


Rules of
the District Courts
of the
Confederate States of America



Digitized by the Internet Archive
in 2010 with funding from
Duke University Libraries

RULES

OF THE

DISTRICT COURTS

OF THE

Confederate States of America,

FOR THE

DISTRICTS OF GEORGIA,

UNDER THE ACT ENTITLED

'AN ACT FOR THE SEQUESTRATION OF THE ESTATES, PROPERTY AND EFFECTS OF ALIEN ENEMIES.'

TOGETHER WITH THE

ACT OF CONGRESS.



SAVANNAH:
W. THORNE WILLIAMS.

1861.

Entered, according to an act of Congress, in the year 1861, by W. THORNE
WILLIAMS, as Proprietor, in the Clerk's Office of the District Court for
the Southern District of Georgia.

9/22/32

E-713JK

Corr
#24

Flowers Col.

1932.

SEQUESTRATION RULES

In the Confederate States Courts

FOR THE DISTRICTS OF GEORGIA.

Rules of Procedure, under the Act entitled "An Act for the Sequestration of Estates, Property and Effects of alien Enemies, and for the indemnity of Citizens of the Confederate States, and persons aiding the same in the existing war with the United States," approved 30th August, 1861; being in addition to the Instructions of the Attorney General to Receivers, and the Rule of practice prescribed by that officer in regard to the returns of garnishees.

RULE I.

Whenever, under the 3rd Section of said Act, the Receiver shall have any property or credits of an alien enemy placed in his hands, he shall at once file with the Clerk of the proper District, a petition setting forth a statement of the property or credits so taken possession of, and praying that the same be sequestered for the Confederate States; and the Clerk shall thereupon docket the same as the case of the Confederate States against such alien enemy. If, at the ensuing term, no objection be made, the order of sequestration will be granted,

P34907

unless some adverse claimant shall intervene. Such adverse claim can only be put in on the terms prescribed by Section 6th of said Act.

RULE II.

The Clerk shall keep a docket, specially, for all cases so filed, and all cases of garnishment or other suits under said Act, separate from the other dockets; and said docket shall be headed Sequestration Docket. In case of suit to recover property or debts, and garnishment against the same defendant or defendants, one entry shall suffice; but garnishment shall be stated to have issued, with the name of the garnishee or garnishees; and, in case of traverse of any garnishment return, the issue shall be tried according to the terms of said Act and the ordinary rules of proceeding in like cases.

RULE III.

Nothing in the foregoing Rules shall be construed to prevent the Receiver from serving informants with garnishment, and with interrogatories as to any matter pertinent thereto; and, in case of such service, an entry of the same shall be made on the docket of the petition and statement provided for in Rule I; and the garnishee shall be dealt with as other garnishees who may not have given any information.

RULE IV.

In cases where the Receiver comes into possession of property or credits, without litigation, he shall, upon filing the proper petition and statement with the Clerk, and having the case docketed, apply to

the Court or Judge for instructions or orders, pursuant to Section 20th of said Act; but such instructions and orders shall be subject to modification or repeal, for proper causes appearing to the Court or Judge. Applications for instructions shall be by petition, stating the instruction asked, and the property concerning which it is asked. And when any person has an interest in or a lien on or claim to the property, which may be affected by such instruction, notice of such application shall be given to such person; and he or she may be heard, touching the premises, if the Court or Judge shall so desire.

RULE V.

The costs of all orders, and instructions to the Receiver, and of orders for the protection of garnishees and informants acting in good faith in compliance with the terms of said Act, shall be chargeable to the fund of the particular case in which such instruction or order may be given; and such costs, where not expressly provided for by law, shall be the same as in analogous cases.

RULE VI.

In all cases of application for "orders of seizure," under the 6th Section of said Act, the application therefor by the Receiver may be either in the original petition of suit, or by a supplemental petition in the nature of a petition *pendente lite*. In either case, the necessity for the seizure must be shown in the petition; and, if the order is asked, *pendente lite*, the reason of the delay for such application must also be stated, unless the petition shall show that the necessity occurred pending the litigation.

RULE VII.

