

For placing buoys on certain shoals at the mouth of Kennebeck River, in the state of Maine, one hundred and sixty dollars.

For placing buoys on shoals in Buzzard's Bay, and at or near the mouth of Aponeganset River, in the state of Massachusetts, one hundred and sixty dollars.

For placing buoys on Long Island Sound, near to Cornfield Point, and in Guildford Bay, one hundred and sixty dollars.

For placing a buoy at the mouth of Scuppermong River, in Albemarle Sound, in the state of North Carolina, forty dollars.

For placing a beacon on Castle Island, and five buoys near Bristol Ferry, five hundred dollars.

For a pier and three buoys at the mouth of Saco River, and a pier at the mouth of Well's Harbour, ten thousand dollars—five thousand dollars to each of those places.

Salaries to be allowed the keepers of light vessels.

SEC. 3. *And be it further enacted*, That the following annual salaries be allowed and paid to the keepers of light vessels, to wit:

To the keeper of the Sandy Hook light vessel, seven hundred dollars; and for a mate, three hundred and fifty dollars.

To the keeper of the Smith's Point light vessel, in the Chesapeake Bay, five hundred dollars.

To the keeper of the Wolf Trap light vessel, in the same bay, five hundred dollars.

To the keeper of the Willoughby Spit light vessel, in the same bay, five hundred dollars.

To the keeper of the Craney Island light vessel, four hundred and fifty dollars.

To the keeper of the light vessel to be placed at or near the shoals of Cape Hatteras, seven hundred dollars; and for a mate, three hundred and fifty dollars.

500 dollars appropriated to erect a light-house at the mouth of the river Teche, Louisiana.

SEC. 4. *And be it further enacted*, That the President of the United States be, and he is, authorized and requested to cause a proper site, at or near the mouth of the river Teche, in Louisiana, to be selected for a lighthouse, and proper places designated for placing buoys near the same. [That.] to enable the President to accomplish these objects, a sum of money, not exceeding five hundred dollars be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated.

APPROVED, May 26, 1824.

STATUTE I.

May 26, 1824. CHAP. CLXXXI.—*An Act to regulate the mode of practice in the courts of the United States, for the district of Louisiana.* (a)

Mode of proceeding in all *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the mode of proceed-

(a) Decisions of the Supreme Court as to the practice and principles regulating the proceedings of the courts of law, which prevail in the Federal courts of Louisiana.

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

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

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

ing in civil causes in the courts of the United States, that now are, or hereafter may be, established in the state of Louisiana, shall be conformable to the laws directing the mode of practice in the district courts of the said state: *Provided*, That the judge of any such court of the Uni-

civil causes, to be conformable to the laws directing the mode of prac-

causes, they are adopted by that act, and will govern the practice in the courts of the United States. *Ibid*.

If there are no equitable claims or rights cognisable in the courts of the state of Louisiana, nor any courts of equity, and no state laws regulating the practice in equity causes, the law of May 26, 1824, ch. 181, does not apply to a case of chancery jurisdiction; and the district court of Louisiana, was bound to adopt the antecedent modes, authorized under former modes of practice. *Ibid*.

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

L. conveyed in 1822, in fee simple, to F. and S., certain real estate in New Orleans, by deed, for a sum of money paid to him, and took from them a counter-letter, signed by them; by which it was agreed, that on the payment of a sum stated in it, on a day stated, the property should be reconveyed by them to L.; and if not so paid, the property should be sold by an auctioneer; and, after repaying, out of the proceeds, the sum mentioned in the counter-letter, the balance should be paid to L. The money was not paid on the day appointed, and a further time was given for its payment, with additional interest and charges; and if not paid at the expiration of the time, it should be sold by an auctioneer. An agreement was at the same time made by L., that the counter-letter should be delivered up to F. and S., and cancelled. The money not being paid, it was again agreed between the parties, that if on a subsequent day fixed upon, it should not, with an additional amount for interest, &c., be paid, the property should belong absolutely to F. and S. The money was not paid, and F. and S. afterwards held the property as their own. The Supreme Court held this transaction to be an antichresis, according to the Civil Code of Louisiana; and on a bill filed in the district court of the United States for the eastern district of Louisiana, in 1832, decreed that the rents and profits of the estate should be accounted for by S., who had become the sole owner of the property by purchase of F.'s moiety; and that the property should be sold by an auctioneer, unless the balance due S., after charging the sum due at the time last agreed upon for the payment of the money, and legal interest, with all the expenses of the estate, deducting the rents and profits, should be paid to S.; and on payment of the balance due S., the residue should be paid to the legal representative of L. *Ibid*.

