, to any action, liability, claim, or demand whatsoever; and any expense, properly and with due authority incurred by the council, member, secretary, surveyor, superintendent of police, or other officer or person acting as last aforesaid, shall be borne and repaid out of the rates levied under the authority of these regulations.

XXVII. If a citizen or subject of any foreign government represented at Shanghai by an officer having judicial functions shall consider himself aggrieved in respect of any right or privilege or otherwise by any of the council, the said officer, on proper representation, shall endeavor to arrange a submission of the matter to arbitration; but if the said officer shall be unable to effect a submission of the matter to arbitration, he shall, at the petition of such citizen or subject, proceed to hear the question and to decide it conformably to an equitable consideration of the rules.

The said officer shall sit alone, and either party may appeal from his judgment to the minister of the complainant's government at Peking, or in the absence of a minister, to the complainant's government, who shall have full power to judge the same.

The decision upon the appeal shall be final.

All proceedings shall be taken in open court, and in the usual form of the court, excepting that notices, instead of usual processes, shall be served upon the council. Witnesses may be compelled to attend by resort to the appropriate court. Notice to the chairman of the council shall be construed as notice to the council. The council may appear by the chairman, or by any councillor delegated, or by counsel.

Judgment may be given against either party failing to appear, on notice being proven, but only after an examination of those appearing.

Judgments against the council (for specific performance, in respect to rights, shall be respected by the council, but if disregarded, a motion judgment for damages may be entered.

Judgment for damages may be recovered on execution levied against property, or moneys of the council in the hands of persons of the nationality concerned.

Appeals must be claimed within seven days after judgment shall have been notified to the parties, and perfected within fourteen days after such notice.

XXVIII. A board of three Chinese delegates, resident in the settlement, shall be formed for the purpose of advising and consulting with the council on matters affecting the Chinese population, as regards taxation, maintenance of order, &c., &c., in the following manner: The senior consul shall, during the month of March of each year, officially request the Taotae to direct the tung-sez, i.e., the representatives and headmen of the several native communities, guilds, chambers, and clubs, to meet and elect three Chinese delegates aforesaid. Due notice shall be given to these delegates when such subjects are under discussion; but their functions shall be solely consultative. No new tax, nor new measure of police, nor sanitary regulation affecting the native community, shall
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take effect until the said Chinese delegates have been consulted thereon. They shall be invited to present written statements of their views, which shall be entered on the minutes of the council meetings and published.

XXIX. That the words "renters of land," and "rate-payers," wherever they occur in the foregoing regulations shall, where not otherwise indicated by the connection in which they occur, be taken to mean electors entitled to vote, according to the terms of XVIII.

XXX. Hereafter, should any corrections be requisite in these regulations, or should it be necessary to determine on further rules, or should doubts arise as to the construction of or powers conferred thereby, the same must be conuluted upon and settled by the foreign consul and intendant of circuit in communication together, who shall equitably decide thereon, and submit the same for confirmation to the representatives of their respective countries in China, and for the sanction of the Chinese government.

By-laws.

I. Control and management of sewers and drains.
II. Power to make sewers and drains.
III. Power to enlarge and alter sewers and drains.
IV. Penalty on any unauthorised person for making any drain flow into public sewers without consent of council.
V. No person to build over any public sewer without consent of council.
VI. Sewers and drains to be provided with traps.
VII. Expense of maintaining and cleaning sewers and drains.
VIII. No one to build or rebuild a house until a covered drain be constructed.
IX. Council shall be surveyors of highways.
X. Management of streets and the repairs thereof, to vest in council.
XI. Council may stop up any street pending construction, &c., of a sewer.
XII. Penalty on making unauthorised alterations in the streets.
XIII. Council may alter situtation of gas or water pipes.
XIV. Water apents to be affixed to houses or buildings.
XV. Penalty for not lighting deposits of building materials or excavations.
XVI. Penalty for continuing deposits of building materials or excavations an unreasonable time.
XVII. Dangerous places to be repaired or inclosed.
XVIII. Cleaning streets—council to cause streets to be cleansed, and dust and ashes to be removed from the houses.
XIX. Council may compound for sweeping footways.
XX. Rotten buildings.
XXI. Expenses of removal.
XXII. When owners cannot be found.
XXIII. Projections of houses, &c., to be removed on notice.
XXIV. Obstruction of streets.
XXV. Cleaning streets.
XXVI. Conveyance of offensive matter.
XXVII. Stagnant pools.
XXVIII. Regulation to prevent accumulation of dung, &c.
XXIX. Certificate of health office; filth to be removed.
XXX. Houses to be whitewashed and purified, on certificate of officer of health, &c.
XXXI. Council may order nuisances to be abated.
XXXII. Observations of scavenger.
XXXIII. Dangerous buildings.
XXXIV. Licenses.
XXXV. Disturbance in streets.
XXXVI. Lamps.
XXXVII. Carrying arms.
XXXVIII. Transient offender.
XXXIX. Penalty for disobedience of order in council.
XL. By-laws.
XLI. Penalty to be summarily recovered.
XLII. Publication of by-laws.

By-laws annexed to the land municipal regulations for the foreign quarter of Shanghai, this —— day of ——, 186—.

I. The entire control and management of all public sewers and drains within the limits of these regulations, and all sewers and drains in and
under the streets, with all the works and materials thereunto belonging,
whether made at the time these regulations become valid or at any time
thereafter, and whether made at the cost of the council or otherwise,
shall vest in and belong to the council.

II. The council shall, from time to time, cause to be made under the
streets such main and other sewers as shall be necessary for the effect-
ual draining of the town or district within the limits of the settlement,
and also all such reservoirs, sluices, engines, and other works as shall
be necessary for cleaning such sewers; and if needful, they may carry
such sewers through and across all or any of the streets, doing as little
damage as may be, and making compensation as aforesaid, to be deter-
mined by arbitration or recoverable in the manner provided by the land
regulations, for any damage done; and if for completing any of the
aforesaid works it be found necessary to carry them into or through any
inclosure or other lands, the council may, after reasonable notice, carry
the same into or through such lands accordingly, making compensation
to the owners and occupiers thereof; and they may also cause such
sewers to communicate with and empty themselves into the river, or
they may cause the refuse from such sewers to be conveyed by a proper
channel to the most convenient site for collection and sale for agricultural
or other purposes, as may be deemed most expedient, but so that the
same shall in no case become a nuisance.

III. The council may from time to time, as they see fit, enlarge, alter,
and arch over, and otherwise improve all or any of the sewers vested in
them; and if any of such sewers at any time appear to them to have
become useless, the council, if they think fit to do so, may demolish and
discontinue such sewers: Provided, That it may be so done as not to
create a nuisance.

IV. Every person, not being employed for that purpose by the council,
who shall make any drain into any of the sewers or drains so vested in
the council, shall forfeit to the council a sum not exceeding $100; and
the council may cause such branch drain to be remade as they think fit,
and all the expense incurred thereby shall be paid by the person making
such branch drain, and shall be recoverable by the council as damages.

V. No sewer or drain shall be made, or any building be erected over
any sewer belonging to the council, without the consent of the council
first obtained in writing; and if, after the passing of the revised land
regulations, any sewer or drain be made, or any building be erected
contrary to the provisions herein contained, the council may demolish
the same, and the expenses incurred thereby shall be paid by the person
erecting such building, and shall be recoverable as damages.

VI. All sewers and drains within the limits of these regulations,
whether public or private, shall be provided by the council or other
persons to whom they severally belong, with proper traps, or other
coverings or means of ventilation, so as to prevent stench.

VII. The expense of maintaining and cleansing all sewers, not herein-
before provided for, shall be defrayed out of the rates and taxes to be
levied under Article IX of the land regulations.

VIII. It shall not be lawful to erect any house in the settlement, or
to rebuild any house in the settlement, until a drain or drains be con-
structed of such size and materials, and at such level, and with such
fall, as, upon the report of the surveyor made to the council, shall ap-
ppear to be necessary and sufficient for the proper and effectual drainage
of the same and its appurtenances; such report to be made within 14
days after notice is given to the said surveyor of the proposed erection
or rebuilding; and in default thereof, all parties shall be at liberty to
proceed with any such erection or building, as if no such report were required; and if a sewer of the council, or a sewer which they were entitled to use, be within 100 feet of any part of the site of the house to be built or rebuilt, the drain or drains so to be constructed shall lead from and communicate with such sewer as the council shall direct, or if no such means of drainage be within that distance, then the last-mentioned drain or drains shall communicate with and be emptied into such covered cesspool or other place not being under any house, and not being within such distance from any house, as the council shall direct; and whosoever erects or rebuilds any house or constructs any drains contrary to this by-law, shall be liable for every such offense to a penalty not exceeding $250; and if at any time, upon the report of the surveyor, it appear to the council that any house, whether built before or after the passing of this by-law, is without any drain, or without such a drain or drains communicating with a sewer as is or are sufficient for the proper and effectual drainage of the same, and its appurtenances; and if a sewer of the council, or a sewer which they are entitled to use, be within 100 feet of any part of such house, they shall cause notice in writing to be given to the owner or occupier of such house, requiring him forthwith, or within such reasonable time as shall be specified therein, to construct and lay down in connection with such house one or more drain or drains, of such materials and size, at such level, and with such fall, as upon the last-mentioned report shall appear to be necessary; and if such notice be not compli-d with, the council may, if they think fit, do the works mentioned or referred to therein; and the expenses incurred by them in so doing, if not forthwith paid by the owner or occupier, shall be defrayed by the council, and by them recovered from the owner of the house, in the same manner as a penalty under these by-laws is recoverable.

IX. The council, and none others, shall be surveyors of all highways within the limits of the aforesaid regulations, and within those limits shall have all such power and authorities, and be subject to all such liabilities, as any surveyors of highways are usually invested with.

X. The management of all the public streets, and the laying out and repaving thereof on passing of the Revised Regulations, or which there-after may become public highways, and the pavements and other materials, as well in the footways as carriage-ways of such public streets, and all buildings, materials, implements, and other things provided for the purposes of said highways, shall belong to the council.

XI. The council may stop any street, and prevent all persons from passing along and using the same for a reasonable time during the construction, alteration, repair, or demolition of any sewer or drain in or under such street, so long as they do not interfere with the ingress or egress of persons on foot or from their dwellings or tenements.

XII. Every person who willfully disposes, takes up, or makes any alteration in the pavement, flags, or other materials of any street under the management of the council, without their consent in writing, or without other lawful authority, shall be liable to a penalty not exceeding $25; and also a further sum not exceeding $1 for every square foot of the pavement, flags, or other materials of the street so displaced, taken up, or altered.

XIII. For the purpose of the aforesaid regulations, if the council deem it necessary to raise, sink, or otherwise alter the situation of any water-pipe or gas-pipe laid in any of the streets, they may, from time to time, by notice in writing, require the person or persons to whom any such pipes or works belong, to cause forthwith, as soon as conveniently may
be, any such pipes or works to be raised, sunk, or otherwise altered in position in such manner as the council direct: Provided, That such alteration be not such as permanently to injure such works, or to prevent the water or gas from flowing as freely and conveniently as before; and the expenses attending such raising, sinking, or altering, and compensation for every damage done thereby, shall be paid by the council out of the rates and taxes levied under the regulations aforesaid.

If the person or persons to whom any such pipes or works belong do not proceed forthwith, or as soon as conveniently may be, after the receipt of such notice, to cause the same to be raised, sunk, or altered in such manner as the council require, the council may themselves, but then at the costs and charges of the person or persons to whom the pipes or works belong, such costs and charges to be recoverable in the same way as the penalties enacted under these by-laws, cause such pipes or works to be raised, sunk, or altered as they think fit: Provided, That such works be not permanently injured thereby, or the water or gas prevented from flowing as freely and conveniently as before.

XIV. The occupier of every house or building in, adjoining, or near to any street shall, within 14 days next after service of an order of the council for that purpose, put up and keep in good condition a shoot or trough of the whole length of such house or building, and shall connect the same either with a similar shoot on the adjoining house, or with a pipe or trunk to be fixed to the front or side of such building from the roof to the ground, to carry the water from the roof thereof in such manner that the water from such house or any portico or projection therefrom shall not fall upon the persons passing along the street, or flow over the footpath; and in default of compliance with any such order within the period aforesaid, such occupier shall be liable to pay not exceeding $10 for every day that he shall so make default.

XV. When building materials or other things are laid, or any hole made, in any of the streets, whether the same be done by order of the council or not, the person or persons causing such materials or other things to be so laid, or such hole to be made, shall, at his own expense, cause a sufficient light to be fixed in a proper place upon or near the same, and continue such light every night from sunset to sun rising, while such materials or hole remain; and such person shall, at his own expense, cause such materials or other things, and such hole, to be sufficiently fenced and inclosed, until such materials or other things are removed, or the hole filled up or otherwise made secure; and every such person who fails to light, fence, or inclose such materials or other thing or such hole shall, for every such offense, be liable to a penalty not exceeding $25, and a further penalty not exceeding $10 for every day while such default is continued.

XVI. In no case shall any such building materials or other things or such hole be allowed to remain for an unnecessary time, under a penalty not exceeding $25 to be paid for every such offense, by the person who causes such materials or other things to be laid, or such hole to be made; and a further penalty not exceeding $10 for every day during which such offense is continued after the conviction for such offense; and in any such case the proof that the time has not exceeded the necessary time, shall be upon the person so causing such materials or other things to be laid or causing such hole to be made.

XVII. If any building or hole or other place near any street be for want of sufficient repair, protection, or inclosure, dangerous to the passengers along such street, the council shall cause the same to be repaired, protected, or inclosed so as to prevent danger therefrom, and the expenses
of such repair, protection, or inclosure shall be repaid to the council by
the owner of the premises so repaired, protected, or inclosed, and shall
be recoverable from him as damages.

XVIII. The council shall cause all the streets, together with the foot-
pavements, from time to time, to be properly swept and cleansed, and
all dust and filth of every sort found thereon to be collected and re-
moved; and shall cause all the dust, ashes, and rubbish to be carried
away from the houses and tenements of the inhabitants of the town and
district within the limits of these regulations at convenient hours and times;
and shall cause the privies and cesspools within the said town or dis-
trict to be from time to time emptied and cleansed in a sufficient and
proper manner: Provided, always, That the occupier of any house or
tenement within the limits of these regulations may keep and remove any
such soil, ashes, or rubbish as shall be kept for manure, so that the same
be not a nuisance to the inhabitants residing near such premises; and
that the same be removed at such times and in such manner as shall be
approved of by the council.

XIX. The council may compound for such time as they think fit with
any person liable to sweep or clean any footway, under the provisions
of these regulations, for sweeping and cleaning the same in the manner
directed by these regulations.

XX. If any building or wall be deemed by the surveyor of the coun-
tel to be in a ruinous state, and dangerous to passengers or to the occu-
piers of the neighborhood, such surveyor shall immediately make com-
plaint thereof to the consul of the nation of the person or persons to
whom the building belongs, and it shall be lawful for such consul to
order the owner, or in his default the occupier (if any) of such building,
wall, or other thing, to take down, rebuild, repair, or otherwise secure
to the satisfaction of such surveyor, within a time to be fixed by such
consul, and in case the same be not taken down, repaired, rebuilt, or
otherwise secured in such manner as shall be requisite, and all the ex-
enses of putting up ev'ry such fence, and of taking down, repairing,
rebuilt, or securing such building, wall or other thing, shall be paid
by the owner or owners thereof.