No process, other than a summons of garnishment, shall be necessary to bring before the Court a chose in action or other incorporeal right of an alien enemy; and if, at the return term of such garnishment, the District Attorney shall suggest, in writing, that the garnishee has made no return of such chose in action or other incorporeal right, a rule *nisi*, for attachment of such garnishee, may issue, under the order of the Court; and the same shall be made absolute, or not, according to the circumstances of the case; but nothing in this Rule shall be construed to interfere with the right of the Receiver to traverse the garnishee's answer, as provided for in the 8th Section of said Act.

RULE VIII.

Whenever, on issue joined between the Confederate States and the opposite party, the finding shall be against such party for a specific article of property, real or personal, of an alien enemy, judgment shall be enforced according to the ordinary and usual course of procedure; but the Court may, in any case, on good cause shown, enforce the judgment, by attaching the person in possession until the specific thing be delivered or turned over to the Receiver, if such delivery or turning over be practicable. And this Rule shall apply to money specifically admitted by a garnishee to be in his hands and belonging to an alien enemy, and where no reason is shown why such money is not delivered to the Receiver.

RULE IX.

Whenever, under the 6th Section of said Act, application shall be made, by or on behalf of any debtor, or person in whose hands property may be seized, and who may be in possession of said property, for the remaining of such credits or property in the hands or control of such person, such application shall be by petition to the Court or Judge, stating all the facts of the case, under oath, and that all the terms or conditions imposed by said Act have been, or are ready to be, complied with, by such party. If the application be not by the Receiver, the same shall be notified to him, and he shall be allowed a reasonable time, to be judged of by the Court or Judge, for filing his assent to or dissent from the application, and the reasons therefor. If the application be allowed, the Court or Judge shall order such terms to be imposed, and such conditions annexed to the bond, or security, as each case may demand. If the application be made, pending litigation for the property or credits, the same must be accompanied by a certificate from the Clerk or Receiver that all costs of litigation have been paid to that time. The bond or security shall always be payable to the Confederate States, and in such sum as may be fixed by the Court or Judge. If granted, the order must be filed with the Clerk, together with the application and the bond or security; but such order shall always be subject to revision by the Court or Judge, and especially on the contingencies stated in said 6th Section.

RULE X.

All applications by Receivers, for sale of property, shall be by petition, stating the property particularly, the name of the alien enemy as whose it was seized, and the circumstances relied on as rendering the sale necessary or proper; and such applications, with the orders indorsed, must be filed of record.

RULE XI.

Whenever the ~~estate~~ estate, property or effects of the alien enemy, against which proceedings for sequestration shall be had, may be in the custody or possession of any person or persons not alleging any lien upon or claim or interest therein, the Receiver, unless otherwise ordered by the Court, shall take the same into his possession, control and management. And, in every case where a person, having such custody or possession, shall allege a lien, claim or interest in or upon such estate, property or effects, for his or her benefit, or for the benefit of some other person not an alien enemy, and in whose behalf he or she is authorized to allege such lien, claim or interest; the said estate, property and effects may be left in his or her hands or possession, on the terms and conditions mentioned in said Act and the foregoing ninth Rule.

RULE XII.

In every case of application by the Receiver to the District Attorney, for the institution of suit to recover property of an alleged alien enemy, in the hands or possession of the defendant to the proposed suit, it shall be the duty of the Receiver to state in writing, to the District Attorney, all the facts and

circumstances known to the Receiver, or of which information has been given him, necessary to enable the District Attorney to bring such suit under the 6th Section of said Act. Garnishment or other proper process may issue, as of course, to any person in possession of such property; and, on failure to appear and answer to such process, attachment may issue, at the return term of the process, to compel an appearance; and such attachment shall be relieved only on good grounds appearing to the Court that answer cannot be made. As auxiliary to other process, commissions may issue for examination of witnesses, as in other cases; and witnesses may be brought before the Court by subpœna, as in ordinary cases.

RULE XIII.