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

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

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

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

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

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

The Supreme Court has said, upon more than one occasion, after mature deliberation upon able arguments of distinguished counsel against it, that the courts of the United States in Louisiana possess equity powers under the constitution and laws of the United States. That if there are any laws in Louisiana, directing the mode of procedure in equity causes, they are adopted by the act of 26th May, 1824, ch. 181, and will govern the practice in the courts of the United States. But if there are no laws regulating the practice in any equity causes, the rules of chancery practice in Louisiana, mean the rules prescribed by the Supreme Court, for the government of the courts of the United States, under the act of Congress of May 8, 1792, ch. 36, sec. 2. *Ibid*.

No court ought, unless the terms of the act of Congress render it unavoidable, to give a construction to an act, which should, however unintentionally, involve a violation of the Constitution. The terms of the act of 1824 may well be satisfied by limiting its operation to modes of practice and proceedings in the courts below, without changing the effect or conclusiveness of the verdict of a jury upon the facts litigated on the trial. The party may bring the facts into review before the appellate court, so far as they bear

tice in the district courts of the State.

Petit jurors for the trial of all causes, civil or criminal, shall be designated, summoned, and returned in the manner that is now directed by the laws of the state.

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ted States may alter the times limited or allowed for different proceedings in the state courts, and make, by rule, such other provisions as may be necessary to adapt the said laws of procedure to the organization of such court of the United States, and to avoid any discrepancy, if any such should exist, between such state laws and the laws of the United States.

SEC. 2. *And be it further enacted*, That petit jurors, for the trial of all causes, as well civil as criminal, shall be designated, summoned, and returned in the manner that now is directed by the laws of the said state, with respect to jurors, to serve in the district courts of the said state of Louisiana, and that all the duties directed by such state laws to be performed by the sheriffs and clerks, in relation to the designation, summoning, and returning, such jurors, shall be performed by the marshal of the United States and the clerk of the court of the United States, in the district where such court of the United States shall sit, and that the petit jurors to serve in such court of the United States, shall be taken from the parish in which said court holds its sessions, but, that the grand jurors may come from any part of the district, and may be summoned and empannelled by the marshal, in the manner now prescribed, and the marshal, for the purpose of designating such petit jurors, shall take the names of all persons liable to serve as jurors, from the list made by the sheriff, for the purpose of drawing jurors for the district court of the state; and such number of jurors shall be drawn for each term of such court of the United States, or for such portion of each term, as the court may, by its rules, direct; *Provided*, That nothing herein contained, shall be so construed as to prevent the judge of any of the said courts of the United States from directing a jury to be summoned from any other parish within the district, whenever it may be necessary to secure an impartial trial; but that, in all such cases, the names of the jury shall be also designated, by lot, in the manner directed by the laws of the state, for designating jurors to serve in the district courts: *And provided, also*, That special juries may be directed for the trial of any particular civil cause, by the consent of parties, but not otherwise.

APPROVED, May 26, 1824.

upon the question of law, by a bill of exceptions. If there be any mistake of the facts, the court below is competent to redress it, by giving a new trial. *Parsons v. Bedford et al.*, 3 Peters, 433.

In the district court of Louisiana, the defendant pleaded the plea of reconvention, which is authorized by the Code of Practice in Louisiana. The district court, on motion of the plaintiffs, ordered the plea to be stricken off. The Code of Practice in Louisiana was adopted in Louisiana, by a statute of that state, passed after the act of Congress of May 26, 1824, regulating the practice of the district court of the United States for the eastern district of Louisiana, and the practice according to that code has not been adopted as a part of the rules of practice of the district court, when the plea was stricken off. Held, that the plea was properly stricken off. *Wilcox et al. v. Hunt*, 13 Peters, 378.

In the case of *Livingston v. Story*, which was before the court in 1835, (9 Peters, 655,) the court took occasion to examine the various laws of the United States establishing and organizing the district court of the eastern district of Louisiana, and to decide whether that court had equity powers; and if so, what should be the mode of proceeding in the exercise of those powers. The various cases which had been before the court, involving substantially the same question, in relation to states where there were no equity state courts, or laws regulating the practice in equity causes, were referred to, and the uniform decisions of the court have been, that there being no equity state courts did not prevent the exercise of equity jurisdiction in the courts of the United States; and it was accordingly decided that the district court of Louisiana was bound to proceed in equity causes, according to the principles, rules and usages, which belong to courts of equity as contradistinguished from courts of law. *Gaines et al. v. Relf et al.*, 15 Peters, 9.

When a party seeks relief, which is mainly appropriate to a court of chancery jurisdiction, in the circuit court of the United States for Louisiana, chancery practice must be followed. *McCollum v. Eager*, 2 Howard, 61.

It is impossible to lay down any general rule as to what constitutes multifariousness in a bill in equity. Every case must be governed by its own circumstances, and the court must exercise a sound discretion. *Gaines et ux. v. Relf et al.*, 2 Howard, 619.

The exercise of chancery jurisdiction, in the courts of Louisiana, does not introduce any new or foreign principle. It is only a change in the mode of redressing wrongs and protecting rights. *Ibid.*