XXI. If such owner or owners can be found within the said limits,
and if, on demand of the expenses aforesaid, he neglect or refuse to pay
the same, then such expenses may be levied by distress, and the consul,
on the application of the council, may issue his warrant accordingly.

XXII. If such owner cannot be found within the said limits, or suffi-
cient distress of his goods and chattels within the said limits cannot be
made, the council, after giving 28 days' notice of their intention to do
so by posting a printed or written notice in a conspicuous place on such
building, or on the land whereon such building stood, by giving notice
in the local newspapers under the head of municipal notification, may
take such building or land, sell the same by public auction, and from
and out of the proceeds of such sale may reimburse themselves for the
outlay incurred, or the council may sell the materials thereof or so much
of the same as shall be pulled down, and apply the proceeds of such
sale in payment of the expenses incurred in respect of such house or
building, and the council shall restore any overplus arising from such
sale to the owner of such house or building on demand; nevertheless,
the council, although they sell such materials for the purposes aforesaid,
shall have the same remedies for compelling the payment of so much of
the said expenses as may remain due after the application of the pro-
ceeds of such sale as are hereinbefore given to them for compelling the payment of the whole of the said expenses.

XXIII. The council may give notice to the occupier of any house or building to remove or alter any porch, shed, projecting window, step, cellar, cellar-door or window, sign, sign-post, sign-iron, show-board, window-shutter, wall, gate or fence, or any other obstruction or projection erected or placed against or in front of any house or building within the limits of the settlement, and which is an obstruction to the safe and convenient passage along any street, and such occupier shall, within 14 days after the service of such notice upon him, remove such obstruction or alter the same in such manner as shall have been directed by the council, and in default thereof shall be liable to a penalty not exceeding $10, and the council in such case may remove such obstruction or projection, and the expense of such removal shall be paid by the occupier so making default, and shall be recoverable as damages: Provided always, That in the case in which such obstructions or projections were made or put up by the owner, the occupier shall be entitled to deduct the expense of removing the same from the rent payable by him to the owner of the house or building.

XXIV. No person shall obstruct the public roads or foot-paths with any kind of goods or building materials under a penalty of $10 for every 24 hours of continued obstruction, and after the first 24 hours' notice of removal shall have been given to the owner of the same or the person using, employing, or having control over the same, or in the absence of any such person, or inability of the part of the agents of the council, shall remove the same and retain the same until the expense of such removal shall have been repaid, or may recover the expense of such removal or damages, and may after such recovery sell the same, holding the balance, if any, after payment of penalties, expenses and costs, to the use of the person entitled to the same. And it shall be competent to the council to charge for holdings, scaffoldings placed round buildings in course of erection, interfering with the public highways, on a scale to be hereafter fixed at a meeting of the electors.

XXV. All occupiers of land and houses shall cause the foot-pavements in front of their houses to be swept and cleansed whenever occasion shall require, and after the receipt of notice served upon them. And they shall also cause to be swept and cleaned all gutters, surface drains in the front, side or rear of their premises, and remove all accumulations of soil, ashes or rubbish, and every such occupier making default herein shall be for every offense liable to a penalty of $5. And for the purpose aforesaid, when any house shall be let in apartments, the person letting the same shall be deemed the occupier.

XXVI. The council may, from time to time, fix the hours within which only it shall be lawful to empty privies, or remove offensive matter, within the limits of the settlement; and when the council have fixed such hours, and given public notice thereof, every person who within the said limits empties or begins to empty any privy, or removes along any thoroughfare within the said limits any offensive matter, at any time except within the hours so fixed; and also every person who at any time, whether such hours have been fixed by the council or not, use for any such purpose any utensil or pail, or any cart or carriage not having a covering proper for preventing the escape of the contents of such cart, or of the stench thereof, or who willfully slops or spills any such offensive matter in the removal thereof, or who does not carefully sweep and clean every place in which any such offensive matter has been placed, or unavoidably slopped or spilled, shall be liable to a penalty not ex-
ceeding $10, and in default of the apprehension of the actual offender, the driver, or person having the care of the cart or carriage employed for any such purpose, shall be deemed to be the offender.

XXVII. No person shall suffer any offensive, waste, or stagnant water to remain in any cellar, or other place within any house belonging to or occupied by him, so as to be a nuisance, within or upon any waste land belonging to or in his occupation within the boundaries of the settlement, so as to be a nuisance; and every person who shall suffer any such water to remain for 48 hours after receiving notice of not less than 48 hours from the council to remove the same, and every person who allows the contents of any privy or cesspool to overflow or soak therefrom, to the annoyance of the occupiers of any adjoining property, or who keeps any pig or pigs within any dwelling house within the said limits so as to be a nuisance, shall for every such offense be liable to a penalty not exceeding $10, and to a further penalty not exceeding $2 for every day during which such nuisance continues; and the council may drain and cleanse out any stagnant pools, ditches, or ponds of water within the said limits so as to be a nuisance, and abate any such nuisance, as aforesaid, and for that purpose may enter, by their officers and workmen, into and upon any building or land within the said limits at all reasonable times, and to do all necessary acts for any of the purposes aforesaid, and the expenses incurred thereby shall be paid by the person committing such offense, or occupying the building or land where such annoyance proceeds; and if there be no occupier, by the owner of such building or land, and shall be recoverable as damages.

XXVIII. If the dung or soil of any stable, cow-house or pig-sty, or other collection of refuse matter, elsewhere than in any farm-yard, be at any time allowed to accumulate within the limits of the settlement for more than seven days, or for more than two days after a quantity exceeding one ton has been collected in any place not allowed by the council, such dung, soil, or refuse, if not removed within 24 hours after notice from any officer of the council for that purpose, shall become the property of the council, and they, or any person with whom they have at the time any subsisting contract for the removal of refuse, may sell and dispose of the same, and the money thence arising shall be applied towards the purposes of the council, or they may recover the expense of such removal from the occupier of the building or land as damages.

XXIX. If any officer of health, or if for the time being there be no officer of health, any two surgeons or physicians, or one surgeon and one physician, residing within the limits of the settlement, certify under his or their hands to the council that any accumulation of dung, soil or filth, or other noxious or offensive matter within the said limits, ought to be removed as being injurious to the health of the inhabitants, the secretary of the council shall forthwith give notice to the owner or reputed owners of such dung, soil or filth, or to the occupier of the land where the same are, to remove the same within 24 hours after such notice; and in case of failure to comply with such notice, the said dung, soil or filth, shall thereupon become vested in the council, and they, or any person with whom they have at that time contracted for the removal of all such refuse, may sell and dispose of the same, and the money thence arising shall be applied towards the purposes of the council, and they may recover the expense of such removal from such occupier or owner in the same manner as damages.

XXX. If at any time the officer of health, or if for the time being there be no officer of health, any two surgeons or physicians, or one surgeon and one physician, residing within the said limits, certify under
his or their hands to the council that any house, or part of any house or building within the limits of the settlement, is in such a filthy or unwholesome condition that the health of the inmates or of the neighbors is thereby affected or endangered, or that the whitewashing, cleansing or purifying of any house or building, or any part thereof, would tend to prevent or check infectious or contagious disease therein, or that any drain, privy or cesspool, is in such a defective state that the health of the neighbors is thereby affected or endangered, the council shall order the occupier of such house or part thereof to whitewash, cleanse and purify the same, and the owner of such drain, privy or cesspool to amend the condition thereof in such manner and within such time as the council deem reasonable; and if such occupier or owner do not comply with such order he shall be liable to a penalty not exceeding $10 for every day's neglect thereof; and in such case the council may cause such house or any part thereof to be whitewashed, cleansed and purified, or the condition of such drain, privy or cesspool, to be amended, and may recover the expense thereof from such occupier or owner in the same manner as damages.

XXXI. If any candle-house, melting-house, melting-place, or soap-house, or any slaughter-house, or any building or place for boiling offal, or blood, or for boiling or crushing bones, or any pig-sty, necessary-house, dung-hill, manure heap, or any manufactury, building, or place of business within the limits of the settlement, be at any time certified to the council by the inspector of nuisances, or officer of health; or if for the time being there be no inspector of nuisances or officer of health, by any two surgeons and physicians, or one surgeon and one physician, to be a nuisance or injurious to the health of the inhabitants, the council shall direct complaint to be made before the consul of the nation of the person by or on whose behalf the work complained of is carried on, and such consul shall inquire into such complaint, and may, by an order in writing under his hand, order such person to discontinue or remedy the nuisance within such time as to him shall appear expedient: Provided always, That it appear to such consul that in carrying on any business complained of, the best means then known to be available for mitigating the nuisance, of the injurious effects of such business, have not been adopted, they may suspend their final determination, upon condition that the person so complained against shall undertake to adopt within a reasonable time such means as the said consul shall judge to be practicable, and order to be carried into effect for mitigating or preventing the injurious effects of such business.

XXXII. Every occupier of any building or land within the said limits, and every other person who refuses to permit the said scavengers to remove such dirt, ashes, or rubbish, as by these by-laws they are authorized to do, or who obstruct the said scavengers in the performance of their duty, shall, for every such offense, be liable to a penalty not exceeding $25.

XXXIII. No straw shed, bamboo houses, or buildings of like inflammable material, shall be erected within the settlement; nor shall contraband goods or merchandise likely to endanger life, or cause injury to individuals, such as gunpowder, saltpeter, sulphur, large quantity of spirits in bulk, petroleum, naphtha, and other explosive gases or liquids, stand on the premises of any individual, under the penalty of $250 for the first offense, and of $500, with confiscation of the goods themselves to the use of the council, for each succeeding offense. On articles of this nature being brought into the settlement immediate notice must be given by the importer, consignee, or owner thereof to the secretary of
the council, whose duty it will be to assign the locality or place within which such goods may be safely stored, and every refusal to obey, or disobedience of the order of the secretary in this behalf, shall be visited with a penalty of $250, and a penalty of $100 for every 24 hours of continued disobedience. And such penalty, together with the preceding penalty, and all other fines and penalties declared by these by-laws, shall be recoverable in a summary manner before the consul or court having jurisdiction over the offender or defaulter.

XXXIV. No foreigner or Chinese shall vend spirits or liquors of any kind or description, or open a house of public entertainment, music hall, theater, circus, or dancing saloon within the limits of the settlement, without a license first obtained from the council, and in the case of foreigners countersigned by the consul of the nationality to which the applicant belongs, and upon good and sufficient security given for the maintenance of order in such establishment, and in respect of such licenses the council may charge on such scale as may be authorized at the lawful meetings held under the regulations:

For every wine and spirit shop, annually.
For every beer shop, annually.
For a house of entertainment, hotel, or tavern, annually.
Music hall, for every night open.
Theater, for every night open.
Circus, for every night open.
Dancing saloon, for every night open.

And any person opening or keeping, or holding any such shop, store, house of entertainment, music hall, theater, circus, or dancing hall, without having first obtained the license of the council, shall, over and above the cost of the license and summons, be liable to a fine not exceeding $50.

XXXV. All persons firing guns or pistols, carelessly creating a noise or disturbance, and all persons guilty of furious or improper riding or driving, or the leading of horses up and down any thoroughfare for exercise, or who shall commit any act which may legitimately come within the meaning of the term nuisance, shall be liable to a penalty of $10.

XXXVI. All persons driving carriages or carts of any description between one hour after sunset and one hour before sunrise must affix lighted lamps to their vehicles, under penalty of five dollars for each omission.

XXXVII. No person within the limits of the settlements, except consular officers and the officers of the council duly authorized, and military and naval officers, or volunteers, or soldiers, or soldiers of any government force in uniform or on duty, shall under any pretense carry offensive or defensive arms, such as guns, pistols, swords, daggers, loaded sticks, slugs-shots, knives, or any weapon of like character, under a penalty not exceeding $10, or one week's imprisonment, with or without hard labor: Provided, That nothing in this by-law be construed to extend to the carrying of bowing-pieces for the purpose of shooting game.

XXXVIII. It shall be lawful for any officer or agent of the council, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offense against the provisions of these by-laws, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient dispatch, before his proper consul, without any warrant or other authority than these by-laws.
XXXIX. If any such nuisance, or the cause of any such injurious effects as aforesaid, be not discontinued or remedied within such time as shall be ordered by the said consul, the person by or on whose behalf the business causing such nuisance is carried on shall be liable to a penalty not exceeding $25 for every day during which such nuisance shall be continued or unremedied after the expiration of such time as aforesaid.

XL. Nothing in these by-laws contained shall be construed to render lawful any act or omission on the part of any person which is or would be deemed to be a nuisance at common law, from prosecution or action in respect thereof, according to the forms of proceeding at common law, nor from the consequences upon being convicted thereof.

XLII. Every penalty or forfeiture imposed by these by-laws, made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before the proper consular representative, and it shall be lawful for such consular representative, upon conviction, to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction, as such consular representative shall think fit.

XLIII. These by-laws shall be printed, and the secretary of the council shall deliver a printed copy thereof to every rate-payer applying for the same, without charge; and a copy thereof shall be hung up in the front or in some conspicuous part of the principal office of the council.

APPENDIX XI.

Mr. Fish to Mr. Bingham.

DEPARTMENT OF STATE,
Washington, January 20, 1876.

SIR: Your dispatch of the 18th of November last, No. 291, in relation to the right of the municipal council of Nagasaki to maintain actions in the consular court of the United States against American citizens for liabilities accruing on account of non-observance of municipal ordinances by the latter, has been received.

It appears from your dispatch and the inclosures accompanying it that the council referred to is a body composed of foreign consuls and prominent foreigners of different nationalities, resident in what is known as the "foreign quarter" in Nagasaki, that it owes its existence and creation to the voluntary action of the foreign population, or at least to that portion of the foreign population who come under the denomination of "land-renters," and that the regulations or ordinances of this municipal council are confined within the legislative limits of the preservation of the peace, morals, and good order of the community.

These objects are clearly within the scope of the legislative functions ordinarily pertaining to municipal corporations, and the licensing of public houses or places of public entertainment and resort is a very common exercise of the power of such corporations.

You refer to your dispatch No. 228, of the 20th of May, 1875, in which you forward a copy of the Nagasaki regulations. Upon examination it is found that the correspondence of which that dispatch forms a part related to the power of United States consuls in China and Japan to make rules and regulations which should have the force of law over cit-
izens of the United States resident in those countries, and the observ-
ance of which might be enforced in the consular courts. In your No. 
138, of the 4th of December, 1874, you inform the Department of the 
then recent receipt by you of a communication from Mr. Van Buren, 
counsel-general, asking your consent to the enactment of such regul-
ations of the consular board at Yokohama, and at the same time state 
that you did not give your consent, for the reason that in your opinion 
such powers of legislation were not conferred upon either the consuls or 
ministers of this government under the laws of the United States, and 
that the exercise of such a power would be beyond the scope of the 
legitimate functions of these officers. The opinion thus expressed by 
you met with the approval of the Department, and was found to be in 
accord with its previously expressed views on that question, and you 
were so instructed in my No. 115, of the 7th of January, 1875. In the 
same instruction you were requested to inform the Department what 
powers, if any, were claimed by the consular board, as such, to make 
such regulations, and whether the power spoken of was claimed by the 
several consuls to have been conferred by their separate governments, 
and what authority in regard to such questions had been conferred by 
the other treaty powers upon their ministers in Japan.