Every suit brought under the 6th Section of said Act, shall be issued and served at least twenty days before the return term thereof; and defendant shall be held to plead on or before the first day of that term. In cases of judgment by default, whether after personal or other service of the suit, the default may be opened, with or without costs, in the discretion of the Court, on the showing made. In all cases of such suits, the answer or plea filed may be excepted to for insufficiency or other proper cause, and the defendant be put upon such terms as will tend to speed the cause; and, in all cases of garnishment auxiliary to the suit, such exceptions or traverses may be filed, and such interrogatories propounded, as are provided for in the 8th Section of said Act: and the practice in such cases shall be

conformable to such 8th Section. In all cases of default, or of insufficient answer or plea, the District Attorney may ask and obtain an order to compel a proper answer or plea, and take such further steps therefor as shall be within the power of a Court of Equity to compel such answer or plea.

RULE XIV.

The petition and notice, prescribed in said 6th Section, shall be filed with the Clerk, and a copy thereof be served by the Marshal or his deputy upon the party or parties, personally, or be left by the officer at the usual place of abode of such party or parties; and the officer serving the same shall make due return of service thereon; or, if service cannot be effected, the reason therefor. The Court or Judge may, in any case, on application of the District Attorney, make such order for service by publication, when other service cannot be effected, as the case may seem to require.

RULE XV.

When the person, upon whom service shall be made as aforesaid, shall contest the prayer of the petition, or allege a lien or claim on the property therein mentioned; or, if other person or persons shall be made party or parties, by order of Court, or the intervention of such other person or persons, such person or persons shall be allowed twenty days from the service of the notice, or his, her or their voluntary intervention, or the service of the order of Court, to file an answer or plea to said petition.

RULE XVI.

The District Attorney shall, within ten days from the filing of such answer or plea, file a replication to the same, unless the same be excepted to for insufficiency or other cause. On the filing of the replication, the pleadings shall be considered made up, and the case prepared for hearing. And, if the pleadings be made up, in any case, during the term, the proper entry shall be made on the docket, and the case called for trial, at that term.

RULE XVII.

In every case of condemnation of property as sequestered for the Confederate States, whether the same be by decree or judgment, a writ of sequestration shall, if asked for, be issued by the Clerk, for the property sequestered in the particular case.

RULE XVIII.

Writs of garnishment shall, when issued in vacation, be made returnable to the next succeeding term: if issued during the term, then to a certain day in term. On or before the return of the writ, the person to whom the writ is directed shall file, in the Clerk's office, answers to the writ and interrogatories thereto annexed. If further time be required for making answer, such further time will be granted by the Court, on proper and specific cause shown on oath; and reasonable notice of such application shall be served on the District Attorney.

RULE XIX.

Whenever a suit shall be brought, under Section 6th of this Act, for recovery of property of, or debt due to, an alien enemy, the defence shall be made

as provided in the 7th Section; but, if the party in possession of such property, or owing such debt, be served with garnishment and interrogatories only, or make voluntary return, then he may, in his return, if he claim an interest in the subject-matter involved, or any lien on, or set-off to, the same, embody his plea or answer in the return, by complying strictly with the terms of Sections 7th and 8th in regard to pleas; and the judgment or decree rendered on issue joined shall be conclusive in garnishment as in other suit; and every such defendant shall, whether in suit or garnishment, set out the name and place of residence of any other claimant or party in interest, that the proper order or proceedings may be made or had for bringing in such party. The return or answer of the garnishee may be controverted by the Receiver, as under Section 8th, and so much of it as professes to be a plea shall be judged of as in cases of action or suit under Section 7th. When any defence is made or right claimed by the garnishee, the District Attorney's name shall be entered on the docket for the Confederate States.

RULE XX.

Where, under Section 19th, a former partner of, or person jointly interested with, an alien enemy, shall be served with garnishment, and shall desire the Court to sever such partnership or joint interest, all the facts necessary to a proper understanding of the case shall be set forth, under oath, in the return to the garnishment of the alien enemy's interest; and, in such return, the partner or party jointly interested may petition the Court for such order or

Garnishee may set up his interest.

Partnership

decree as may be proper. Such return and petition shall be handed to the Receiver, and by him handed to the Judge; and, if the Judge deem the proceeding regular, the Clerk shall docket the same, marking the person making the return as a party defendant in the cause. A copy of such proceeding shall be made out by the Clerk, and by him put into the hands of the Receiver for the District Attorney. The return may be contested, as in cases of garnishment; and all the requisitions prescribed by the Act, shall apply to the petition of the party alleging an interest, as in case of a plea. To entitle himself to the benefit of this Rule, the partner or person jointly interested must make his return and petition in the time limited by the garnishment process. As far as applicable by analogy, this Rule shall apply to original applications for separation and settlement of joint interests; but the Confederate States shall always be considered the plaintiff, and the petition of the other party be considered the plea, if it contain all that is required to make a good return to garnishment; and no order shall be taken on such original petition, except upon reasonable notice to the District Attorney.

