

STATUTE I.

June 28, 1834.

CHAP. CXXV.—*An Act in reference to pre-emption rights in the south-eastern district of Louisiana. (a)*

Register of land office to issue patents in conformity with acts of April 5, 1832, ch. 65, and June 15, 1832, ch. 140.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the pre-emption rights granted by the register and receiver of the land office at New Orleans, to certain individuals claiming the same, in the south-eastern land district of Louisiana, under the act of Congress approved fifth April, eighteen hundred and thirty-two, entitled "An act supplementary to the several laws for the sale of public lands," and the act approved fifteenth June, eighteen hundred and thirty-two, entitled "An act to authorize the inhabitants of the state of Louisiana to enter the back lands," be, and they are hereby, confirmed; and the register of the land office is hereby directed to issue patent certificates accordingly.

Re-survey on Bayou St. Vincent confirmed.

SEC. 2. *And be it further enacted,* That the re-survey made under the supervision of the surveyor general of Louisiana, of certain lands on the bayou St. Vincent, in sections designated as numbers one hundred and ten and one hundred and forty-three, in township thirteen of range fourteen east, situate in the south-eastern district of Louisiana, and which re-survey purports to include the improvements of the actual settlers within its limits, claiming the right of pre-emption thereto under the act of fifth April, eighteen hundred and thirty-two, aforesaid, be, and the same is hereby, confirmed; and payments may be made and patents issued in accordance therewith.

1832, ch. 65.

APPROVED, June 28, 1834.

STATUTE I.

June 28, 1834.

CHAP. CXXVI.—*An Act giving the consent of Congress to an agreement or compact entered into between the state of New York and the state of New Jersey, respecting the territorial limits and jurisdiction of said states. (b)*

WHEREAS commissioners duly appointed on the part of the state of New York, and commissioners duly appointed on the part of the state

(a) See notes of acts which have been passed relative to pre-emption of public lands, vol. iv. p. 420.

(b) The decisions of the Supreme Court upon the compacts between states have been:—

The compact of 1789, between Virginia and Kentucky, was valid under that provision of the constitution which declares, that "no state shall, without the consent of Congress, enter into agreement or compact with another state, or with a foreign power:" no particular mode, in which that consent must be given, having been prescribed by the constitution; and Congress having consented to the admission of Kentucky into the Union, as a sovereign state, upon the conditions in the compact. *Green v. Biddle*, 8 Wheat. 1; 5 Cond. Rep. 369.

The compact is not invalid upon the ground of its surrendering rights of sovereignty, which are inalienable. *Ibid.*

To bring a case within the protection of the seventh article in the compact between Virginia and Kentucky, it must be shown that the title to the land asserted, is derived from the laws of Virginia, prior to the separation of the two states. *Lessee of Fisher v. Cockerell*, 5 Peters, 247.

The construction of a compact between the states of Virginia and Pennsylvania, is not to be settled by the laws or decisions of either of those states, but by the compact itself. *Marlatt v. Silk et al.*, 11 Peters, 1.

The decision of a question of the construction of such a compact, is not to be attested from the decisions of either state, but is one of an international character. *Ibid.*

It is a part of the general right of sovereignty, belonging to independent nations, to establish and fix the disputed boundaries between the respective limits; and the boundaries so established and fixed by compact between nations, become conclusive upon all the subjects and citizens thereof, and bind their rights; and are to be treated, to all intents and purposes, as the real boundaries. This right is expressly recognised to exist in the states of the Union, by the constitution of the United States; and is guarded in its exercise by a single limitation or restriction, only, requiring the consent of Congress. *Ibid.*

The compact between New Jersey and Pennsylvania, recognises the right of fishery in riparian owners on the Delaware. *Bennet v. Boggs*, Baldwin's C. C. R. 60.

The plaintiffs, in the circuit court of West Tennessee, instituted an ejectment for a tract of land held under a Virginia military land warrant, situate south of a line called Mathews' line, and south of Walker's line; the latter being the established boundaries between the states of Kentucky and Tennessee, as fixed by a compact between those states, made in 1820; by which compact, although the jurisdiction over the territory to the south of Walker's line, was acknowledged to belong to Tennessee, the titles to lands held under Virginia military land warrants, &c.; and grants from Kentucky, as far south as "Mathews' line," were declared to be confirmed: the state of Kentucky having, before the com-

of New Jersey, for the purpose of agreeing upon and settling the jurisdiction and territorial limits of the two states, have executed certain articles, which are contained in the words following, viz :

Agreement made and entered into by and between Benjamin F. Butler, Peter Augustus Jay and Henry Seymour, commissioners duly appointed on the part and behalf of the state of New York, in pursuance of an act of the legislature of the said state, entitled "An act concerning the territorial limits and jurisdiction of the state of New York and the state of New Jersey, passed January 18th, 1833, of the one part; and Theodore Frelinghuysen, James Parker, and Lucius Q. C. Elmer, commissioners duly appointed on the part and behalf of the state of New Jersey, in pursuance of an act of the legislature of the said state, entitled "An act for the settlement of the territorial limits and jurisdiction between the states of New Jersey and New York," passed February 6th, 1833, of the other part.