Your dispatch No. 228 was in reply to that instruction, and you for-
ward with it a copy of regulations adopted by a convention of foreign 
consuls, held at Yedo, in October, 1867, a copy of rules and regula-
tions adopted by the land-renters at Nagasaki, in September, 1860, and also 
a copy of a communication received by Mr. Van Buren, from Sir Harry 
S. Parkes, Her Britannic Majesty's minister, setting forth the grounds 
upon which the consuls of Great Britain claimed the right of exercising 
the _quasi_ legislative powers referred to. Upon the perusal of your re-
port no grounds were perceived for departing from the views which had 
been expressed by you and approved by the Department, inasmuch as 
the act of Congress regulating the exercise of the extraterritorial judi-
cial powers accorded in the treaties with Japan and China provides that 
the proceedings shall be governed by the laws of the United States, the 
common law, and the law of equity and admiralty, and when these failed 
to afford an adequate remedy, then by such regulations as should be 
made and promulgated by the ministers of the United States resident in 
those countries.

These provisions of the statute of the United States are not under-
stood to confer upon the minister any power of general legislation (as commonly understood), but simply the power of supply ing decrees and 
regulations to supply any defects in the mode of exercising the jurisdic-
tion which the statutes and treaties gave to the consular courts. With 
us at home, our courts cannot legislate, cannot make laws, but may make 
regulations controlling the practice and the mode of their administering 
and enforcing the laws. When the statutes of the United States, the 
common law, and the law of equity and admiralty fail to furnish suffi-
cient remedies for the exercise of the jurisdiction which the statute confers on the consular courts in Japan, China, &c., the minister may sup-
ply the deficiency. Such is understood to be the extent of legislative 
power, if even this can properly be called "legislative power," which is 
given to either minister or consul by the statute. No power is given to 
the minister to make a regulation which will establish or impair the 
rights existing between parties to create or impose new obligations on 
citizens. He is confined to making regulations which will enable the 
established courts to administer justice between parties according to 
existing laws, and to punish those who offend against the laws.
JUDICIAL EXTRATERRITORIAL RIGHTS.

The question now presented, however, is conceived to be different. It is not a question of general legislation, but one of local corporate municipal enactment of ordinances or regulations for the preservation of the peace, morals, and good order of the town or municipal community, and confined to such objects as the wants and necessities of that particular community may demand; it is the exercise of a power known to exist in the municipal authorities of the cities and towns throughout the United States, resting, it is true, in the latter case, upon municipal charters granted by the supreme legislative power of the State. But instances are not wanting in the history of this government in which similar powers have been exercised by inchoate communities suddenly formed within the jurisdiction of the United States, and who, for the time being, finding themselves situated outside of any organized State or Territory, have been led by the dictates of prudence and necessity to form themselves into a voluntary political organization, frame codes of laws for the preservation of order and good government and the protection of the lives and property of the individuals composing such communities, and to establish tribunals for the administration and enforcement of such laws; and the laws enacted, administered, and executed under such conditions have, so far as is now known, been respected and sanctioned by both the executive and judicial branches of the Government of the United States, as it is believed they have been by the judicial tribunals of the several States of the Union.

If, in the case of the residents of what is known as the "foreign quarter" of Nagasaki, the Government of Japan, in its concession of the territory for that purpose, conferred upon the foreigners residing within such territory the right of such local municipal legislation, or if, in the absence of any direct grant, that government offered no objection to such local arrangement, and cast upon the inhabitants the duty of providing for the general police of the "quarter," such as lighting, paving, sanitary arrangements, and the preservation of the public peace and good order, it would seem to follow that regulations and ordinances enacted and promulgated by a council selected by the people in such manner as they had mutually agreed upon, should be accepted as the municipal law of the community, have the force and effect of law, and that their observance might be enforced by proper proceedings in the consular courts, subject to the ordinary conditions governing the jurisdiction of these tribunals; and if the correctness of this proposition is admitted, there cannot, it is believed, be any doubt of the right of the municipal council to maintain an action in the consular court for the recovery of a penalty incurred by a failure to pay a public-house license imposed by one of these regulations. As the Department is without full information on this point, it is desired that you will, with as little delay as convenient, transmit such information as you are now in possession of, or may be able to obtain, as to the precise nature and extent of the powers granted or conceded by the Japanese Government to the residents of the "foreign quarter" at Nagasaki.

But even in the absence of any such express grant from the authorities of Japan, I am unable to concur in the opinion expressed by you that the regulations or ordinances of the municipal council should not be recognized as binding upon citizens of the United States resident in that community. American citizens, in common with the citizens and subjects of other foreign powers composing the population, enjoy all the rights and privileges pertaining to such residence or domicile, and they share in the common protection afforded to persons and property in the
advantages and conveniences resulting from such regulations as provide for the lighting, paving, cleansing, and other sanitary measures for the general welfare of the municipality. They are there voluntarily; it is to be presumed, for the advancement of their own interest; while they share the benefits of a regulated police, they should not be free from the charges of its support, or from its control.

The police supervision of places of public entertainment, or of public amusement, is among the essentials of a well regulated, orderly community, and the income derived from licenses for keeping houses of public entertainment constitutes, it may be supposed, a not unimportant part of the municipal revenue upon which the council must rely to meet the expenses incident to such arrangements. The granting of such licenses is within the scope of the necessary power incident to municipal corporations, and the attempt to exercise the power itself would prove futile if the correlative authority to enforce its observance by a resort to ordinary legal remedies is denied to the municipal council. A refusal of the consular court to entertain jurisdiction in a suit for the recovery of the license-fee would partake of the nature of a decision before hearing. I am not aware of any reason why a citizen of the United States, resident in Japan, may not be brought into court at the suit of any person or set of persons who think they have a valid claim against him. The statutes of the United States do not exclude any parties from becoming plaintiff in these courts against a citizen of the United States found within their jurisdiction. He may there plead against the competence of the parties to sue him, or present such other defense as he may think proper against their right of recovery. In the case referred to it is conceived that he might even raise the question of the validity of the regulations under which the license-fee is demanded; but it is not perceived that the court should exclude the plaintiff and deny its process against one amenable to its jurisdiction on the presupposition that the right, which the plaintiff desires to establish, is unfounded.

Mr. Smith is an American citizen, resident in Japan. He can be held answerable only in the extraterritorial judicial tribunals of his own country, established in Japan under treaty provisions. It is thus seen that the refusal of the United States consular court to entertain jurisdiction of the cause preferred by the municipal council against Mr. Smith, in effect leaves the complainant in that case without remedy, and amounts to a practical denial of justice.

In view, however, of the imperfect information at present before the Department on the question of the source and origin of the powers claimed by the municipal council, it is not proposed to give you definite and final instructions in relation to the future course to be pursued until such additional information as you may be able to obtain in regard to that question shall have been imparted.

I am, &c.,

HAMILTON FISH.
APPENDIX XII.

CONVENTION RELATING TO THE GOVERNMENT OF APIA.

[Sept. 2, 1878.]

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the King and Government (Malo) of Samoa being desirous to make better provision for the good government of the town and district of Apia, and the preservation of peace and good order therein, as well as for the maintenance of its neutrality should internal disturbances unhappily take place in the Samoan State, have determined to conclude a convention for that purpose, and have named as their plenipotentiaries—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, &c.; the Honorable Sir Arthur Hamilton Gordon, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George; Her Majesty's High Commissioner and Consul General for the Western Pacific, Governor of Fiji; and Alfred Perceval Mandersley, esq., one of Her Britannic Majesty's Deputy Commissioners for the Western Pacific; and the King and Government (Malo) of Samoa, the High Chief Malietoa Lampepe, and the High Chief Saga:

Who, having met and conferred with the representatives at Apia of other nations having entered into treaty relations with Samoa, that is to say, Corvettet-Capitain F. Mensing, Imperial German Navy, commanding His Imperial German Majesty’s gun vessel Albatross; Theodor Weber, esq., Imperial German Consul for Samoa and Tonga; Captain Ralph Chandler, United States Navy, commanding the United States steamship Lackawanna, and Thomas M. Dawson, esq., Consul of the United States of America at Apia, have, in conjunction with them, agreed upon and concluded the following articles:

ARTICLE I.

The space comprised within the following limits, that is to say, commencing at Vailoa, thence along the coast to the mouth of the Fuilau River, thence up the course of the Fuilau River to the point at which the Aalaafalava road crosses such river, thence along the said road to the point where it reaches the river Vaisigo, and thence in a straight line to the point of commencement at Vailoa, shall constitute and be known as the town and district of Apia. The waters of the harbor of Apia are also comprehended within the district.

ARTICLE II.

Such town and district shall be placed under the government of a municipal board consisting of those foreign consuls resident in Apia, whose nations have entered into treaty relations with Samoan. Representatives of every such nation having a consul at Samoa shall at a future period be added to the said board, and shall be chosen in such manner and exercise such functions as may be provided by regulations to be hereafter agreed upon, and published by the said board.
The municipal board shall have power to make and enforce regulations and by-laws with regard to police and good order, public works, sanitary regulations, the issue of licenses, the imposition of harbor regulations, the prevention of the sale and supply of spirituous liquors to Samoans and other islanders of the Pacific Ocean, and other similar matters within the said district, and such regulations shall be binding upon all persons within the said district, and may be enforced by penalties not exceeding two hundred dollars fine, or imprisonment with hard labor for a period not exceeding six months, or both fine and imprisonment not exceeding the before-mentioned penalties.

The municipal board of Apia may, for the purpose of defraying expenses incurred under the above articles, levy rates upon the occupiers of houses or lands within the district of Apia, not exceeding five per cent. annually on the annual assessed value of such premises, as calculated on the presumed rental valuation thereof, or one per cent. annually on the real value of such property.

All offenses against the regulations of the municipal board, by whomsoever committed, shall be tried by a magistrate to be appointed by the board.

If a subject or citizen of any of the contracting parties in Apia be charged with an offense against the laws of his own country, he shall be tried according to the jurisdiction provided therefor by the legislation of the nation to which he belongs, or according to the stipulations of the treaty concluded between his nation and Samoa.

Every Samoan subject charged with a criminal offense within the limits of the district of Apia, other than an offense against the municipal regulations, shall be liable to trial by the magistrate appointed under the provisions of Article V in conjunction with a Samoan magistrate.

The foregoing articles shall in no way prejudice the territorial integrity of Samoa, and the Samoan flag shall be hoisted at such place of meeting of the municipal board as may be permanently adopted.

In case of civil war, the town and district of Apia, and the adjacent districts comprised between the boundaries of the town and district of Apia and Letogo, Tiapepe Point, and Sinsega, shall be considered as
neutral territory, and the municipal board may frame and issue such
regulations as may be considered necessary for the support and main-
tenance of such neutrality.

ARTICLE X.

The present convention shall be revised at the end of four years from
its date, and if the internal state of Samoa at that time will happily ad-
mit thereof, without prejudice to the interests of foreign residents in
Samoa, the powers conferred by the present convention upon the muni-
cipal board of Apia shall cease and determine, and the district again
pass under the control and authority of the Samoan Government, or
such other authority as may be agreed upon between the Samoan Gov-
ernment and the high contracting parties.

ARTICLE XI.

The representatives of the Imperial German Government, in virtue of
the powers accorded to them by the eighth article of the treaty concluded
between His Imperial Majesty the German Emperor and the Government
of Samoa, on the twenty-fourth day of January last past, accede and
agree to the present convention on behalf of the Imperial German Gov-
ernment, subject to the conditions of the said article.

ARTICLE XII.

The representatives of the United States Government provisionally
accede and assent to the present convention on behalf of the Govern-
ment of the United States, subject to the approval of that government.

ARTICLE XIII.

The present convention shall be ratified, and the ratification exchanged
at Apia within one year from the date thereof.

In witness whereof we have signed the same and affixed thereto our
seals.

Done at Apia this second day of September, in the year of our Lord
one thousand eight hundred and seventy-nine.

ARThur Gordon.
ALFRED P. MAUDSLAY.
MALIETOA LAUPEPA.
SAGA C. AUaUNA.

RALPH CHANDLER,

Captain U. S. Navy, Commanding U. S. Ship Lackawanna.

THOMAS M. DAWSON.

F. MENSING,

Coretten-Capitain.

T. WEBER.
APPENDIX XIII.
PROVISIONS IN TREATIES AND CONVENTIONS CONFERRING RIGHTS OF EXTRATERRITORIALITY UPON THE UNITED STATES.

I.—ALGIERS.

The treaties with Algiers of September 5, 1795, June 30, 1815, and December 22, 1816, are abrogated by the annexation of that country to France. In substance they made the consul the court for civil suits between Americans; empowered him to act as part of a mixed court in civil suits between Americans and the citizens of other powers; and provided that Americans were to answer for criminal offenses in the courts of the country; the consul assisting.

II.—BORNEO.

Treaty of June 23, 1850.

ARTICLE IX.

His highness the Sultan of Borneo agrees that in all cases where a citizen of the United States shall be accused of any crime committed in any part of his highness's dominions, the person so accused shall be exclusively tried and adjudged by the American consul, or other officer duly appointed for that purpose; and in all cases where disputes or differences may arise between American citizens, or between American citizens and the subjects of his highness, or between American citizens and the citizens or subjects of any other foreign power in the dominions of the Sultan of Borneo, the American consul, or other duly appointed officer, shall have power to hear and decide the same, without any interference, molestation, or hinderance on the part of any authority of Borneo, either before, during, or after the litigation.

III.—CHINA.

Treaty of July 3, 1844.

ARTICLE XV

The Chinese Government will not hold itself responsible for any debts which may happen to be due from subjects of China to the citizens of the United States, or for frauds committed by them; but citizens of the United States may seek redress in law; and on suitable representation being made to the Chinese local authorities through the consul, they will cause due examination in the premises, and take all proper steps to compel satisfaction. But in case the debtor be dead, or without property, or have absconded, the creditor cannot be indemnified according to the old system of the cohong, so called. And if citizens of the United States be indebted to subjects of China, the latter may seek redress in the same way through the consul, but without any responsibility for the debt on the part of the United States.
JUDICIAL EXTRATERRITORIAL RIGHTS.

ARTICLE XXI.

Subjects of China who may be guilty of any criminal act toward citizens of the United States shall be arrested and punished by the Chinese authorities according to the laws of China; and citizens of the United States who may commit any crime in China shall be subject to be tried and punished only by the consul, or other public functionary of the United States, thereto authorized, according to the laws of the United States. And in order to the prevention of all controversy and disaffection, justice shall be equitably and impartially administered on both sides.