RULE XXI.

On a return by the proper officers of any Bank or other Corporation, of the interest of an alien enemy in the stock thereof, the Court shall order a transfer of the stock and payment of dividends to the Receiver, or make such other order in the case as will effectually secure the rights of the Confederate States.

RULE XXII.

Every petition or application on which the Court or Judge is to act officially, must, on such action being had, be filed of record in the Clerk's office; and all bonds or securities approved by the Court or Judge, shall immediately be filed in such office.

RULE XXIII.

On the first day of each and every month, each Receiver shall file, with the Clerk of the proper District, a true and just account of all matters in his hands or under his control under the law, and make therein a just and true account of all matters connected with each estate of an alien enemy of which he is a Receiver.

RULE XXIV.

Whenever, under any of the foregoing Rules, personal or other service of any petition, process or other paper issuing from the Court, shall be required, the same may be made by the appearance of the attorney or solicitor of the person or persons named in such petition, process or paper, and upon whom the same was directed to be served.

EDWARD J. HARDEN.

8TH OCTOBER, 1861.

AN ACT for the sequestration of the estates, property and effects of alien enemies, and for the indemnity of citizens of the Confederate States and persons aiding the same in the existing war with the United States.

Whereas, The Government and people of the United States have departed from the usages of civilized warfare in confiscating and destroying the property of the people of the Confederate States, of all kinds, whether used for military purposes or not; and whereas, our only protection against such wrongs is to be found in such measures of retaliation as will ultimately indemnify our own citizens for their losses, and restrain the wanton excesses of our enemies: Therefore—

Section 1. Be it enacted by the Congress of the Confederate States of America, That all and every the lands, tenements and hereditaments, goods and chattels, rights and credits, within these Confederate States, and every right and interest therein held, owned, possessed or enjoyed by or for any alien enemies since the 21st day of May, one thousand eight hundred and sixty-one, except such debts due to an alien enemy as may have been paid into the Treasury of any one of the Confederate States prior to the passage of this law, be, and the same are hereby, sequestered by the Confederate States of America, and shall be held for the full indemnity of any true and loyal citizen or resident of these Confederate States, or other person aiding said Confederate States in the prosecution of the present war between said Confederate States and the United States of America, and for which he may suffer any loss or injury under the act of the United States to which this Act is retaliatory, or under any other act of the

United States, or of any State thereof, authorizing the seizure, condemnation or confiscation of the property of citizens or residents of the Confederate States, or other person aiding said Confederate States, and the same shall be seized and disposed of as provided for in this Act: Provided, however, when the estate, property or rights to be affected by this Act, were or are within some State of this Confederacy, which has become such since said twenty-first day of May, then this Act shall operate upon, and as to such estate, property or rights, and all persons claiming the same from and after the day such State so became a member of this Confederacy, and not before: Provided further, That the provisions of this Act shall not extend to the stocks or other public securities of the Confederate Government or of any of the States of this Confederacy, held or owned by any alien enemy, or to any debt, obligation, or sum due from the Confederate Government, or any of the States, to such alien enemy: And provided, also, that the provisions of this Act shall not embrace the property of citizens or residents of either of the States of Delaware, Maryland, Kentucky or Missouri, or of the District of Columbia, or the territories of New Mexico, Arizona, or the Indian Territory South of Kansas, except such of said citizens or residents as shall commit actual hostilities against the Confederate States, or aid and abet the United States in the existing war against the Confederate States.

Sec. 2. And be it further enacted, That it is, and shall be, the duty of each and every citizen of these Confederate States, speedily to give information to the officers charged with the execution of this law, of any and every lands, tenements and hereditaments, goods and chattels, rights and credits within this Confederacy, and of every right and interest therein, held, owned, possessed or enjoyed by or for any alien enemy as aforesaid.

