CHAP. CL. — An Act to carry into Effect certain Provisions in the Treaties between the United States and China and the Ottoman Ports, giving certain judicial powers to Ministers and Consuls of the United States in those Countries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, to carry into full effect the provisions of the treaty of July third, eighteen hundred and forty-four, with the Chinese empire, the commissioner and the consuls of the United States, duly appointed to reside in China, shall, in addition to the other powers and duties imposed upon them by the provisions of said treaty, be vested with the judicial authority herein described, which shall appertain to the said office of commissioner and consul, and be a part of the duties belonging thereto.

SEC. 2. And be it further enacted, That in regard to crimes and misdemeanors, the said public functionaries are hereby fully empowered to arraign, and try, in the manner herein provided, all citizens of the United States charged with offences against law, which shall be committed in the dominions of China, including Macao, and, upon conviction, to sentence such offenders in the manner herein authorized; and the said functionaries and each of them are hereby authorized to issue all such processes as are suitable and necessary to carry this authority into execution.

SEC. 3. And be it further enacted, That in regard to civil rights, whether of property or person, the said functionaries are hereby vested with all the judicial authority necessary to execute the provisions of said treaty, and 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 of controversy arose, or at the port where, or nearest to which, the damage complained of was sustained — any such port above named being always one of the five mentioned in the treaty; which jurisdiction shall embrace all controversies between citizens of the United States or others provided for by said treaty.

SEC. 4. And be it further enacted, That such jurisdiction in criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute said treaty, extended over all citizens of the United States in China, (and over all others to the extent that the terms of the treaty justify or require,) so far as such laws are suitable to carry said treaty into effect; 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 shall be extended in like manner over such citizens and others in China; and if defects still remain to be supplied, and neither the common law nor the statutes of the United States furnish appropriate and suitable remedies, the commissioner shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies.

SEC. 5. And be it further enacted, That, in order to organize and carry into effect the system of jurisprudence demanded by said treaty, the commissioner, with the advice of the several consuls, to make the necessary regulations, decrees, &c., for carrying the provisions of this act into effect.
the manner in which all officers and agents to execute process, and to
carry this act 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 decision of a consul; and generally, with-
out further enumeration, to make all such decrees and regulations from
time to time, under the provisions of this act, as the exigency may
demand; and all such regulations, decrees, and orders shall be plainly
drawn up in writing, and submitted, as above provided, for the advice
of the consul, or as many of them as can be consulted without preju-
dicial delay or inconvenience, who shall each signify his assent or
dissent in writing, with his name subscribed thereto; and after taking
such advice, and considering the same, the commissioner may, never-
theless, by causing the decree, order, or regulation, to be published
with his signature thereto, and the opinions of his advisers inscribed
thereon, to make it to become binding and obligatory until annulled or
modified by Congress, and it shall take effect from the publication or
any subsequent day thereto named in the act.

Sec. 6. And be it further enacted, That all such regulations, orders,
and decrees shall, as speedily as may be after publication, be transm-
ited by the commissioner, with the opinions of his advisers, as drawn
up by them severally, to the President, to be laid before Congress for
revision.

Sec. 7. And be it further enacted, That each of the consuls afore-
said, at the port for which he is appointed, shall be competent, under
the authority herein contained, 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 commissioners, to issue his warrant for the arrest
of any citizen of the United States charged with committing in China
an offence against law; and when arrested, to arraign and try any such
offender; and upon conviction, to sentence him to punishment in the
manner herein prescribed; always meting out [punishment] in a man-
ner proportioned to the offence; which punishment shall, in all cases,
except as is herein otherwise provided, be either fine or imprisonment.

Sec. 8. And be it further enacted, That any consul, when sitting
alone for the trial of offences, shall finally decide all cases where the
fine imposed does not exceed one hundred dollars, or the term of
imprisonment does not exceed sixty days, and there shall be no appeal
therefrom, except as provided in section eleven of this act.

Sec. 9. And be it further enacted, That when sitting alone he may
also decide all cases in which the fine imposed does not exceed five
hundred dollars, or the term of imprisonment does not exceed ninety
days; but in all such cases, if the fine exceeds one hundred dollars, or
the imprisonment exceeds ninety days, the defendant may, by comply-
ing with the requirements in cases of appeal, carry the case before the
commissioner by appeal.

Sec. 10. And be it further enacted, That whenever in any case the
consul shall be of opinion that, by reason of the legal questions which
may arise therein, assistance will be useful to him, or whenever he
shall be of opinion that a severer punishment than those above speci-
fied will be required, he shall, in either case, summon one or more
citizens of the United States, not exceeding four in number, but in
capital cases not less than four, who shall be persons of good repute
and competent to the duty, to sit with him in the trial, and who, after
so sitting upon the trial, shall each enter upon the record his judgment
and opinion, and sign the same. The consul shall, however, decide
the case; but if his decision is opposed by the opinion of one or more
of his associates, the case, without further proceedings, together with
the evidence and opinions, shall be referred to the commissioner for

How advice shall be taken.