ARTICLE XXIV.

If citizens of the United States have special occasion to address any communication to the Chinese local officers of government, they shall submit the same to their consul, or other officer, to determine if the language be proper and respectful, and the matter just and right; in which event he shall transmit the same to the appropriate authorities for their consideration and action in the premises. In like manner, if subjects of China have special occasion to address the consul of the United States, they shall submit the communication to the local authorities of their own government, to determine if the language be respectful and proper, and the matter just and right; in which case the said authorities will transmit the same to the consul, or other officer, for his consideration and action in the premises. And if controversies arise between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction.

ARTICLE XXV.

All questions in regard to rights, whether of property or person, arising between citizens of the United States in China, shall be subject to the jurisdiction, and regulated by the authorities of their own government. And all controversies occurring in China between citizens of the United States and the subjects of any other government shall be regulated by the treaties existing between the United States and such governments, respectively, without interference on the part of China.

Treaty of June 18, 1858.

ARTICLE XI.

All citizens of the United States of America in China, peaceably attending to their affairs, being placed on a common footing of amity and good-will with the subjects of China, shall receive and enjoy for themselves and everything appertaining to them, the protection of the local authorities of government, who shall defend them from all insult or injury of any sort. If their dwellings or property be threatened or attacked by mobs, incendiaries, or other violent or lawless persons, the local officers, on requisition of the consul, shall immediately dispatch a military force to disperse the rioters, apprehend the guilty individuals, and punish them with the utmost rigor of the law. Subjects of China guilty of any criminal act toward citizens of the United States shall be punished by the Chinese authorities according to the laws of China; and citizens of the United States, either on shore or in any merchant vessel, who may insult, trouble, or wound the persons or injure the property of Chinese, or com-
mit any other improper act in China, shall be punished only by the consul or other public functionary thereto authorized, according to the laws of the United States. Arrests in order to trial may be made by either the Chinese or the United States authorities.

ARTICLE XXIV.

Where there are debts due by subjects of China to citizens of the United States, the latter may seek redress in law; and, on suitable representations being made to the local authorities, through the consul, they will cause due examination in the premises, and take proper steps to compel satisfaction. And if citizens of the United States be indebted to subjects of China, the latter may seek redress by representation through the consul, or by suit in the consular court; but neither government will hold itself responsible for such debts.

IV.—JAPAN.*

Treaty of June 17, 1857.

ARTICLE IV.

Americans committing offenses in Japan shall be tried by the American consul general or consul, and shall be punished according to American laws.

Japanese committing offenses against Americans shall be tried by the Japanese authorities, and punished according to Japanese laws.

Treaty of July 29, 1858.

ARTICLE VI.

Americans committing offenses against Japanese shall be tried in American consular courts, and when guilty shall be punished according to American law. Japanese committing offenses against Americans shall be tried by the Japanese authorities and punished according to Japanese law. The consular courts shall be open to Japanese creditors, to enable them to recover their just claims against American citizens, and the Japanese courts shall in like manner be open to American citizens for the recovery of their just claims against Japanese.

All claims for forfeitures or penalties for violations of this treaty, or of the articles regulating trade which are appended hereto, shall be sued for in the consular courts, and all recoveries shall be delivered to the Japanese authorities.

Neither the American or Japanese governments are to be held responsible for the payment of any debts contracted by their respective citizens or subjects.

V.—MADAGASCAR.

Treaty of February 14, 1867.

ARTICLE V.

Citizens of the U. S. who enter Madagascar, and subjects of Her Majesty the Queen of Madagascar, while sojourning in America, are subject

*No note is made of the twelfth article of the treaty of November 14, 1778, with France. In practice the extraterritorial jurisdiction conferred by that treaty was, during the short time that the treaty was in force, practically construed as confined to mariners.
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To the laws of trade and commerce in the respective countries. In regard to civil rights, however, whether of person or property, of American citizens, or in cases of criminal offenses, they shall be under the exclusive civil and criminal jurisdiction of their own consul only, duly invested with the necessary powers.

But should any American citizen be guilty of a serious criminal offense against the laws of Madagascar, he shall be liable to banishment from the country.

All disputes and differences arising within the dominions of Her Majesty between citizens of the U. S. and subjects of Madagascar shall be decided before the U. S. consul and an officer duly authorized by Her Majesty's government, who shall afford mutual assistance and every facility to each other in recovering debts.

VI.—Morocco.

Treaty of September 16, 1836.

Article XX.

If any of the citizens of the United States, or any persons under their protection, shall have any dispute with each other, the consul shall decide between the parties; and whenever the consul shall require any aid or assistance from our government to enforce his decisions, it shall be immediately granted to him.

Article XXI.

If a citizen of the United States should kill or wound a Moor, or, on the contrary, if a Moor shall kill or wound a citizen of the United States, the law of the country shall take place, and equal justice shall be rendered, the consul assisting at the trial; and if any delinquent shall make his escape, the consul shall not be answerable for him in any manner whatever.

VII.—Muscat.

Treaty of September 21, 1833.

Article IX.

The President of the United States may appoint consuls to reside in the ports of the Sultan where the principal commerce shall be carried on, which consuls shall be the exclusive judges of all disputes or suits wherein American citizens shall be engaged with each other. They shall have power to receive the property of any American citizen dying within the kingdom, and to send the same to his heirs, first paying all his debts due to the subjects of the Sultan. The said consuls shall not be arrested, nor shall their property be seized, nor shall any of their household be arrested, but their persons and property and their houses shall be inviolate. Should any consul, however, commit any offense against the laws of the kingdom, complaint shall be made to the President, who will immediately displace him.
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VIII.—PERSIA.

Treaty of December 13, 1856.

ARTICLE V.

All suits and disputes arising in Persia between Persian subjects and citizens of the United States shall be carried before the Persian tribunal to which such matters are usually referred at the place where a consul or agent of the United States may reside, and shall be discussed and decided according to equity, in the presence of an employee of the consul or agent of the United States.

All suits and disputes which may arise in the Empire of Persia between citizens of the United States shall be referred entirely for trial and for adjudication to the consul or agent of the United States residing in the province wherein such suits and disputes may have arisen, or in the province nearest to it, who shall decide them according to the laws of the United States.

All suits and disputes occurring in Persia between the citizens of the United States and the subjects of other foreign powers, shall be tried and adjudicated by the intermediation of their respective consuls or agents.

In the United States, Persian subjects, in all disputes arising between themselves, or between them and citizens of the United States or foreigners, shall be judged according to the rules adopted in the United States respecting the subjects of the most favored nation.

Persian subjects residing in the United States, and citizens of the United States residing in Persia, shall, when charged with criminal offenses, be tried and judged in Persia and the United States in the same manner as are the subjects and citizens of the most favored nation residing in either of the above-mentioned countries.

IX.—SAMOA.

Treaty of January 17, 1878.

ARTICLE IV.

All disputes between citizens of the United States in the Samoan Islands, whether relating to civil matters or to offenses or crimes, shall be heard and determined by the consul of the United States at Apia, Samoa, under such regulations and limitations as the United States may provide; and all disputes between citizens of the United States and the people of those islands shall be heard by that consul in conjunction with such officer of the Samoan Government as may be designated for that purpose. Crimes and offenses in cases where citizens of the United States may be convicted shall be punished according to the laws of their country; and in cases where the people of the Samoan Islands may be convicted, they shall be punished pursuant to Samoan laws and by the authorities of that country.

X.—TRIPOLI.

Treaty of June 4, 1805.

ARTICLE XVIII.

If any of the citizens of the United States, or any persons under their protection, shall have any disputes with each other, the consul shall de.
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cide between the parties, and whenever the consul shall require any aid or assistance from the government of Tripoli to enforce his decisions, it shall immediately be granted to him, and if any dispute shall arise between any citizen of the United States and the citizens or subjects of any other nation having a consul or agent in Tripoli, such disputes shall be settled by the consuls or agents of the respective nations.

ARTICLE XIX.

If a citizen of the United States should kill or wound a Tripoline, or, on the contrary, if a Tripoline shall kill or wound a citizen of the United States, the law of the country shall take place, and equal justice shall be rendered, the consul assisting at the trial; and if any delinquent shall make his escape, the consul shall not be answerable for him in any manner whatever.

XI.—TUNIS.

Treaty of August, 1797.

ARTICLE XX.

The consul shall be the judge in all disputes between his fellow-citizens or subjects, as also between all other persons who may be immediately under his protection; and in all cases wherein he shall require the assistance of the government where he resides to sanction his decisions, it shall be granted to him.

ARTICLE XXI.

If a citizen or subject of one of the parties shall kill, wound, or strike a citizen or subject of the other, justice shall be done according to the laws of the country where the offense shall be committed: The consul shall be present at the trial; but if any offender shall escape, the consul shall be in no manner responsible for it.

ARTICLE XXII.

If a dispute or law-suit on commercial or other civil matters shall happen, the trial shall be had in the presence of the consul, or of a confidential person of his choice, who shall represent him, and endeavor to accommodate the difference which may have happened between the citizens or subjects of the two nations.

XII.—TURKEY.

Treaty of May 7, 1830.

ARTICLE IV.

If litigations and disputes should arise between the subjects of the Sublime Porte and citizens of the United States, the parties shall not be heard, nor shall judgments be pronounced unless the American Dragon be present. Causes in which the sum may exceed five hundred piastres, shall be submitted to the Sublime Porte, to be decided according to the laws of equity and justice. Citizens of the United States of America, quietly pursuing their commerce, and not being charged or convicted of any crime or offense, shall not be molested; and even when they may have committed some offense they shall not be arrested and put in prison, by the local authorities, but they shall be tried by their minister or consul, and punished according to their offense, following, in this respect, the usage observed toward other Franks.

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APPENDIX XIV.

DRAFT OF THE PROPOSED ACT.

AN ACT concerning the exercise of the jurisdiction conferred upon the United States in places out of their territory and dominion, and to amend the Revised Statutes from sections 4082 to 4130 inclusive.

Be it enacted by the Senate and House of Representatives in Congress assembled, The jurisdiction which the United States now have, or hereafter may have and enjoy by treaty, custom, usage, or otherwise in countries or places out of their territory or dominion, so far as the same is judicial, shall be exercised through and by the courts herein provided for, each of which shall be a court of record.

Sec. 2. In China and Japan it shall be exercised through and by consular courts, district courts, and one supreme court, each of which shall be a court of record with a seal under the provisions of this act, and of sections 4082 to 4130 of the Revised Statutes, both inclusive, as the same are amended and changed hereby.

Sec. 3. The consular courts in China and Japan and the grades and ranks of the officers thereof shall be as now established, except as changed hereby. The person authorized to hold such a court is the principal consular officer of the district, holding a commission from the President according to law; or in his absence the vice-consul holding the warrant of the Secretary of State; or in the absence of both, the person acting as consul with the written consent and approval of the principal diplomatic representative of the United States in the country. The Secretary of State shall assign to each consulate in China and Japan a consular clerk who shall also act as clerk of the consular court, and as a master in chancery. And for this purpose the number of consular clerks authorized by section 1704 of the Revised Statutes is increased to twenty-five. Such consular clerk shall have the custody of the seal and records, with the usual powers and duties of the clerk of a court of record, and shall also be under the consul in his consular capacity, and shall execute a bond to the United States for the faithful discharge of his duties, in such amount as shall be fixed by the Secretary of State, and with sureties who shall be approved by the court.

Sec. 4. The consular officers authorized to hold such courts shall continue to have the power as fully as they now have, to issue warrants, and cause to be arrested, citizens of the United States charged with the commission of misdemeanors, offenses, or crimes. When it appears that the offense or crime has been committed within another consular district they may, on the requisition of the consul of the district within which the crime was committed, send the offender in custody to the consul making the requisition, or require him to give security for his appearance there. When it is charged that the misdemeanor, offense, or crime was committed within the consul's district, the consular court may take jurisdiction of, try, and punish, citizens of the United States so charged, when the offense is not punishable with death, in the same way that such courts have been used to do, except that when the misdemeanor, offense, or crime charged is punishable by imprisonment for more than six months, or by fine exceeding two hundred dollars, a jury
shall be had to try the facts, and a review may be had in the proper
district court on the rulings of the consular court on questions of law.

Said consular courts shall have original jurisdiction in civil cases as
provided in section 4107 of the Revised Statutes, except that in all
cases where more than two hundred dollars is involved a jury may be
summoned when desired by either party, in which case the jury shall
be judges of the facts.

All provisions authorizing appeals from consular courts to a minister
or other diplomatic officer, or to the circuit court for the district of Cali-
ifornia, are hereby repealed. The rulings of a consular court in civil cases,
whether held by a consul alone, or with associates on questions of law,
may be reviewed in the district court within which the consular district
is situated, when the amount in controversy, exclusive of costs, exceeds
five hundred dollars, or when the court certifies that the case involves
legal perplexities and should be reviewed.

Sec. 5. There shall be appointed by the President, by and with the
advice and consent of the Senate, a district judge of the United States
for China and a district judge of the United States for Japan, whose
terms of office shall be eight years respectively, and in case of vacancies
the persons appointed to the place, from time to time, shall hold office
for like terms. Each judge shall receive compensation at the rate of
five thousand dollars a year, payable monthly, and his necessary trav-
eling expenses in the discharge of his duty, payable on his own voucher
at the rate of eight cents a mile, hotel lodging and board bills being
excluded and not to be paid.

The consular districts of Canton, Amoy, and Swatow shall constitute
the first judicial district, with the seat of the court at Canton. The
consular districts of Shanghai, Ningpo, Chin-Kiang, and Foo-Chow
shall constitute the second judicial district with the seat of the court at
Shanghai. The consular districts of Tien-Tsin and New Chwang shall
constitute the third judicial district, with the seat of the court at Tien-
Tsin. And the consular districts within the Empire of Japan shall con-
stitute the fourth judicial district with the seat of the court at Yokohama.
But the Secretary of State may, from time to time, change these dis-
tricts, as convenience may require.

The President may also, by and with the advice and consent of the
Senate, appoint a clerk for the district courts held by the district judge
for China, who shall have his principal office at Shanghai, and shall
also be the clerk of the supreme court for China, and a clerk for the
district courts held by the district judge for Japan, who shall have his
principal office at Yokohama, and shall also be the clerk of the supreme
court for Japan. Each of these clerks shall also be a master in chancery
and receive an annual salary of two thousand five hundred dollars, and
his fees as master in chancery, and such portion of his fees as clerk as
he is entitled to retain under the provisions of this act, and his neces-
sary traveling expenses in attending court, to be computed as in case
of the district judges. At the time of his appointment he shall have
been admitted to practice in the Supreme Court of the United States,
or in the highest judicial court of one of the States, or of the District of
Columbia.

