

STATUTE I.

May 23, 1828.

CHAP. LXXV.—*An Act to grant certain relinquished and unappropriated lands to the state of Alabama, for the purpose of improving the navigation of the Tennessee, Coosa, Cahawba, and Black Warrior rivers.*

400,000 acres of relinquished lands in certain counties in Alabama granted to said state, to be applied to navigation.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That four hundred thousand acres, of the relinquished lands in the counties of Madison, Morgan, Limestone, Lawrence, Franklin, and Lauderdale, in the state of Alabama, be, and the same is [are] hereby, granted to said state, to be applied to the improvement of the navigation of the Muscle Shoals, and Colbert's Shoals, in the Tennessee river, and such other parts of said river within said state as the legislature thereof may direct: But if there shall not be four hundred thousand acres of relinquished unappropriated land in said counties, the deficiency to be made up out of any unappropriated lands in the county of Jackson, in said state.

Price at which the land shall be sold.

SEC. 2. *And be it further enacted,* That said state of Alabama, shall have power to sell, dispose of and grant said land, for the purposes aforesaid, at a price not less than the minimum price of the public lands of the United States, at the time of such sale.

Improvement.

SEC. 3. *And be it further enacted,* That the said state of Alabama shall commence said improvements within two years after the passage of this act, and complete the same within ten years thereafter.

Grant of all lands to become null and void, if applied to any other object whatever.

SEC. 4. *And be it further enacted,* That if said state of Alabama shall apply the lands hereby granted, or the proceeds of the sales, or any part thereof, to any other use or object whatsoever, than as directed by this act, before said improvements shall have been completed, the said grant for all lands then unsold shall thereby become null and void; and the said state of Alabama shall become liable and bound to pay to the United States the amount for which said land, or any part thereof, may have been sold, deducting the expenses incurred in selling the same.

Improvements of said navigation shall be commenced, &c.

SEC. 5. *And be it further enacted,* That the improvements of said navigation shall be commenced at the lowest point of obstruction in said river, within said state, continued up the same until completed, and be calculated for the use of steamboats, according to such plan of construction as the United States' engineers, appointed to survey and report thereon, may recommend, and the President of the United States approve: *Provided,* That such plan shall embrace, if practicable, a connection of the navigation of Elk river, with the said improvements.

Proviso.

SEC. 6. *And be it further enacted,* That after the completion of said improvements, the surplus of said grant, if any, shall be applied to the improvement of the navigation of the Coosa, Cahawba, and Black Warrior rivers, in said state, under the direction of the legislature thereof.

Surplus of said grant, to be applied, &c.

SEC. 7. *And be it further enacted,* That the said rivers, when improved as aforesaid, shall remain forever free from toll for all property belonging to the government of the United States, and for all persons in their service, and for all the citizens of the United States, unless a toll shall be allowed by act of Congress.

Rivers, when improved, to be ever free from toll for all property belonging to the United States, &c.

APPROVED, May 23, 1828.

STATUTE I.

May 23, 1828.

CHAP. LXXVI.—*An Act making an appropriation for the erection of a breakwater near the mouth of Delaware bay.*

[Obsolete.]
Breakwater to be made near the mouth of Delaware bay.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States cause to be made near the mouth of Delaware bay, a breakwater.

250,000 dollars appropriated.

SEC. 2. *And be it further enacted,* That the sum of two hundred and fifty thousand dollars be, and it hereby is, appropriated, towards the ac-

complishment of that object, and that the same be paid out of any money in the treasury not otherwise appropriated.

APPROVED, May 23, 1828.

STATUTE I.

CHAP. LXXVII.—*An Act to establish a southern judicial district in the territory of Florida.* (a)

May 23, 1828.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That there shall be established another judicial district in the territory of Florida, to be called the southern district, embracing all that part of the territory which lies south of a line from Indian river on the east, and Charlotte harbour on the west, including the latter harbour; which said court shall exercise all the jurisdiction within said district as the other superior courts, respectively, exercise within their respective districts, and shall be subject to all the laws which govern or regulate the same; and there shall be appointed for said district a judge, and he is hereby authorized to appoint a clerk

Another judicial district to be established in Florida, to be called the southern district, &c.