Such regula-
tions, decrees,
and orders shall
be transmitted
to the Pres-
ident, to be laid
before Congress.

Powers and du-
ties of consuls.

Mode of pun-
ishment.

No appeal from
the decision of
a consul in cer-
tain cases.

Cases in which
the defendant
may appeal to
the commissioner.

Cases in which
the consul may
summon one or
more American
citizens for as-
sistance and ad-
vice.
his final adjudication, either by entering up judgment therein, or remitting the same to the consul with instructions how to proceed therewith; but in all such cases, except capital offences, if the consul and his associates concur in opinion, the decision shall be final.

Sec. 11. And be it further enacted, That the consuls aforesaid, and each of them, at the port for which he is appointed, shall have jurisdiction, as is herein provided, in all civil cases arising under said treaty, wherein the damage demanded does 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 if in his judgment any case involves legal perplexities, and assistance will be useful, or if the damage demanded exceeds five hundred dollars, in either such case it shall be his duty to summon to his aid not less than two nor more than three citizens of the United States, of good repute and competent to the duty, who shall with him hear any such case; and if the consul and his associates concur in opinion, the judgment shall be final; but if the associates, or any of them, differ from the consul, the opinions of all shall be noted on the record, and each shall subscribe his name to his assent to, or dissent from, the consul, with such reasons therefor as he thinks proper to assign, and either party may thereupon appeal, under such regulations as may exist, to the commissioner; but if no appeal is lawfully claimed, the decision of the consul shall be final and conclusive.

Sec. 12. And be it further enacted, That, in all cases, criminal and civil, the evidence shall be taken down in writing in open-court, under such regulations as may be made for that purpose; and all objections to the competency or character of testimony shall be noted down, with the ruling in all such cases, and the evidence shall be part of the case.

Sec. 13. And be it further enacted, That the commissioner of the United States shall, in addition to his power to make regulations and decrees, as is herein provided, be fully authorized to hear and decide all cases, criminal and civil, which may come before him under the provisions of this act, and to issue all processes necessary to execute the power conferred upon him; and he is hereby fully empowered to decide finally any case upon the evidence which comes up with it, or to hear the parties further, if he thinks justice will be promoted thereby; and he may also prescribe the rules upon which new trials may be granted, either by the consuls or by himself, if asked for upon justifiable grounds.

Sec. 14. And be it further enacted, That in all cases, except as is herein otherwise provided, the punishment of crime provided for by this act shall be by fine or imprisonment, or both, at the discretion of the functionary 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 each and every functionary to allot punishment according to the magnitude and aggravation of the offence, and all who refuse or neglect to comply with the sentence passed upon them shall stand committed until they do comply, or are discharged by order of the consul, with the consent of the commissioner.

Sec. 15. And be it further enacted, That murder and insurrection, or rebellion against the Chinese government, with intent to subvert the same, shall be capital offences, punishable with death; but no person shall be convicted of either of said crimes unless the consul and his associates in the trial all concur in opinion, and the commissioner also approves of the conviction; but it shall always be lawful to convict one put upon trial for either of these crimes of a lesser offence, of a similar character, if the evidence justifies it; and when so convicted, to punish as for other offences, by fine or imprisonment, or both.

Sec. 16. And be it further enacted, That whenever any one shall
be convicted of either of the crimes punishable with death, as aforesaid, it shall be the duty of the commissioner to issue his warrant for the execution of such convict, appointing the time, place, and manner; but if the said commissioner shall be satisfied that the ends of public justice demand it, he may, from time to time, postpone such execution; and if he finds mitigatory circumstances which may authorize it, may submit the case to the President of the United States for pardon.

Sec. 17. And be it further enacted, That it shall be the duty of the commissioner to establish a tariff of fees for judicial services, which shall be paid by such parties, and to such persons, as said commissioner shall direct; and the proceeds shall, as far as is necessary, be applied to defray the expenses incident to the execution of this act; and regular accounts, both of receipts and expenditures, shall be kept and laid before Congress by the commissioner annually.

Sec. 18. And be it further enacted, That, in consideration of the duties herein imposed upon the commissioner, there shall be paid to him, out of the treasury of the United States, annually, the sum of one thousand dollars in addition to his salary; and there shall also be paid, annually, to each of said consuls, for a like reason, the sum of one thousand dollars in addition to consular fees.

Sec. 19. And be it further enacted, That, 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 commissioner or consul, to adjust and settle the same among themselves, upon pecuniary or other considerations.