On the nomination of the district judge for China the Secretary of
State may appoint an interpreter for the district courts in China; and
on the nomination of the district judge for Japan he may appoint an
interpreter for the district courts in Japan. Each of these interpreters
shall receive a salary at the rate of two thousand dollars a year, payable
monthly, and his necessary traveling expenses in attending court, to
be computed as in case of the district judges. Each shall also be the interpreter for the supreme court of the country for which he is appointed. Before entering upon the duties of his office, each shall subscribe and take an oath before the district judge faithfully to observe the laws of the United States in force in (China or Japan as the case may be) and the rules of the court of which he is an officer, and truly to interpret between the court and the witness in all causes, civil or criminal, in which he may be employed, which oath shall be filed in the archives of the court. A willful failure to so interpret truly shall make the offender guilty of perjury, for which he may be tried and convicted by the proper consular court, although he be not a citizen of the United States.

The said district courts may appoint temporary officers when necessary to the proper conduct of their business, and fix a reasonable compensation for their services, which shall be paid by the clerk out of any funds in his hands applicable to that purpose, or by the consul of the district on the certificate of the clerk that he has no such funds.

A term of court in each district shall commence on the second Monday in January in each year, and end on the last Wednesday in December. The district judge for China shall hold the courts in the first and second districts and the district judge for Japan in the third and fourth districts; but either judge may sit in a district of the other if desired to do so. If no judge is present at the opening of term, court shall be opened by the clerk, or in his absence by the principal consular officer of the district, or by the clerk of the consular court of the district; and shall be adjourned to some time to suit the convenience of the judge, but court shall be held at least once a year in each district, and as much oftener as the necessities of business require and the convenience of the court permits.

Each district court within its own district shall have power to issue writs of habeas corpus.

Said district court shall have original exclusive jurisdiction in all cases in equity and admiralty, and original jurisdiction concurrently with consular courts in all civil suits where the amount involved exceeds five hundred dollars exclusive of costs. They shall also have appellate jurisdiction on questions of law brought up from consular courts according to the provisions of Section 4.

In criminal proceedings said district courts shall have appellate jurisdiction to review rulings of consular courts on questions of law brought up according to the provisions of Section 4.

Persons charged with offences punishable by death shall be tried in a district court held in the consular district where the offence was committed. This court shall be held by a district judge as presiding judge and the person authorized to hold the consular court in the district. In case of difference of opinion the ruling of the district judge shall stand as the ruling of the court.

If the district judge of the district certifies in writing to the consul that neither district judge can be present, the court shall be held as a district court by the consul as presiding judge together with four impartial citizens of the United States selected by the consul from the leading citizens residing in his consular district. A jury summoned as in other cases of aggravated offences shall be judges of the facts. In case of difference of opinion between the consul and his associates the ruling of the consul shall prevail on questions of law. The proceedings shall be prosecuted in such court to final judgment and sentence in case of conviction. All rulings of law adverse to the accused in a court not
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presided over by a district judge shall be subject to review in the district court.

It shall be the duty of the presiding judge at all capital trials to at once report the proceedings in full to the principal diplomatic representative of the United States in the country, with a statement of any palliating circumstances, if there be such. If the diplomatic representative thinks the case a proper subject for pardon or commutation, he may grant a reprieve not exceeding six months, and shall at once forward the papers to the Secretary of State in order that they may be submitted to the President.

On any final judgment of said district court in a case brought up for review from a consular court where the matter in controversy, exclusive of costs, exceeds the sum of twenty-five hundred dollars, and on questions of law in suits originally begun and prosecuted to final judgment in said courts, where the matter in controversy is of like amount, an appeal shall be allowed to the supreme court of the United States for China or Japan, as the case may be.

It shall also be competent for a district judge to certify for review in the proper supreme court any rulings of law adverse to the accused in a capital trial, when he shall desire to have them reviewed.

Sec. 6. The said district judges sitting together at Shanghai, and with the consular officer authorized to hold consular court at that port, shall constitute and be styled the supreme court of the United States for China; and the said judges sitting together at Yokohama and with the consular officer authorized to hold consular court at that port shall constitute and be styled the supreme court of the United States for Japan; the district judge for China shall be the presiding judge at Shanghai, and the district judge for Japan shall be the presiding judge at Yokohama; and while the said supreme court is in session at either port the vice-consul, or, in his absence, the deputy consul of the district, shall hold the consular courts of the district. The supreme court may also during sessions of court appoint temporary officers when necessary for the proper conduct of business in the supreme and consular courts, and may fix a reasonable compensation for their services, which shall be paid by the clerk out of any funds in his hands applicable to the purpose, or by the consul-general out of the appropriations for contingent expenses of consulates, on the certificate of the clerk that he has no such funds.

The supreme court for China shall have appellate jurisdiction to hear and determine all causes whether civil or criminal decided in China and brought before it for review under the foregoing provisions; and the supreme court for Japan shall have like jurisdiction as to cases decided in Japan and brought before it for review.

The said district judges, jointly, shall make rules for the conduct of causes in the consular and district courts in China and Japan, and for regulating the forms of pleadings in all the courts, and the manner of removing causes to the appellate courts, and of defining the points to be reviewed, and for the taxation of costs in those courts and in the supreme court, not inconsistent with the provisions of this act and rules for governing proceedings in the supreme courts, and the transmission of causes to and from them.

The said supreme courts may affirm, modify, or reverse any judgment, decree, or order lawfully brought before them for review, and may direct such judgment, decree, or order to be rendered, or such further proceedings to be had by the inferior court as the justice of the case may require. They shall not issue executions in causes removed before them.
from inferior courts, but shall send a special mandate to the inferior court to award execution thereupon.

In all civil cases in the consular and district courts, where a judgment for money is rendered, if the party against whom such judgment is rendered appeals and desires to have execution stayed, he shall execute a bond to the appellee in such sum as may be fixed by the court, with sureties to be approved by the clerk, which bond shall be filed with the clerk, conditioned to pay any final judgment that may be rendered against him. The appellant may prosecute his appeal without bond, but in such case execution shall not be stayed.

Sec. 7. Any citizen of the United States residing in China or Japan, and owing more than two hundred dollars, may be declared an insolvent debtor: First, when he departs from the consular district in which he resides with intent to defraud his creditors, or, being absent, remains absent with such intent; second, when he conceals himself to avoid service of legal process in any action for the recovery of a debt or demand provable in insolvency; third, when he conceals or disposes of his property in any part of the country in which he resides for the purpose of delaying or defrauding his creditors; fourth, when an execution against him shall be returned unsatisfied after demand upon the debtor to expose sufficient property to satisfy it, and neglect to do so for a period of ten days. Any such citizen may also voluntarily become an insolvent debtor on his own petition. All these provisions apply to partnerships.

The consular court of the district in which the insolvent resides shall have jurisdiction of the case, and that general jurisdiction shall extend to all parts of the country in which the insolvent resides. The courts shall have power to receive petitions setting forth the causes for insolvency, to administer oaths, to take proof in support of and against debts, to punish for contempt, to order choice of assignees, to make and execute assignments, to order sales of real and personal property, to order payment of dividends, to discharge debtors, and generally to do any and all things which a court of insolvency usually can do to settle and distribute the estate of an insolvent debtor.

The Secretary of State and the Attorney-General shall, as part of the code which they are hereinafter authorized to make, provide regulations for the form of petitions, for the filing schedules of debts and liabilities, for the proof of debts, for the choice of assignees, for the declaration of dividends, for the sale of real or personal property, for the discharge of the insolvent, or for refusing the same and the causes therefor, for the settlement of the estate, for the amount of fees and costs, and any other necessary matters, and may direct that any or all of such proceeds, after filing the original petition, except the discharge of the debtor, may be done by the clerk as master in chancery.

An assignment, when executed, shall relate back to the commencement of the proceedings in insolvency, and by operation of law shall vest the title to all the property and estate of the insolvent, real and personal, in the country in which he resides, with all his deeds, books, and papers relating thereto in the assignee, and shall dissolve all mortgages and liens created within sixty days preceding the date of the petition in insolvency, created to secure a pre-existing debt, and all such mortgages and liens are hereby declared to be fraudulent and void as against an assignee in insolvency.

Every such citizen may have and hold, exempted from execution and from the operation of an insolvent law, his necessary household and kitchen furniture, according to his station in life, but to an amount not
exceeding five hundred dollars, and the necessary wearing apparel of himself and of his wife and children, and his library and books to the value of not more than two hundred dollars, family portraits, the watches usually worn by himself and his wife, and sufficient food for himself and his family for not more than twenty days. With this exception an assignment shall vest in the assignee all the property and estate of the insolvent as aforesaid, and all property conveyed by him in fraud of his creditors, and generally all the rights in and to any of such property which an assignee of a bankrupt might have enjoyed under the provisions of the Revised Statutes.

A creditor whose debt is secured by mortgage of real estate, or pledge, or hypothecation of personal property of the debtor, cannot prove his debt in insolvency unless he first surrenders his lien or mortgage, and a proof of such debt shall work a surrender and discharge of the lien or mortgage.

The following claims are entitled to preference or priority in payment: First, fees, costs, and expenses of the proceedings in insolvency; second, debts due to the United States; third, wages to operatives, clerks, or house servants, incurred within three months before the date of the petition.

Appeals from proceedings in insolvency shall be taken to the district court of the district in which the consular is situated. Appeals from suits brought by assignees in other consular courts to recover property shall be taken to the district court of the district in which said last-named consular court is situated; but no appeal shall be taken in any case unless the amount involved is such as would permit the appeal of an ordinary civil suit.

Sec. 8. In all other such places out of the territory and dominion of the United States such jurisdiction shall be exercised through and by consular courts in manner as provided by the Revised Statutes as amended and changed by this section.

Sections 4091, 4092, 4093, 4094, 4095, 4096, 4101, 4102, 4105, 4106, 4108, 4117, 4118, 4119, 4120, 4123, 4124, and 4128 are hereby repealed.

Sections 4092 to 4090, both inclusive, 4097, 4098, 4099, 4100, 4103, 4104, 4107, 4109 to 4116, both inclusive, 4121, 4122, 4125, 4126, 4127, 4129, and 4130 are amended so as to read as in this section set forth, and are hereby re-enacted as part of this act in the following words and figures:

[Matter stricken out in original inserted within brackets; amendments in italics.]

Sec. 4082. Marriages in presence of any consular officer of the United States in a foreign country, between persons who would be authorized to marry [if residing in the District of Columbia], under the provisions of section 12 of this act, shall be valid to all intents and purposes, and shall have the same effect as if solemnized within the United States. When the laws of the country in which a consulate is situated require marriages to be celebrated before a civil officer of the country, the presence of the consul at the civil ceremony shall be taken to be a compliance with the provisions of this act. And such consular officers shall, in all cases, give to the parties married before them a certificate of such marriage, and shall send another certificate thereof to the Department of State, there to be kept; such certificates shall specify the names of the parties, their ages, places of birth, and residence.

Sec. 4083. To carry into full effect the provisions of the treaties of the United States with China, Japan, Siam, Egypt, and Madagascar, respectively, the minister and the consuls of the United States, duly appointed to reside in each of those countries, shall, in addition to other powers and duties imposed upon them, respectively, by the pro-
visions of such treaties, respectively, be invested with the judicial authority herein described, which shall appertain to the office of [minister and] consul, and be a part of the duties belonging thereto, wherein, and so far as, the same is allowed by treaty.

Sec. 4084. The officers mentioned in the preceding section are fully empowered to arraign and try, in the manner herein provided, except as otherwise provided as to offenses committed in China and Japan, all citizens of the United States charged with offenses against law, committed in such countries, respectively, and to sentence such offenders in the manner herein authorized; and each of them is authorized to issue all such processes as are suitable and necessary to carry this authority into execution.

Sec. 4085. Such officers are also invested with all the judicial authority necessary to execute the provisions of such treaties, respectively, in regard to civil rights, whether of property or person, except as otherwise provided as to China and Japan; and they shall entertain jurisdiction in matters of contract, at the port where, or nearest to which, the contract was made, or at the port at which, or nearest to which, it was to be executed, and in all other matters, at the port where, or nearest to which, the cause or controversy arose, or at the port where, or nearest to which the damage complained of was sustained, provided such port be one of the ports at which the United States are represented by consuls. Such jurisdiction shall embrace all controversies between citizens of the United States, or others, provided for by this act or by such treaties, respectively.

Sec. 4086. Jurisdiction in both criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, hereinafore enacted or hereafter to be enacted, which are hereby, so far as is necessary to execute such treaties, respectively, and so far as they are suitable to carry the same into effect, extended over all citizens of the United States in those countries, and over all others to the extent that the terms of the treaties, respectively, justify or require. But in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law and the law of equity and admiralty shall be extended in like manner over such citizens and others in those countries; and if neither the common law, nor the law of equity or admiralty, nor the statutes of the United States, furnish appropriate and sufficient remedies, the [ministers in those countries, respectively] Secretary of State and Attorney-General shall, by [decrees and] regulations to be approved by the President, which shall have the force of law, supply such defects and deficiencies.

Sec. 4087. Each of the consuls mentioned in section forty hundred and eighty-three, at the port for which he is appointed, is authorized upon facts within his own knowledge, or which he has good reason to believe true, or upon complaint made or information filed in writing and authenticated in such way as shall be prescribed by [the minister] regulations by the Secretary of State and the Attorney-General, with the President's approval, to issue his warrant for the arrest of any citizen of the United States charged with committing in the country an offense against law; and to arraign and try any such offender; and to sentence him to punishment in the manner herein prescribed.

Sec. 4088. The powers conferred upon consuls by this act not specially relating to China, Japan, or the dominions of the Ottoman Porte are also extended to consuls and commercial agents of the United States at islands or in countries not inhabited by any civilized people, or recognized by
any treaty with the United States [are authorized to try, hear, and de-
termine all cases in regard to civil rights, whether of person or property,
where the real debt or damages do not exceed the sum of one thousand
dollars, exclusive of costs, and, upon full hearing of the allegations and
evidence of both parties, to give judgment according to the laws of the
United States, and according to the equity and right of the matter, in
the same manner as justices of the peace are now authorized and em-
powered where the United States have exclusive jurisdiction. They are
also invested with the powers conferred by the provisions of sections
forty hundred and eighty-six and forty hundred and eighty-seven for
trial of offenses or misdemeanors].

Sec. 4089. Any consul when sitting alone may also decide all cases
in which the fine imposed does not exceed [five] two hundred dollars, or
the term of imprisonment does not exceed [ninety days] six months; but
in all such cases, if the fine exceeds [one] two hundred dollars, or
the term of imprisonment for misdemeanor exceeds [sixty days], the de-
fendants or any of them, if there be more than one, may take the case,
by appeal, before the minister, if allowed jurisdiction, either upon errors
of law or matters of fact, under such rules as may be prescribed by the
minister for the prosecution of appeals in such cases [six months], or the
offense is punishable with death, a jury shall be had to try the facts. If a jury
of five impartial citizens of the United States cannot be obtained, the consul
may proceed to trial with three such citizens. If within a consular district
within the dominion of the Ottoman Porte it shall be impossible to find three
such citizens, he shall report the fact to the principal diplomatic officer of
the United States at Constantinople, who shall thereupon fix a day for the
trial of the accused, and shall order three disinterested consular officers of
the United States serving within said dominions, but not within the con-
sular district in which the accused is to be tried, to proceed to the place of
trial and act as jurors. If the offense is punishable with death, and there
be a diplomatic representative of the United States in the country in which
the consulate is situated, the consular officer shall report the proceedings in
full without delay to him, calling attention to any palliating circumstances.