Judge to be appointed, who may appoint a

(a) Act relating to the courts of Florida, vol. iii. 752.

The following case, which originated in the courts established by the act of May 23, 1826, contains decisions upon principles of admiralty law, of great general interest.

The schooner *North Carolina*, bound from Appalachiola to Charleston, with a cargo of cotton, part on account of the consignees, and part the property of the shipper, struck on a reef about ninety-five miles from Key West; and the next morning one hundred and ten bales of cotton were taken from her by the wrecking schooner *Hyder Ally*, when she floated, and she sailed with the *Hyder Ally* to Indian Key, and arrived there the same evening. The *Hyder Ally* was one of those wrecking schooners in the profits of which Houseman was a participator. He became the consignee of the *North Carolina*; and salvage being claimed by the master of the *Hyder Ally*, a reference was made by the master of the *North Carolina*, and the master of the wrecker, and by an award thirty-five per cent. was allowed as salvage; and one hundred and two bales of cotton were put into the stores of Houseman, in part payment of the salvage; and one hundred dollars was paid in cash, and a draft for six hundred dollars was given by the captain of the *North Carolina*, in further satisfaction of the salvage, and the commissions of Houseman, with the vessel's expenses. Afterwards, the consignees of the cotton sent an agent to Key West, who proceeded, by a libel in his name, as agent in the superior court of the United States of Monroe county in Florida, alleging the facts, and by process issued by the court, seventy-two bales of the cotton of the *North Carolina* were attached in the hands of Houseman. The court decreed that the libellant should recover the seventy-two bales of cotton, and Houseman appealed to the court of appeals. In that court, a supplemental libel was filed by the appellee, claiming damages for the taking and the detention of fifty other bales of cotton, making the whole number of one hundred and twenty-two bales, which had gone into the possession of Houseman. The court of appeals gave a decree in favour of the appellee for the value of one hundred and twenty-two bales. The Supreme Court affirmed the decree as to the seventy-two bales, and set aside that part of the decree which allowed the value of the fifty bales; leaving the consignees or owners of the fifty bales to proceed in the superior court of East Florida by a new libel for the recovery of the same or the value thereof. *Houseman v. The Schooner North Carolina*, 15 Peters, 41.

There are many cases in which the contract of the captain, in relation to the amount of salvage to be paid to the salvors, or his agreement to refer the question to arbitrators, would bind the owners. In times of disaster, it is always his duty to exercise his best judgment, and to use his best exertions for the benefit of both the vessel and cargo: and when, from his situation, he is unable to consult them or their agent, without an inconvenient and injurious delay, it is in his power to compromise a question of salvage, and he is not bound in all cases to wait for the decision of a court of admiralty. *Ibid.*

So, too, when the salvage service has not been important, and the compensation demanded is a small one, it may often be the interest of the owners, that the amount should be settled at once by the captain, and the vessel proceed on her voyage, without waiting even a day for the purpose of consulting them. But in all such cases, unless the acts of the captain are ratified by the owners, his conduct will be carefully watched and scrutinized by the court; and his contracts will not be regarded as binding on the parties concerned, unless they appear to have been bona fide, and such as a discreet owner, placed in the same circumstances, would probably have made. If he settles the amount by agreement, those who claim under it must show that the salvage allowed was reasonable and just. If he refers it to arbitrators, those who claim the benefit of the award, must show that the proceedings were fair, and the referees worthy of the trust. *Ibid.*

The case is within the jurisdiction of a court of admiralty. It is a question of salvage of a vessel which had been stranded on a reef in the ocean. The points in controversy are whether salvage is due, and if due, how much. The admiralty is the only court in which such a question can be tried. *Ibid.*

It is well settled in admiralty proceedings, that the agent of absent owners may libel either in his own name, as agent, or in the name of his principals, as he thinks best. That a power of attorney given subsequent to the libel is a sufficient ratification of what he had before done in their behalf, and that the consignees of a cargo have a sufficient interest in the cargo that they may proceed in the admiralty for the recovery not only of their own property, but for that part of it which may be consigned to them. *Ibid.*