Sec. 3. Be it further enacted, That it shall be the duty of every attorney, agent, former partner, trustee or other person holding or controlling any such lands, tenements or hereditaments, goods or chattels, rights or credits, or any interests therein, of or for any such alien enemy, speedily to inform the Receiver hereinafter provided to be appointed, of the same, and to render an account thereof, and, so far as is practicable, to place the same in the hands of such Receiver; whereupon, such person shall be fully acquitted of all responsibility for property and effects so reported and turned over. And any such person wilfully failing to give such information and render such account shall be guilty of a high misdemeanor, and, upon indictment and conviction, shall be fined in a sum not exceeding five thousand dollars, and imprisoned not longer than six months, said fine and imprisonment to be determined by the court trying the case, and shall further be liable to be sued by the said Confederate States, and subjected to pay double the value of the estate, property or effects of the alien enemy held by him or subject to his control.

Sec. 4. It shall be the duty of the several Judges of this Confederacy to give this Act specially in charge to the Grand Juries of these Confederate States, and it shall be their duty at each sitting well and truly to inquire and report all lands, tenements and hereditaments, goods and chattels, rights and credits, and every interest therein, within the jurisdiction of said Grand Jury, held by or for any alien enemy, and it shall be the duty of the several Receivers, appointed under this Act, to take a copy of every such report, and to proceed in obtaining the possession and control of all such property and effects reported, and to institute proceedings for the sequestration thereof in the manner hereinafter provided.

Sec. 5. Be it further enacted, That each Judge

of this Confederacy shall, as early as practicable, appoint a Receiver for each Section of the State for which he holds a court, and shall require him, before entering upon the duties of his office, to give a bond in such penalty as may be prescribed by the Judge, with good and sufficient security, to be approved by the Judge, conditioned that he will diligently and faithfully discharge the duties imposed upon him by law. And said officer shall hold his office at the pleasure of the Judge of the district or section for which he is appointed, and shall be removed for incompetency, or inefficiency, or infidelity in the discharge of his trust. And should the duties of any such Receiver, at any time, appear to the Judge to be greater than can be efficiently performed by him, then it shall be the duty of the Judge to divide the district or section into one or more other Receivers' districts, according to the necessities of the case, and to appoint a Receiver for each of said newly created districts. And every such Receiver shall also, before entering upon the duties of his office, make oath in writing before the Judge of the district or section for which he is appointed, diligently, well and truly to execute the duties of his office.

Sec. 6. Be it further enacted, That it shall be the duty of the several Receivers aforesaid to take the possession, control and management of all lands, tenements and hereditaments, goods and chattels, rights and credits of each and every alien enemy within the section for which he acts. And to this end he is empowered and required, whenever necessary for accomplishing the purposes of this Act, to sue for and recover the same in the name of said Confederate States, allowing, in the recovery of credits, such delay as may have been, or may be, prescribed in any State as to the collection of debts therein during the war. And the form and mode of

action, whether the matter be of jurisdiction in law or equity, shall be by petition to the court, setting forth, as best he can, the estate, property, right or thing sought to be recovered, with the name of the person holding, exercising supervision over, in possession of or controlling the same, as the case may be. and praying a sequestration thereof. Notice shall thereupon be forthwith issued by the clerk of the court, or by the Receiver, to such person, with a copy of the petition, and the same shall be served by the Marshal or his deputy, and returned to the court as other mesne process in law cases; whereupon, the cause shall be docketed and stand for trial in the court according to the usual course of its business, and the court or Judge, shall, at any time, make all orders of seizure that may seem necessary to secure the subject-matter of the suit from danger of loss, injury, destruction or waste, and may, pending the cause, make orders of sale in cases that may seem to such Judge or court necessary to preserve any property sued for from perishing or waste: Provided, That in any case when the Confederate Judge shall find it to be consistent with the safe-keeping of the property so sequestered, to leave the same in the hands and under the control of any debtor, or person in whose hands the real estate and slaves were seized, who may be in possession of the said property or credits, he shall order the same to remain in the hands and under the control of said debtor, or person in whose hands the real estate and slaves were seized, requiring in every such case such security for the safe-keeping of the property and credits as he may deem sufficient for the purpose aforesaid, and to abide by such further orders as the court may make in the premises. But this proviso shall not apply to bank or other corporation stock, or dividends due or which may be due thereon, or to rents on real estate in cities. And no debtor or other