If there be no such representative there, the consul shall report the case to
the Secretary of State and await instructions.

Sec. 4090. [Capital cases for murder or insurrection against the gov-
ernment of either of the countries hereinbefore mentioned, by citizens
of the United States, or for offenses against the public peace amounting
to felony under the laws of the United States, may be tried before the
minister of the United States in the country where the offense is
committed if allowed jurisdiction; and every such minister, on the
representation of any diplomatic or naval officer of the United States, any
court under this act may issue all manner of writs, to prevent the citi-
zens of the United States from enlisting in the military or naval service
of either of the said countries, to make war upon any foreign power
with whom the United States are at peace, or in the service of one por-
tion of the people against any other portion of the same people; and
he may carry out this power by a resort to such force belonging to the
United States, as may at the time be within his reach.

[Sec. 4091. Each of the ministers mentioned in section forty hundred
and eighty-three shall, in the country to which he is appointed, be fully
authorized to hear and decide all cases, criminal and civil, which may
come before him, by appeal, under the provisions of this title, and to
issue all processes necessary to execute the power conferred upon him;
and he is fully empowered to decide finally any case upon the evidence
which comes up with it, or to hear the parties further, if he thinks jus-
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...
rendered thereon, and execution issue in compliance with the terms thereof. The parties, however, may always settle the same before return thereof is made to the consul.

SEC. 4099. In all criminal cases which are not of a heinous character, it shall be lawful for the parties aggrieved or concerned therein, with the assent of the minister in the country, or consul of the district to adjust and settle the same among themselves, upon pecuniary or other considerations.

SEC. 4100. The ministers and consuls shall be fully authorized to call upon the local authorities to sustain and support them in the execution of the powers confided to them by treaty, and on their part to do and perform whatever is necessary to carry the provisions of the treaties into full effect, so far as they are to be executed in the countries, respectively.

SEC. 4101. In all cases, except as herein otherwise provided, the punishment of crime provided for by this title shall be by fine or imprisonment, or both, at the discretion of the officer who decides the case, but subject to the regulations herein contained, and such as may hereafter be made. It shall, however, be the duty of such officer to award punishment according to the magnitude and aggravation of the offense. Every person who refuses or neglects to comply with the sentence passed upon him shall stand committed until he does comply, or is discharged by order of the consul, with the consent of the minister in the country.

SEC. 4102. Insurrection or rebellion against the government of either of those countries, with intent to subvert the same, and murder, shall be capital offenses, punishable with death; but no person shall be convicted of either of those crimes unless the consul and his associates in the trial all concur in opinion, and the minister also approves of the conviction. But it shall be lawful to convict one put upon trial for either of these crimes, of a less offense of a similar character, if the evidence justifies it, and to punish as for other offenses, by fine or imprisonment or both.

SEC. 4103. Whenever any person is convicted of either of the crimes punishable with death, in either of those countries, it shall be the duty of the minister to issue his warrant for the execution of the convict, appointing the time, place, and manner; but if the minister is satisfied that the ends of public justice demand it he may from time to time postpone such execution; and if he finds mitigating circumstances which authorize it, he may submit the case to the President for pardon.

SEC. 4104. No fine imposed by a consul for a contempt committed in presence of the court, or for failing to obey a summons from the same, shall exceed fifty dollars, nor shall the imprisonment exceed twenty-four hours for the same contempt.

SEC. 4105. Any consul, when sitting alone for the trial of offenses or misdemeanors, shall decide finally all cases where the fine imposed does not exceed one hundred dollars, or the term of imprisonment does not exceed sixty days.

SEC. 4106. Whenever, in any case, the consul is of the opinion that, by reason of the legal questions which may arise therein, assistance will be useful to him, or whenever he is of opinion that severer punishments than those specified in the preceding sections will be required, he shall summon, to sit with him on the trial, one or more citizens of the United States, not exceeding four, and in capital cases not less than four, who shall be taken by lot from a list which had previously been submitted to and approved by the minister, and shall be persons of good repute and competent for the duty. Every such associate shall enter upon the
record his judgment and opinion, and shall sign the same, but the consul shall give judgment in the case. If the consul and his associates concur in opinion, the decision shall, in all cases, except of capital offenses and except as provided in the preceding section, be final. If any of the associates differ in opinion from the consul, the case, without further proceedings, together with the evidence and opinions, shall be referred to the minister for his adjudication, either by entering up judgment therein, or by remitting the same to the consul, with instructions how to proceed therewith.

Sec. 4107. [Each of the consuls mentioned in section four thousand and eighty-three shall have at the port for which he is appointed, jurisdiction as herein provided, in all civil cases arising under such treaties, respectively, wherein the damages demanded do not exceed the sum of five hundred dollars; and, if he sees fit to decide the same without aid, his decision thereon shall be final. But whenever he is of opinion that any such case involves legal perplexities, and that assistance will be useful to him, or whenever the damages demanded exceed five hundred dollars, he shall summon, to sit with him on the hearing of the case, not less than two nor more than three citizens of the United States, if such are residing at the port, who shall be taken from a list which had previously been submitted to and approved by the minister, and shall be of good repute and competent for the duty. Every such associate shall note upon the record his opinion, and also, in case he dissents from the consul, such reasons therefor as he thinks proper to assign; but the consul shall give judgment in the case. If the consul and his associates concur in opinion, the judgment shall be final. If any of the associates differ in opinion from the consul, either party may appeal to the minister, under such regulations as may exist; but if no appeal is lawfully claimed, the decision of the consul shall be final. Except in China and Japan, for which provision has already been made, in every civil case pending before a consular court involving more than two hundred dollars exclusive of costs, either party may demand a jury on the terms and conditions in this act provided; the jury, if summoned, shall be judge of the facts, and the consular court shall be judge of the law. If the amount involved exclusive of costs in a case pending in the consular court in the Ottoman dominions is more than one thousand dollars, either party may appeal to the consul-general at Constantinople for a review on questions of law. The appeal to be taken within such time and on such terms as to security and stay of execution, and in such manner as the Secretary of State and the Attorney-General may provide in said code. The consul-general shall hear such appeal, and after deciding the same, remand the case to the consular court, either for entry or final judgment, in accordance with his decision, or for such further proceedings as may be necessary.

Sec. 4108. The jurisdiction allowed by treaty to ministers, respectively, in the countries named in section four thousand and eighty-three shall be exercised by them in those counties, respectively, wherever they may be.

Sec. 4109. The jurisdiction of such ministers in all matters of civil redress, or of crimes, except in capital cases for murder or insurrection against the governments of such countries, respectively, or for offenses against the public peace, amounting to felony under the laws of the United States, shall be appellate only: Provided, That in any diplomatic officer of the United States may hear cases, or another consular officer in the same county may be ordered to hear cases where a consular officer is interested, either as party or witness, such minister shall have original jurisdiction.
SEC. 4110. All such officers shall be responsible for their conduct to the United States, and to the laws thereof, not only as [diplomatic or] consular officers, but as judicial officers, when they perform judicial duties, and shall be held liable for all negligences and misconduct as public officers.

SEC. 4111. The President is authorized to appoint one marshal for each of the judicial districts in China and Japan, and one for Turkey and one for Siam, each of whom shall receive a salary of one thousand dollars a year, in addition to the fees allowed under this act. Each such marshal may appoint one or more deputies, who shall be compensated from the fees under this act, and for whose official acts the marshal shall be responsible. Marshals for such of the consular courts in those countries as he may think proper, not to exceed seven in number, namely, one in Japan, four in China, one in Siam; and one in Turkey, each of whom shall receive a salary of one thousand dollars a year, in addition to the fees allowed by the regulations of the ministers, respectively, in those countries.

SEC. 4112. It shall be the duty of the marshals, respectively, to execute all process issued by the [minister] courts of the United States in those countries, respectively, [or by the consul at the port at which they reside,] and to make due return thereof to the officer by whom it was issued, and to conform in all respects to the regulations prescribed [by the ministers, respectively,] in regard to their duties.

SEC. 4113. Each marshal, before entering upon the duties of his office, shall give bond for the faithful performance thereof in a penal sum not to exceed ten thousand dollars, with two sureties to be approved by the district judge for China, or the district judge for Japan, or the consul-general at Constantinople, or the consul at Bangkok, as the case may be [Secretary of State.] Such bond shall be transmitted to the Secretary of the Treasury, and a certified copy thereof be lodged in the office of the [minister] clerk of the court in China or Japan, or of the consul-general at Constantinople, or of the consul at Bangkok.

SEC. 4114. Whenever any person desires to bring suit upon the bond of any such marshal, it shall be the duty of the Secretary of the Treasury, or of the [minister] clerk, consul-general, or consul, having custody of a copy of the same, to give to the person so applying a certified copy thereof, upon which suit may be brought and prosecuted with the same effect as could be done upon the original: Provided, The Secretary of the Treasury, or the [minister] clerk, consul general, or consul, to whom the application is made, is satisfied that there is probable cause of action against the marshal.

SEC. 4115. Upon a plea of non est factum, verified upon oath, or any other good cause shown, the court [or the consul or minister] trying the cause may require the original bond of the marshal in those countries to be produced; and it shall be the duty of the Secretary of the Treasury to forward the original bond to the court [or consul or minister] requiring the same.

SEC. 4116. All rules, orders, writs, and processes of every kind which are intended to operate or be enforced against any of the marshals, in any of the countries named in this title, shall be directed to and executed by such persons as may be appointed for that purpose by the [minister or] consul issuing the same.

[SEC. 4117. In order to organize and carry into effect the system of jurisprudence demanded by such treaties, respectively, the ministers, with the advice of the several consuls in each of the countries, respectively, or of so many of them as can be conveniently assembled, shall prescribe the forms of all processes to be issued by any of the consuls;
the mode of executing and the time of returning the same; the manner
in which trials shall be conducted, and how the records thereof shall be
kept; the form of oaths for Christian witnesses, and the mode of exam-
ining all other witnesses; the costs to be allowed to the prevailing party,
and the fees to be paid for judicial services; the manner in which all
officers and agents to execute process, and to carry this title into effect,
shall be appointed and compensated; the form of bail-bonds, and the
security which shall be required of the party who appeals from the de-
cision of a consul; and shall make all such further decrees and regula-
tions from to time, under the provisions of this title, as the exigency
may demand.\[SEC. 4118. All such regulations, decrees, and orders shall be plainly
drawn up in writing, and submitted, as hereinbefore provided, for the
advice of the consuls, or as many of them as can be consulted without
prejudicial delay or inconvenience, and such consul shall signify his as-
sent or dissent in writing, with his name subscribed thereto. After
taking such advice, and considering the same, the minister in each of
those countries may, nevertheless, by causing the decree, order, or regu-
lation to be published with his signature thereto, and the opinions of
his advisers inscribed thereon, make it binding and obligatory, until
annulled or modified by Congress; and it shall take effect from the pub-
lication or any subsequent day thereto named in the act.\]

[SEC. 4119. All such regulations, orders, and decrees shall, as speedily
as may be after publication, be transmitted by the ministers, with the
opinions of their advisers, as drawn up by them severally, to the Secre-
tary of State, to be laid before Congress for revision.\]

[SEC. 4120. It shall be the duty of the minister in each of those coun-
tries to establish a tariff of fees for judicial services, which shall be paid
by such parties, and to such persons, as the minister shall direct; and
the proceeds shall, as far as is necessary, be applied to defray the ex-
penses incident to the execution of this title; and regular accounts, both
of receipts and expenditures, shall be kept by the minister and con-
suls, and transmitted annually to the Secretary of State.\]

SEC. 4121. The President, when provision is not otherwise made, is
authorized to allow, in the adjustment of the accounts of each of the
ministers or consuls, the actual expenses of the rent of suitable buildings,
or parts of buildings to be used as prisons for American convicts in those
countries, not to exceed in any case the rate of six hundred dollars a year;
and also the wages of the keepers of the same, and for the care of offend-
ers, not to exceed, in any case, the sum of eight hundred dollars per annum.
But no more than one prison shall be hired in Japan, four in China, one
in Turkey, and one in Siam, at such port or ports as the minister, with
the sanction of the President, may designate, and the entire expense of
prison and prison keepers at the consulate of Bangkok, in Siam, shall
not exceed the sum of one thousand dollars a year. The minister of the
United States in China shall, under direction of the Secretary of State, as
soon as possible after the passage of this act, purchase, or lease for a term of
not less than ten years, with privilege of renewal for ten years more a
suitable building or buildings for court-house, with convenient rooms for
the offices of the clerk, marshal, janitors, and other attendants of the court,
and also a suitable, safe, and convenient room for a prison, which shall be
used for the confinement of persons undergoing sentence after conviction,
and of such accused persons as may be held awaiting trial, at each of the
following places in China, viz: Canton, Shanghai, and Tien-Tsin. The
minister of the United States in Japan shall under like directions purchase
or lease for a similar period and upon the same conditions, suitable buildings
for such court-house and offices, and a suitable building for a prison at Yokohama; and the minister of the United States for the Ottoman Empire shall purchase or lease for a similar period and under like conditions suitable buildings for the same purposes at Constantinople, and a building for a prison at Smyrna. The contracts in each case shall be submitted to the Secretary of State before being concluded, and the necessary amount of money for these purposes is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

Sec. 4122. The President is authorized to allow in the adjustment of the accounts of the consuls general or consuls within whose districts a prison is situated, the necessary wages of the keepers of the prison and the necessary expenses of the care of offenders not exceeding five thousand dollars a year in all at Shanghai, or two thousand five hundred dollars a year at Yokohama, or one thousand five hundred dollars a year at any other place; at Shanghai the actual expense of the rent of a suitable building to be used as a prison for American convicts in China not to exceed one thousand five hundred dollars a year; and also the wages of the keepers of the same and for the care of offenders not to exceed five thousand dollars a year; and to allow in the adjustment of the accounts of the consuls at other ports in China the actual expense of the hire of constables and the care of offenders, not to exceed in all five thousand dollars a year.

[Sec. 4123. The President is hereby authorized to allow in the adjustment of the accounts of the consul at Kanagawa, the actual expense of the rent of a suitable building to be used as a prison for American convicts in Japan, not to exceed seven hundred and fifty dollars a year; and also the wages of the keepers of the same; and for the care of offenders, not to exceed two thousand five hundred dollars a year; and to allow in the adjustment of the accounts of the consuls at other ports in Japan the actual expense of the hire of constables and the care of offenders, not to exceed in all two thousand five hundred dollars a year.]

Sec. 4124. The Secretary of State through the minister resident at Japan, is authorized to rent, furnish, and keep suitable buildings, with grounds appurtenant in Yeddo, or such other place as he may designate, for a court-house and jail, at an annual cost not exceeding five thousand dollars: Provided, That the period for which the buildings shall be rented shall be for two years, with renewals for two years, as the Secretary of State may determine.