Sec. 20. And be it further enacted, That it shall be the duty also of the commissioner and the consuls to encourage the settlement of controversies of a civil character by mutual agreement, or to submit them to the decision of referees agreed upon by the parties, a majority of whom shall have power to decide the matter. And it shall be the duty of the commissioner to prepare a form of submission for such cases, to be signed by the parties and acknowledged before the consul; and when parties have so agreed to refer, the referees may, after suitable notice of the time and place of meeting for the trial, proceed ex parte, in case either party refuses or neglects to appear; and, after hearing any case, may deliver their award sealed to the consul, who, in court, shall open the same; and if he accepts it, he shall endorse the fact, and judgment shall be rendered thereon, and execution issue in compliance with the terms thereof: Provided, however, That the parties may always settle the same before return thereof is made to the consul.

Sec. 21. And be it further enacted, That the commissioner and the consuls shall be fully authorized to call upon the Chinese authorities to sustain and support them in the execution of the powers confided to them by said treaty, and on their part to do and perform whatever is necessary to carry the provisions of said treaty into full effect, so far as they are to be executed in China.

Sec. 22. And be it further enacted, That the provisions of this act, so far as the same relate to crimes 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 dominions of the Sublime Porte, in conformity with the provisions of said treaty, by the minister of the United States, and the consuls appointed by the United States to reside therein, who are hereby ex officio vested with the powers herein contained, for the purposes above expressed, so far as regards the punishment of crime.

Sec. 23. And be it further enacted, That the word commissioner, when used in this act, shall be understood to mean the persons vested in the Chinese authorities to support them in the exercise of the powers herein confided to them.

Commissioner to issue his warrant for the execution of persons convicted of capital offences.

May postpone such execution, and may submit the case to the President for pardon.

Commissioner to establish a tariff of fees, &c.

In certain criminal cases the parties, with consent of commissioner, may settle the same among themselves.

Commissioner and consuls may enforce the award.

May call on the Chinese authorities to support them in the execution of the powers herein confided to them.

Provisions of this act extended to Turkey.

Meaning of words "commissioner."
with and exercising the principal diplomatic functions in China; and
the word minister, as meaning the person vested with the powers of
chief diplomatic functionary of the United States in Turkey. The
word consul shall be understood to mean any person vested by the
United States with, and exercising, the consular authority in any of
the five ports in China named in the treaty, or in any port in Turkey.

SEC. 24. And be it further enacted, That all such officers shall be
responsible for their conduct to the United States and to the laws
thereof, not only as diplomatic functionaries and commercial function
aries, but as judicial officers when they perform judicial duties, and
shall be held liable for all negligences and misconduct as public
officers.

APPROVED, August 11, 1848.

Chap. CIL.—An Act for dividing the State of Georgia into two Judicial Districts,
and organizing and establishing an additional District Court of the United
States, with Circuit Court Powers and Jurisdiction.

Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled, That the State of
Georgia shall be, and the same is hereby
divided into two judicial dis-
tricts, in manner following, to wit: the counties of Harris, Talbot,
Upson, Monroe, Jones, Putnam, Hancock, Warren, Columbia, and all
the counties in said State south of them, shall compose one district, to
be called the southern district; and the courts shall be held as hereto-
fore, and at the times now authorized and required by law, at Savan-
annah. The counties of Troup, Meriwether, Pike, Butts, Jasper,
Morgan, Greene, Taliaferro, Wilkes, Lincoln, and all the remaining
counties in said State north of them, shall compose one district, to be
called the northern district, and a court shall be held for the said dis-
trict at Marietta, in the county of Cobb.

SEC. 2. And be it further enacted, That there shall be two terms of
the District Court for the northern district, held at Marietta, in each
and every year, to begin on the second Monday in March, and on the
second Monday in September. And the district judge of the United
States for the State of Georgia is hereby required to hold the courts
aforesaid; and furthermore, he is authorized and required to hold one
or more special terms at Marietta, in each year, if, in his opinion, the
business of the court or the public convenience shall require it to
be done.

SEC. 3. And be it further enacted, That the second Monday in
March and the second Monday in September in each year shall be
return days for writs and executions, returnable to the said District
Court to be held for the northern district at Marietta; and the parties
to such suits as shall be so returned shall make up their pleadings
under such rules as the court shall prescribe, in order to have the
causes so returned in a state of readiness for trial at the succeeding
regular term.

SEC. 4. And be it further enacted, That all causes at law or in
chancery pending in the said District Courts at Savannah, or in the
Circuit Court of the United States at Savannah and Milledgeville,
where the defendant or defendants resided in the northern district (as
hereby established) at the time of serving process, shall be transferred
for trial to the District Court for the said northern district, and be
proceeded in, heard, adjudged, and determined in the same manner as
though originally commenced or prosecuted in said court. And it
shall be the duty of the clerks of the said courts at Savannah and Mil-
ledgeville safely to transmit to the clerk of the District Court at Mari-

Return days.

Certain causes
pending in the
courts at Savan-
nah and Mil-
ledgeville to be
 transferred to the
District Court for
the northern dis-
trict.