person shall be entitled to the benefit of this proviso, unless he has first paid into the hands of the Receiver all interests or net profits which may have accrued since the twenty-first of May, eighteen hundred and sixty-one, and, in all cases coming under this proviso, such debtor shall be bound to pay over annually to the Receiver, all interest which may accrue as the same falls due; and the person in whose hands any other property may be left shall be bound to account for, and pay over annually to the Receiver, the net income or profits of said property, and on failure of such debtor or other person to pay over such interest, net income or profits, as the same falls due, the Receiver may demand and recover the debt or property. And, wherever, after ten days notice to any debtor or person in whose hands property or debts may be left, of an application for further security, it shall be made to appear to the satisfaction of the court that the securities of such debtor or person are not ample, the court may, on the failure of the party to give sufficient additional security, render judgment against all the parties on the bond, for the recovery of the debt or property: Provided, further, That said court may, whenever in the opinion of the Judge thereof the public exigencies may require it, order the money due as aforesaid to be demanded by the Receiver, and if, upon demand of the Receiver, made in conformity to a decretal order of the court requiring said Receiver to collect any debts for the payment of which security may have been given under the provisions of this Act, the debtor or his security shall fail to pay the same, then upon ten days notice to said debtor and his security, given by said Receiver, of a motion to be made in said court for judgment for the amount so secured, said court, at the next term thereof, may proceed to render judgment against said principal and security, or against the party served

with such notice, for the sum so secured with interest thereon, in the name of said Receiver, and to issue execution therefor.

Sec. 7. Any person in the possession and control of the subject-matter of any such suit, or claiming any interest therein, may, by order of the court, be admitted as a defendant and be allowed to defend to the extent of the interest propounded by him; but no person shall be heard in defence, until he shall file a plea, verified by affidavit and signed by him, setting forth that no alien enemy has any interest in the right which he asserts, or for which he litigates, either directly or indirectly, by trust, open or secret, and that he litigates solely for himself, or for some citizen of the Confederate States whom he legally represents; and when the defence is conducted for or on account of another, in whole or part, the plea shall set forth the name and residence of such other person, and the relation that the defendant bears to him in the litigation. If the cause involves matter which should be tried by a jury according to the course of the common law, the defendant shall be entitled to a jury trial. If it involves matters of equity jurisdiction, the court shall proceed according to its usual mode of procedure in such cases, and the several courts of this Confederacy may, from time to time, establish rules of procedure under this act, not inconsistent with the act or other laws of these Confederate States.

Sec. 8. Be it further enacted, That the clerk of court shall, at the request of the Receiver, from time to time, issue writs of garnishment, directed to one or more persons, commanding them to appear at the then sitting, or at any future term of the court, and to answer under oath what property or effects of any alien enemy he had at the service of the process, or since has had under his possession or control belonging to or held for an alien enemy, or in what sum, if

any, he is or was, at the time of service of the garnishment, or since has been, indebted to any alien enemy, and the court shall have power to condemn the property or effects, or debts, according to the answer, and to make such rules and orders for the bringing in of the third persons claiming or disclosed by the answer to have an interest in the litigation as to it shall seem proper; but in no case shall any one be heard in respect thereto, until he shall, by sworn plea, set forth substantially the matters before required of parties pleading. And the decree or judgment of the court, rendered in conformity to this act, shall forever protect the garnishee in respect to the matter involved. And in all cases of garnishment under this act, the Receiver may test the truth of the garnishee's answer, by filing a statement, under oath, that he believes the answer to be untrue, specifying the particulars in which he believes the garnishee has, by omission or commission, not answered truly; whereupon, the court shall cause an issue to be made between the Receiver and garnishee, and judgment rendered as upon the trial of other issues. And, in all cases of litigation, under this act, the Receiver may propound interrogatories to the adverse party touching any matter involved in the litigation, a copy of which shall be served on the opposite party or his attorney, and which shall be answered under oath within thirty days of such service, and upon failure so to answer, the court shall make such disposition of the cause as shall to it seem most promotive of justice, or should it deem answers to the interrogatories necessary in order to secure a discovery, the court shall imprison the party in default until full answer shall be made.