Sec. 4125. The provisions of this title, so far as the same relate to crimes and offenses committed by citizens of the United States, shall extend to Turkey, under the treaty with the Sublime Porte of May seventh, eighteen hundred and thirty, and shall be executed in the Ottoman dominions in conformity with the provisions of the treaty, and of this title, by [the minister and] the consuls appointed to reside therein, who are hereby ex-officio vested with the powers herein conferred upon [the ministers and consuls] courts in China, for the purposes above expressed, so far as regards the punishment of crime, and also for the exercise of jurisdiction in civil cases wherein the same is permitted by the laws of Turkey, or its usages in its intercourse with the Franks or other foreign Christian nations.

Sec. 4126. The provisions of this title shall extend to Persia, in respect to all suits and disputes which may arise between citizens of the United States therein; and the [minister and] consuls or agents who may be appointed to reside in Persia are hereby invested, in relation to such suits and disputes, with such powers as are by this title conferred upon the [ministers and consuls] courts in China. All suits and disputes
arising in Persia between Persian subjects and citizens of the United States shall be carried before the Persian tribunal to which such matters are usually referred, at the place where a consul or agent of the United States may reside, and shall be discussed and decided according to equity, in the presence of an employé of the consul or agent of the United States; and it shall be the duty of the consular officer to attend the trial in person, and see that justice is administered. All suits and disputes occurring in Persia between the citizens of the United States and the subjects of other foreign powers shall be tried and adjudicated by the intermediation of their respective ministers or consuls, in accordance with such regulations as shall be mutually agree upon by the minister of the United States for the time being, and the ministers of such foreign powers, respectively, which regulations shall from time to time be submitted to the Secretary of State.

SEC. 4127. The provisions of this title, so far as the same are in conformity with the stipulations in the existing treaties between the United States and Tripoli, Tunis, Morocco, and Muscat, respectively, shall extend to those countries, and shall be executed in conformity with the provisions of the treaties, and of the provisions of this title, by the consuls appointed by the United States to reside therein, who are hereby ex-officio invested with the powers herein delegated to the ministers and consuls of the United States appointed to reside in the countries named in section forty hundred and eighty-three, so far as the same can be exercised under the provisions of treaties between the United States and the several countries mentioned in this section, and in accordance with the usages of the countries in their intercourse with the Franks or other foreign Christian nations.

[SEC. 4128. If at any time there be no minister in either of the countries herebefore mentioned, the judicial duties which are imposed by this title upon the minister shall devolve upon the Secretary of State, who is authorized and required to discharge the same.]

SEC. 4129. The provisions of this title relating to the jurisdiction of consular and diplomatic officers over civil and criminal cases in the countries therein named, shall extend to any country of like character with which the United States may hereafter enter into treaty relations.

SEC. 4130. The word "minister," when used in this title, shall be understood to mean the person invested with, and exercising, the principal diplomatic functions. The word "consul" shall be understood to mean any person invested by the United States with, and exercising, the functions of consul general, vice-consul general, deputy consul general, consul, or vice-consul, deputy consul, commercial agent, or vice commercial agent.

SEC. 9. The following provisions relating to limitations of actions shall be in force as to all actions in the courts of the United States in any and all the said places out of the territory or domain of the United States:

No action for the recovery of real property or for the recovery of the possession thereof shall be maintained unless it appear that the plaintiff, his ancestor, predecessor, or grantor was seized or possessed of the premises in question within twenty years before the commencement of such action, unless the person entitled to commence such action be, at the time the title to the property shall first descend or accrue, either within the age of twenty-one years, or insane, or imprisoned on a criminal charge, or in execution upon conviction of a criminal offense for a term less than life. In case of either such disability, such action may
be commenced within ten years after the disability has ceased, but not after that period.

The periods prescribed for the commencement of actions other than for the recovery of real estate are as follows:

On a judgment of a court of the United States, including the courts established hereby, or of any State or Territory, or on a sealed instrument within ten years after the cause of action accrues.

On all other actions or contracts and on all actions for torts, except as hereinafter provided, within six years after the cause of action accrues.

On actions against an officer of any of the said courts, in any of the said places, for alleged liability by reason of the doing of any act in his official capacity or the omission of an official duty; actions for the recovery of fines and penalties; actions for libel, slander, or false imprisonment, seduction, or breach of promise of marriage, within one year after the cause of action accrues.

But if the person entitled to bring any of the said actions other than for the recovery of real estate be at the time the cause of action accrues within the age of twenty-one years, or insane, or imprisoned on a criminal charge, or in execution under the sentence of a criminal court for a term less than his natural life, the time of such disability is not a part of the time limited for the commencement of the action, except that the period within which the action must be brought cannot be extended more than five years by any such disability, nor can it be extended in any case longer than one year after the disability ceases.

In construing these provisions and all the provisions of this act, the courts of the United States hereby authorized shall be governed by the decisions and rulings of the Supreme Court of the United States when there is found to be a conflict of opinion between that court and any other courts, but this shall not be construed as preventing any such court from enforcing any universally recognized commercial custom and usage at the port or place where such court is established, even though the same may differ from a commercial usage prevailing in the United States.

SEC. 10. Whenever it shall be made to appear to any court of the United States under this act that a similar court of any other power within the limits of the country within which the court is held denies to citizens of the United States the right to sue therein the citizens or subjects of such power, it shall be the duty of the court to suspend action in all suits pending therein in favor of the citizens or subjects of such power against citizens of the United States until the disability of citizens of the United States is removed. With this exception said courts of the United States are open to citizens and subjects of all nations to sue and prosecute to judgment suits against citizens of the United States residing within the judicial district of the court in which the suit is brought, subject to such rules and regulations regarding the conduct of such suits and security for costs as may be made by authority of law.

SEC. 11. No person shall be arrested or imprisoned on any civil process issuing out of any court provided for or referred to in this act, or on any execution issuing out of such court in any suit or proceeding instituted for the recovery of any money due upon any judgment or decree founded on contract or due on any contract express or implied, or for the recovery of any damages for the non-performance of any contract.

The provisions of section 7, relative to property which is exempted from being taken on execution in China and Japan, are extended to all the said places out of the territory and dominion of the United States.

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SEC. 12. Any consular officer of the United States, under directions of the Secretary of State, may assist in establishing and maintaining municipal governments in settlements occupied by Americans, Europeans, and other foreigners in any such place out of the territory and dominion of the United States. Citizens of the United States residing in such municipalities, either already organized or hereafter to be, are and shall continue to be subject to such regulations as fully as if they were imposed by due authority of law within the domains of the United States. The consular courts of the United States shall take jurisdiction of and enforce the regulations issued by such municipal bodies, of which a consular officer of the United States is a member, and render judgment for fines and penalties imposed by the same, and cause such judgments to be enforced, and make such disposition of such fines and penalties when collected as may be provided in the municipal regulations.

SEC. 13. Whenever, by custom, usage, capitulation, treaty, or otherwise, a consular officer of the United States has the right to sit in or be present at a sitting of a mixed court which takes jurisdiction of the rights of citizens of the United States, such officers are hereby empowered to be present at such sittings, and to do or perform such official acts with respect thereto as may be necessary or proper under such custom, usage, capitulation, treaty, or otherwise, under such regulations as the Secretary of State may from time to time prescribe.

SEC. 14. Whenever the evidence of a citizen of the United States resident or being within any of the consular districts of the United States referred to in this act shall be desired to be used before the consular or other court of some other power within the same district, the consular officer of the United States may, on request of the proper court, issue a writ of subpoena, and, if desired, a writ of subpoena duces tecum, requiring him to appear and testify before the said consular or other court; and on the failure of the witness so to appear, the consular officer may cause the offender to be arrested and may punish him for contempt as fully as he might do if the witness had been summoned to appear before the consular court of the United States and had failed to do so. The provisions of this section shall not be applied in favor of consular courts of other powers which deny similar favors to the consular and other courts of the United States.

SEC. 15. Depositions of citizens of the United States, or of other persons submitting voluntarily to the jurisdiction, to be used in any civil cause pending in any court hereby established, may be taken before such court, or the clerk thereof, or before any judge or consular officer or the clerk of any court in the country in which the cause is pending. The proceedings in taking and returning depositions shall be conducted according to the provisions of the Revised Statutes, so far as applicable thereto, and the said code to be prepared by the Secretary of State and the Attorney-General, and, in China and Japan, the rules which may be prescribed therefor by the respective supreme courts in those countries.

SEC. 16. The following provisions relating to fraudulent conveyances, and to assignments, and to chattel mortgages, shall be in force as to citizens of the United States in all the said places out of the territory and dominion of the United States, and in all the courts of the United States therein:

All deeds, conveyances, transfers, or assignments, verbal or written, of goods, chattels, or things in action, made in trust for the use of the
person or persons making the same, shall be void as against creditors existing or subsequent.

Every agreement that by its terms is not to be performed within one year from the making thereof, and every special promise to answer for the debt, default, or miscarriage of another, shall be void unless such agreement, or some note or memorandum thereof expressing the consideration, be in writing and subscribed by the party to be charged thereby.

Every contract for the sale of any goods, chattels, or things in action for the price of fifty dollars or more shall be void unless a note or memorandum of such contract be made in writing and be subscribed by the parties to be charged thereby, or unless the buyer shall accept and receive part of said goods, or the evidences, or some of them, of such things in action, or unless the buyer shall at the time pay some part of the purchase-money.

Every assignment of goods and chattels by way of mortgage or security, or upon any condition whatever, shall be presumed to be fraudulent and void, as against the creditors of the person making such assignment, or subsequent purchasers in good faith, unless the same be accompanied by immediate delivery and be followed by an actual and continued change of possession, or unless the mortgage, or a true copy thereof, be filed with the clerk of the consular court of the district in which the property is situated; and the clerks of said courts are hereby required to receive such papers when offered for filing, and to keep them where they can be seen and examined, and to keep a register wherein shall be noted all such mortgages or copies filed and the date of each filing.

Every conveyance of every estate or interest in lands, or the rents and profits of land, made or created with intent to defraud prior or subsequent purchasers for a valuable consideration, as against such purchasers, shall be void.

Every contract for leasing real estate for a longer period than one year, or for the sale of any lands or interests in land, shall be void unless the contract, or some note or memorandum thereof expressing the consideration, shall be in writing and be subscribed by the party by whom the lease or sale is to be made.

Every instrument required by any of the provisions of this section to be subscribed by any party may be subscribed by the lawful agent of such party.

SEC. 17. The following provisions in regard to marriages and divorces and the rights of married women shall be in force as to citizens of the United States in all the said places out of the territory and dominion of the United States:

Marriages between parents and children, and grandparents and grand-children of every degree, ascending and descending, and between brothers and sisters of the half as well as the whole blood, are declared to be incestuous and void, whether the children and relatives are legitimate or illegitimate.

Marriages solemnized before a consular officer according to the provisions of section 4082 of the Revised Statutes may be solemnized either by a minister of the gospel or by a consular officer.

The said district courts of the United States shall have jurisdiction to pronounce sentences of nullity of marriages contracted within their respective judicial districts when it appears that the former husband or wife of one of the parties was living at the time of the marriage, and that the marriage with such former husband or wife was then in force; and to decree a divorce and a dissolution of a marriage for the cause of
adultery committed by either husband or wife within the judicial dis-
trict of the court; and a separation from bed and board forever, or for
a limited time, for the following causes happening in such judicial dis-
trict: 1st. Cruel and inhuman treatment of the wife by the husband;
2d. Abandonment of the wife by the husband, and his refusal or neglect
to provide for her; and the court may in any of said cases make such
decree for the suitable support and maintenance of the wife and chil-
dren, or any part of them, by the husband, as may appear just and proper.

The real and personal property of any married woman, a citizen of
the United States, within any of the said places out of the territory and
domination of the United States, which she shall own at the time of a mar-
riage in such place, and the rents, issues, and profits thereof, shall not
be subject to the disposal of her husband, nor liable for his debts, and
shall continue her sole and separate property as if she were a single
female.

When a wife separated or divorced from her husband has a right to
the custody of her minor children, and is deprived thereof by her hus-
band, she shall be entitled, on application to the district court, to have
a writ of habeas corpus for the production of the child or children before
the court, and on the return of the writ the court may make such order
thereon respecting the custody of the child or children as may be just.

SEC. 18. The following provisions respecting the probate of wills, set-
tlement of estates of deceased persons, succession to property, guardians
of minors, and other similar matters are to be in force, in all said places
out of the territory and dominion of the United States, as to citizens of
the United States and their properties and estates:

All such citizens, including married women, not being idiots or per-
sons of unsound mind, or infants, may devise real estate and bequeath
property by will, made in writing, subscribed and published by the tes-
tator as his last will and testament, in the presence of at least one per-
son, who, in the testator's presence and at his request, affixes his name
thereof as a subscribing witness.

Power is hereby conferred upon the Secretary of State and the Attor-
ney-General to frame, as part of the code hereinafter provided for, full
provisions respecting the mode of proof of wills, all necessary proceed-
ings in the settlement and distribution of the estates, both of testates
and intestates, and the care and custody of the estates of minors during
proceedings in probate.

The consular courts are hereby made courts of probate with respect
to the property of citizens of the United States, dying in their respect-
ive consular districts, with full power, in the manner which may be
provided by such code, to cause probate of wills, to issue letters testa-
mentary, or letters of administration, to cause the estates of deceased
persons to be settled, and after payment of just debts and expenses, to
distribute the surplus, to appoint guardians of minor children, to fix the
amount of security to be required of executors and guardians, to pass
upon their accounts, and generally to do any and all acts usually done
by a court of probate in such cases.

Under such rules regulating appeals as may be made by the Supreme
Court for China and Japan appeals may be taken from consular courts
to the proper district court from decrees, approving or rejecting a will,
or any interlocutory proceeding affecting private rights to the ex-
tent of five hundred dollars, or from a decree of distribution when any
one distributive share amounts to five hundred dollars. The district
court may, when justice requires it, order proceedings in the consular
court stayed, pending proceedings in the district court, and on render-
ing judgment shall remand the case to the consular court with such order as shall be necessary to carry into effect the decree or judgment of the appellate court.

In case it becomes necessary to sell real estate or an interest therein in order to pay the just debts, or settle the estate of a deceased person, the probate court may order the sale, taking such steps with reference thereto as may be prescribed in such code.

The distribution of such surplus estate shall be made as follows: One-third part thereof to the widow and all the residue by equal portions among the children, and such persons as shall legally represent such children, if any of them have died before the deceased. If there be no children, nor any legal representatives of them, one moiety of the whole surplus shall be allotted to the widow and the other moiety to the next of kin in equal parts.

If the deceased leave a widow and no descendant, parent, brother or sister, the whole surplus shall be allotted to the widow, and if he leave no widow the whole surplus shall be distributed among the children in equal parts, and the representatives of any child that may have died before the deceased shall take the share of such child.

SEC. 19. Real estate owned by citizens of the United States in such places out of the territory and dominion of the United States, who shall die without devising the same shall descend in manner following: 1, to his lineal descendants; 2, to his father; 3, to his mother; 4, to his collateral heirs.

If the intestate shall have several descendants in the direct line of lineal descent, and all of equal degree of consanguinity to such intestate, the inheritance shall descend to such persons in equal parts, however remote from the intestate the common degree of consanguinity may be, and if any of such persons shall have died before the intestate, leaving children, such children shall take his or her share in equal parts.

But the consular court, as a court of probate, may, on petition of any party interested, order any or all such real estate to be sold for the purpose of distribution, and in that event the proceeds shall be distributed in the same way and to the same persons to whom the real estate would have fallen by descent.

SEC. 20. The following provisions as to partnerships shall be in force in all the said places out of the territory and dominion of the United States, so far as concerns the citizens of the United States, and the consular and other said courts hereby provided for:

A copartnership, of which a citizen of the United States is a general partner, may sue and be sued in said courts, and proceeding had in any such suit as if all the parties were members, except that executors shall not issue against the separate property of a member who is not a citizen of the United States.

Persons desiring to form a partnership in any consular district for the transaction of business, with a limited liability, may do so under rules and regulations to be made by the Secretary of State. Power is hereby conferred upon the Secretary to make and publish and from time to time to change such rules and regulations, provided that none shall be made which do not provide for making public in the consular district where the business is to be transacted, a certificate to be signed by all the proposed partners, wherein shall be stated the names of all the partners, the amount of the cash capital contributed by each, the nature of the business, and the duration of the partnership. Any false statement in such certificate shall cause general liability of each and every partner for all the debts of the partnership.
SEC. 21. Every male citizen of the United States resident in China, Japan, the Ottoman dominions, or any other places covered by the provisions of this act, of the age of twenty one and upwards, being able to speak and read English, not having been convicted of any infamous crime, shall be qualified to serve on a jury. All persons so qualified shall be liable, except persons in the diplomatic service, officers and employees of the courts and prisons, officers in the Army or Navy, on duty, clergymen and ministers in the actual discharge of professional duties, attorneys in actual practice, and persons disabled by mental or bodily infirmity.

On or before the second Monday of January in each year a list shall be made out of persons residing in the district and qualified to serve as jurors. This list shall be conspicuously posted in the court room and consular until the 31st of the same month. As soon thereafter as it can conveniently be done, the consul shall in open court revise and settle the list for the current year, and until the next list shall be settled.

Whenever a jury is required the court shall summon at least fifteen persons from the said list. Any one failing to appear when so summoned shall be liable to such fine, not exceeding fifty dollars, as the court may see fit to impose, to be collected in such manner as the court may direct.

A jury shall consist of five jurors, and shall be required to give a unanimous verdict. No person interested in the result shall sit as juror in a civil suit. In cases tried before a jury the rule of challenge shall be as follows: Challenges for cause shall be unlimited in civil and criminal cases, and all challenges for cause shall be tried by the court.

In civil actions there shall be no peremptory challenges. In criminal prosecutions peremptory challenges shall be allowed. If the case is capital the defendant nine and the government three, to be exercised alternately, the defendant challenging three and the prosecution one.

In all other felonies the defendant shall have five peremptory challenges and the government two, to be made in the same manner.

The parties to a civil action in which a jury is allowed may waive the same and submit the cause to trial by the court, but if one of such parties, after a waiver by the other, shall demand a jury, he may have a jury trial but must deposit with the clerk at the opening of court each day a sum sufficient to cover the per diem expenses of the jury for that day. If a jury shall be had in the absence of such waiver, by either party, then the plaintiff in the action shall make such per diem deposit for each day. The jury fees shall be taxed as costs in favor of the prevailing party in the action, and be recoverable as part of the judgment from the party against whom a final judgment shall be rendered.

Jurors shall receive for their subsistence, while in attendance on court, three dollars each per day, and shall also be entitled to traveling expenses at the rate of eight cents per mile from their homes to the place of holding court, and from such place to their homes, respectively.

The clerk shall pay the jurors fees and mileage from a roll which shall be provided by him for each term of the district court, and be known as "the court pay-roll for the term of 18—," out of any funds in his hands from which court expenses are payable, as hereafter provided; each juror on receiving his per diem and mileage fees shall sign his proper signature to such roll, and the court pay-roll, thus signed and approved by the signature of the district judge, shall be the clerk's sufficient voucher.

SEC. 22. The following provisions as to punishments and penalties for crimes and offences committed by citizens of the United States,
shall be in force in all of said places out of the territory and dominion of the United States.

In all cases except as herein otherwise provided the punishment of crimes and offences shall be by fine or imprisonment or both.

Every person convicted of murder shall be condemned and sentenced to suffer death.

Every person convicted of manslaughter or of assault with intent to kill shall be sentenced to suffer imprisonment for not less than two or more than eight years.

Every person convicted of rape, or of being accessory thereto before the fact, shall be sentenced to suffer imprisonment for not less than ten or more than twenty years.

Every person convicted of assault with intent to commit a rape shall be sentenced to suffer imprisonment for not less than one or more than five years.

Every person convicted of burning or setting fire to, with intent to burn, any dwelling house or any other house, barn, or stable adjoining thereto and belonging to such dwelling, or any store house, warehouse, or shop, at the time used and occupied, or any church, meeting house, chapel, school-house, public library, public hall, theatre, or any ship or vessel in any harbor, shall be sentenced to imprisonment for not less than one or more than ten years.

Every person convicted of burglary, or of being accessory to, before the fact, or of robbery, or of being accessory to, before the fact, shall be sentenced to suffer imprisonment for not less than three or more than seven years.

Every person convicted of mayhem or bigamy, or as being accessory before the fact to either of said crimes, shall be sentenced to suffer imprisonment for not less than two or more than seven years.

Every person convicted of perjury or subornation of perjury shall be sentenced to suffer imprisonment for not less than two or more than ten years.

Every person convicted of having within any of the consular judicial districts falsely forged and counterfeited any gold or silver coin which now is, or shall hereafter be, passing or in circulation within China or Japan, or of having falsely uttered, paid, or tendered in payment any such counterfeit or forged coin, knowing the same to be false and counterfeit; or of having aided, abetted, or commanded the perpetration of either of the said offences; or of having falsely made, altered, forged, or counterfeited, or caused or procured to be falsely made, altered, forged, or counterfeited, or having willingly aided or assisted in falsely making, altering, forging, or counterfeiting any paper, writing, or printed paper to the prejudice of the right of any other person, body politic or corporate, or voluntary association, with intent to defraud such person, body politic or corporate, or voluntary association, or of having passed, uttered, or published, or attempted to pass, utter, or publish as true, any such falsely made, altered, forged, or counterfeited paper, writing, or printed paper, to the prejudice of the right of any other person, body politic or corporate, or voluntary association, knowing the same to be falsely made, altered, forged, or counterfeited, with intent to defraud such person, body politic or corporate, or voluntary association, shall be sentenced to suffer imprisonment and labor for not less than one or more than seven years.

Every person convicted of larceny when the value of the property stolen shall be fifty dollars or more shall be sentenced to suffer imprisonment for not less than one or more than three years.
Every person convicted of larceny where the value of the property stolen shall be less than fifty dollars shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than fifty dollars, or by imprisonment for not more than three months.

Every person who shall be convicted of receiving or buying stolen goods or money, knowing the same to have been stolen, with intent to defraud the owners thereof, if the value of the property shall be fifty dollars or upwards, shall be deemed guilty of a misdemeanor and be punished by imprisonment for not more than two years or less than six months.

Every person convicted of obtaining by false pretenses any goods or chattels, money, bank-note, promissory note, or any other instrument in writing for the payment or delivery of money or other valuable thing, or of keeping a faro bank or gaming table, shall be sentenced to suffer imprisonment for not less than one or more than five years.

Every person convicted of assault or assault and battery with intent to inflict a great bodily injury shall be sentenced to suffer imprisonment for not less than one or more than three years.

Every person convicted of assault or of assault and battery shall be punished by a fine of not less than five or more than fifty dollars, or by imprisonment for not more than thirty days.

Every person convicted by a consular court of any offence or misdemeanor, not enumerated in this act, and for which punishment is not provided herein, shall be punished by a fine not exceeding two hundred dollars or by imprisonment not longer than six months.

In all cases of conviction by a consular court for a breach of any municipal, city, or town ordinance the punishment shall be such as may be provided for the offence by such municipal, city, or town ordinances, but the punishment imposed in any such case shall not exceed a fine of fifty dollars or imprisonment for sixty days.

When the sentence or punishment is in whole or in part by fine the court may in its discretion add to the sentence that the person so fined shall stand committed until the fine is paid, but such commitment shall in no case exceed thirty days.

In all cases of conviction for crime, where the punishment provided by this section is by imprisonment for one year or more, the person sentenced may, in the discretion of the court, be condemned to labor at such work, if any, as may be provided for prisoners in the prison or place in which the sentence is to be carried out.

Sec. 23. The following provisions relating to clerks' fees, marshals' fees, and fees of interpreters shall apply to all of said places out of the territory and dominion of the United States:

The clerk shall tax and collect as a docket fee—

1. In all cases where the amount in controversy is not more than $500............. $5.00
2. Where the amount is over $500 and not more than $1,000.................... 10.00
3. Where the amount is over $1,000............................................ 15.00

4. Where no specific damages are sought the fee shall be graduated according to the nature of the case, not less than five dollars or more than fifteen dollars, to be determined by the court.

The clerks' fees shall be, for—

5. Issuing all writs, warrants, or other compulsory process................. $1.50
6. Docketing every suit commenced.............................................. 1.00
7. Issuing executions................................................................. 50
8. Issuing summons, subpoenas, and notices.................................. 25
9. All records and transcripts in appeals or for other purposes, for each hundred words................................................................. 15
10. Seal and certificate to such record or transcript ........................................... $1.00
11. Drawing any notice, paper, order, or process, on the request of any party to a suit or one interested therein, and which is not otherwise provided for, if such notice, paper, order, or process exceed two hundred words, for each additional hundred words ....................................................... 2.00
12. Filing each paper upon the return of the marshal and all other papers filed in court .......................................................... 1.00

The marshals' fees shall be, for—

13. Issuing any writ, warrant, or other compulsory process, for each person included in said writ or process ........................................... $0.25
14. Serving summons ................................................................................. 2.50
15. Each bail bond ..................................................................................... 1.00
16. Subpoena for each witness summoned .................................................. 25.00
17. Levying execution ................................................................................ 1.00
18. Advertising property for sale .................................................................. 2.00
19. Releasing property under execution by order of plaintiff ...................... 3.00
20. Selling property under execution, when the amount collected does not exceed $1,000, five per cent. If over one and not exceeding five thousand dollars, three per cent. If over five thousand dollars, two per cent. 10.00
21. Traveling fees in serving all process, per mile ........................................ 10.00
22. Serving any notice not herein provided for, exclusive of mileage ...... 50.00

For extraordinary services performed by the marshal or any deputy or bailiff appointed by order of the court, a reasonable allowance may be made by the presiding judge, which shall be paid by the clerk out of the fund for court expenses.

The interpreters' fees shall be for—

23. Each day's attendance on court ......................................................... $5.00
24. Making special translations ................................................................... 3.00
25. If more than two hundred words, for each additional hundred words .... 1.00

The witness fees shall be for—

26. Each day's attendance at court ........................................................ $1.50
27. Each mile traveled in going to and returning from court ....................... 0.08

Appeal fees shall be for—

28. Docketing case in the district court on appeal ..................................... $5.00
29. Entering judgment on appeal in the district court ................................. 5.00
30. Docketing case on appeal in the supreme court ................................. 10.00
31. Entering final judgment in the supreme court ...................................... 5.00
32. Recording opinion of the court in either the district or supreme court, for the first two hundred words ........................................ 3.00
33. Each additional hundred words .......................................................... 1.00
34. Any intermediate or interlocutory order of the district or supreme court in appeal cases ......................................................... 1.00
35. Mandate or order of the appeal court to the court from which the appeal was taken ......................................................... 2.00

The fees prescribed for marshals and interpreters shall be retained by them, respectively, as official emoluments.

Fee numbered 11 in this schedule shall be the personal emolument of the clerk. All other docket, court, and clerk fees shall be paid to the clerk, and by him safely kept as a part of the court expense fund, from which the said clerk is authorized to pay any bills or accounts, fees, or mileage which shall be presented to him, having indorsed thereon the approval in writing of a district judge.

All fines and penalties imposed by the provisions of this act, except those imposed for a violation of municipal regulations, shall be paid to the clerk by whomever collected, for the use of the United States, and the proceeds of the fees, fines, and penalties thus collected by or paid to the clerk shall constitute the expense fund of the court, and the clerk shall on or before the first day of February of each year transmit to the Secretary of State a detailed account of all moneys received and all dis-

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bursements made by him, which account shall, before transmission, be submitted to the district judge, who, if he finds it correct, shall endorse his approval thereof on the account; any surplus in the hands of the clerk shall be held by him subject to the order of the Secretary of State on behalf of the United States, and if the moneys thus received in any one year shall be found insufficient to meet the expenses of the court, the deficiency shall be paid from the contingent fund for diplomatic and consular expenses, on the order and by the direction of the Secretary of State; and in case there shall not be in the hands of the clerk sufficient money for that purpose, he shall be authorized, on the approval of the district judge at any time during the year in which such deficiency shall occur, to draw a bill of exchange on the Secretary of State for the necessary amount to meet such deficiency, which shall be paid by the Secretary of State out of the said contingent fund for diplomatic and consular expenses.

Sec. 24. The Secretary of State and the Attorney-General shall, as soon as possible after the passage of this act, prepare a code of practice for the use of the said courts and of parties practicing therein. The said code shall provide for proceedings, which shall be simple and direct, so as to enable all persons to obtain speedy justice from said courts. It shall contain suitable forms for the principal business; but no advantage shall be taken in said courts of defects in form. Free liberty of amendment shall be allowed, to the end that justice may not be denied for defects which do not go to the merits.

The said code shall also contain suitable directions for proceedings in probate, insolvency, and for the formation of limited partnerships, and for all other matters hereinbefore provided for, including regulations which may be found necessary under the power conferred by section 4086 of the Revised Statutes, as hereby amended. The said code shall first be approved by the President, and shall then take effect in six months thereafter. It may be changed, amended, or modified from time to time by the Secretary of State and the Attorney-General, with the approval of the President.

Sec. 25. Whenever in this act a duty is imposed upon a consul, the duty, unless otherwise specially provided, shall be performed by the principal consular officer at the port or place where the consul is situated, and in his absence by the vice-consul-general or vice-consul, and in his absence by the deputy consul, if there shall be a deputy consul, or, if not, by such person as the principal diplomatic representative of the United States in the country may authorize in writing.

Nothing in this act contained shall be construed to affect in any way the powers conferred upon consuls in other countries than those referred to in this act by sections 1709, 1710, and 1711 of the Revised Statutes, or the powers conferred upon any and all consular officers by sections 4079, 4080, and 4081 of the Revised Statutes.

Sec. 26. As to directions to the Secretary of State and the Attorney-General to prepare a code, and the authority conferred upon the President to approve the same, contained in section 24, and as to the provisions for the purchase or leasing of buildings, contained in section 4121 of the Revised Statutes as hereby amended, this act shall take effect immediately. As to all other provisions it shall take effect in six months from the approval of such code by the President.
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