Sec. 9. It shall be the duty of the District Attorney of the Confederate States, diligently to prosecute all causes instituted under this act, and he shall receive as a compensation therefor two per cent. upon

and from the fruits of all litigation instituted under this act ; Provided, that no matter shall be called litigated except a defendant be admitted by the court, and a proper plea be filed.

Sec. 10. Be it further enacted, That each Receiver appointed under this act shall, at least every six months, and as much oftener as he may be required, by the court, render a true and perfect account of all matters in his hands or under his control under the law, and shall make and state just and perfect accounts and settlements under oath of his collections of money and disbursements under this law, stating accounts and making settlements of all matters separately, in the same way as if he were administrator of several estates of deceased persons by separate appointments. And the settlement and decrees shall be for each case or estate separately, so that the transaction in respect to each alien enemy's property may be kept recorded and preserved separately. No settlement as above provided shall, however, be made until judgment or decree of sequestration shall have passed, but the court may at any time pending litigation, require an account of matters in litigation and in the possession of the Receiver, and may make such orders touching the same as shall protect the interest of the parties concerned.

Sec. 11. When the accounts of any Receiver shall be filed respecting any matter which has passed sequestration, the court shall appoint a day for settlement, and notice thereof shall be published consecutively for four weeks in some newspaper near the place of holding the court, and the clerk of the court shall send a copy of such newspaper to the District Attorney of the Confederate States for the Court where the matter is to be heard, and it shall be the duty of the said District Attorney to attend the settlement and represent the Government, and

to see that a full, true and just settlement is made. The several settlements preceding the final one shall be interlocutory only, and may be impeached at the final settlements, which latter will be conclusive, unless reversed or impeached within two years, for fraud.

Sec. 12. Be it further enacted, That the court having jurisdiction of the matter shall, whenever sufficient cause is shown therefor, direct the sale of any personal property, other than slaves, sequestered under this act, on such terms as to it shall seem best, and such sale shall pass the title of the person as whose property the same has been sequestered.

Sec. 13. All settlements of accounts of Receivers for sequestered property shall be recorded, and a copy thereof shall be forwarded by the clerk of the court to the Treasurer of the Confederate States, within ten days after the decree, interlocutory or final, has been passed; and all balances found against the Receiver shall by him be paid over into the court, subject to the order of the Treasurer of the Confederate States, and upon the failure of the Receiver for five days to pay over the same, execution shall issue therefor, and he shall be liable to attachment by the court, and to suit upon his bond. And any one embezzeling any money under this Act shall be liable to an indictment, and on conviction shall be confined at hard labor for not less than six months nor more than five years, in the discretion of the court, and fined in double the amount embezzled.

Sec. 14. Be it further enacted, That the President of the Confederate States shall, by and with the advice and consent of Congress, or of the Senate, if the appointment be made under the permanent Government, appoint three discreet Commissioners, learned in the law, who shall hold at the seat of Government two terms each year, upon notice

given, who shall sit so long as the business before them shall require; whose duty it shall be, under such rules as they may adopt, to hear and adjudge such claims as may be brought before them by any one aiding this Confederacy in the present war against the United States, who shall allege that he has been put to loss under the act of the United States, in retaliation of which this act is passed, or under any other act of the United States, or of any State thereof, authorizing the seizure, condemnation or confiscation of the property of any citizen or resident of the Confederate States, or other person aiding said Confederate States in the present war against the United States, and the finding of such Commissioners in favor of any such claim shall, be prima facie evidence of the correctness of the demand, and whenever Congress shall pass the claim, the same shall be paid from any money in the Treasury derived from sequestration under this act: Provided, That said Board of Commissioners shall not continue beyond the organization of the Court of Claims provided for by the Constitution; to which Court of Claims the duties herein provided to be discharged by Commissioners shall belong upon the organization of said court. The salaries of said Commissioners shall be at the rate of two thousand five hundred dollars per annum, and shall be paid from the Treasury of the Confederacy. And it shall be the duty of the Attorney General, or his assistant, to represent the interest of this Government in all cases arising under this act before said Board of Commissioners.

Sec. 15. Be it further enacted, That all expenses incurred in proceedings under this act shall be paid from the sequestered fund, and the Judges, in settling accounts with Receivers, shall make to them proper allowances of compensation, taking two and a half per cent. on receipts, and the same amount on ex-

penditures, as reasonable compensation in all cases. The fees of the officers of court shall be such as are allowed by law for similar services in other cases, to be paid, however, only from the sequestered fund: Provided, that all sums realized by any Receiver in one year for his services exceeding five thousand dollars, shall be paid into the Confederate Treasury, for the use of the Confederacy.

Sec. 16. And be it further enacted, That the Attorney General shall prescribe such uniform rules of proceeding under this law, not herein otherwise provided for, as shall meet the necessities of the case.

Sec. 17. Be it further enacted, That appeals may lie from any final decision of the court under this law, in the same manner and within the same time, as is now, or hereafter may be by law prescribed for appeals in other civil cases.

Sec. 18. Be it further enacted, That the word "person" in this law includes all private corporations, and in all cases, when corporations become parties, and this law requires an oath to be made, it shall be made by some officer of such corporation.

Sec. 19. Be it further enacted, That the courts are vested with jurisdiction, and required by this act, to settle all partnerships heretofore existing between a citizen and one who is an alien enemy; to separate the interest of the alien enemy, and to sequester it. And it shall, also, sever all joint rights when an alien enemy is concerned, and sequester the interest of such alien enemy.

Sec. 20. Be it further enacted, That in all cases of administration of any matter or thing under this act, the court having jurisdiction may make such orders touching the preservation of the property or effects under the direction or control of the Receiver, not inconsistent with the foregoing provisions, as to it shall seem proper. And the Receiver may, at any time, ask and have the instructions of

the court, or Judge, respecting his conduct in the disposition or management of any property or effects under his control.

Sec. 21. That the Treasury notes of this Confederacy shall be receivable in payment of all purchases of property or effects sold under this act.

Sec. 22. Be it further enacted, That nothing in this act shall be construed to destroy or impair the lien or other rights of any creditor, a citizen or resident of either of the Confederate States, or of any other person, a citizen or resident of any country, State or Territory with which this Confederacy is in friendship, and which person is not in actual hostility to this Confederacy. And any lien or debt claimed against any alien enemy, within the meaning of this act, shall be propounded and filed in the court in which the proceedings of sequestration are had, within twelve months from the institution of such proceedings for sequestration; and the court shall cause all proper parties to be made and notices to be given, and shall hear and determine the respective rights of all parties concerned: Provided, however, That no sales or payments over of money shall be delayed for, or by reason of, such rights or proceedings; but any money realized by the Receiver, whether paid into the court, or Treasury, or still in the Receiver's hands, shall stand in lieu of that which produced said money, and be held to answer the demands of the creditors aforesaid, in the same manner as that which produced such money was. And all claims not propounded and filed as aforesaid, within twelve months as aforesaid, shall cease to exist against the estate, property, or effects sequestrated, or the proceeds thereof.

Approved August 30, 1861.

Money to be paid





AN ACT To authorize certain Debtors to pay the amounts due by them into the Treasury of the Confederate States.

Section 1. The Congress of the Confederate States of America do enact, That all persons in any manner indebted to individuals or corporations in the United States of America, (except the States of Delaware, Maryland, Kentucky and Missouri, and the District of Columbia,) be and are hereby prohibited from paying the same to their respective creditors, or their agents or assignees, pending the existing war waged by that government against the Confederate States, or any one of the slave holding states before named.

Sec. 2. Any person indebted as aforesaid shall be and is hereby authorized to pay the amount of his indebtedness into the treasury of the Confederate States, in specie or treasury notes, and shall receive from the treasurer a certificate, countersigned by the register, showing the amount paid and on what account, and the rate of interest which the same was bearing.

Sec. 3. Such certificate shall bear like interest with the original contract, and shall be redeemable, at the close of the war and the restoration of peace, in specie or its equivalent, on presentation of the original certificate.

Sec. 4. All laws and parts of laws militating against this act be and the same are hereby repealed.

Approved May 21, 1861.