Articles of agreement.

ARTICLE FIRST. The boundary line between the two states of New York and New Jersey, from a point in the middle of Hudson river, opposite the point on the west shore thereof, in the forty-first degree of north latitude, as heretofore ascertained and marked, to the main sea, shall be the middle of the said river, of the Bay of New York, of the waters between Staten Island and New Jersey, and of Raritan Bay, to the main sea; except as hereinafter otherwise particularly mentioned.

ARTICLE SECOND. The state of New York shall retain its present jurisdiction of and over Bedlow's and Ellis's islands; and shall also retain exclusive jurisdiction of and over the other islands lying in the waters above mentioned and now under the jurisdiction of that state.

ARTICLE THIRD. The state of New York shall have and enjoy exclusive jurisdiction of and over all the waters of the bay of New York; and of and over all the waters of Hudson river lying west of Manhattan Island

compact, claimed the right to the soil, as well as the jurisdiction over the territory, and having granted lands in the same. The compact of 1820 was confirmed by Congress. The defendants in the ejectment claimed the lands under titles emanating from the state of North Carolina, in 1786, 1794, 1795; before the formation of the state of Tennessee; and grants from the state of Tennessee, in 1809, 1811, 1812, 1814, in which the lands claimed by the defendants were situated, according to the boundary of the state of Tennessee, declared and established at a time when the state of Tennessee became one of the states of the United States. The circuit court instructed the jury that the state of Tennessee, by sanctioning the compact, admitted, in the most solemn form, that the lands in dispute were not within her jurisdiction, nor within the jurisdiction of North Carolina, at the time they were granted; and that, consequently, the titles are subject to the compact: Held, by the Supreme Court, that the instructions of the circuit court were entirely correct. *Poole v. Fleegee*, 11 Peters, 185.

The seventh article of the compact between Virginia and Kentucky declares "all private rights and interests of lands within the said district (Kentucky) derived from the laws of Virginia, prior to such separation, shall remain valid and secure under the laws of the proposed state, and shall be determined by the laws now existing in this state (Virginia)." Whatever course of legislation, by Kentucky, would be sanctioned by the principles and practice of Virginia, should be regarded as an unaffected compliance with the compact. Such are all reasonable quieting statutes. *Hawkins v. Barney's Lessee*, 5 Peters, 457.

From as early a date as the year 1705, Virginia has never been without an act of limitation; and no class of laws is more universally sanctioned by the practice of nations, and the consent of mankind, than those laws which give peace and confidence to the actual possessor and tiller of the soil. Such laws have frequently passed in review before the Supreme Court; and occasions have occurred in which they have been particularly noticed, as laws not to be impeached on the ground of violating private rights. It is impossible to take any reasonable exception to the course of legislation pursued by Kentucky on this subject. She has in fact literally complied with the compact in its most rigid construction. For she adopted the very statute of Virginia in the first instance, and literally gave her citizens the full benefit of twenty years to prosecute their suits, before she enacted the law now under consideration. As to the exceptions and provisos, and savings in such statutes, they must necessarily be left, in all cases, to the wisdom or discretion of the legislative power. *Ibid.*

It is not to be questioned, that laws limiting the time of bringing suits constitute a part of the *lex fori* of every country; the laws for administering justice, one of the most sacred and important of sovereign rights and duties, and a restriction upon which must materially affect both legislative and judicial independence. It can scarcely be supposed that Kentucky would have consented to accept a limited and crippled sovereignty; nor is it doing justice to Virginia to believe that she would have wished to reduce Kentucky to a state of vassalage. Yet it would be difficult, if the literal and rigid construction necessary to exclude her from passing the limitation act were adopted, to assign her a position higher than that of a dependent on Virginia. *Ibid.*

The limitation act of the state of Kentucky, commonly known by the epithet of "the seven years law," does not violate the compact between the state of Virginia and the state of Kentucky. *Ibid.*

Articles of
agreement.

and to the south of the mouth of Spuytenduyvel creek; and of and over the lands covered by the said waters to the low water-mark on the westerly or New Jersey side thereof; subject to the following rights of property and of jurisdiction of the state of New Jersey, that is to say:

1. The state of New Jersey shall have the exclusive right of property in and to the land under water lying west of the middle of the bay of New York, and west of the middle of that part of the Hudson river which lies between Manhattan island and New Jersey.

2. The state of New Jersey shall have the exclusive jurisdiction of and over the wharves, docks, and improvements, made and to be made on the shore of the said state; and of and over all vessels aground on said shore, or fastened to any such wharf or dock; except that the said vessels shall be subject to the quarantine or health laws, and laws in relation to passengers, of the state of New York, which now exist or which may hereafter be passed.

3. The state of New Jersey shall have the exclusive right of regulating the fisheries on the westerly side of the middle of the said waters, *Provided*, That the navigation be not obstructed or hindered.

ARTICLE FOURTH. The state of New York shall have exclusive jurisdiction of and over the waters of the Kill Van Kull between Staten Island and New Jersey to the westernmost end of Shooter's Island in respect to such quarantine laws, and laws relating to passengers, as now exist or may hereafter be passed under the authority of that state, and for executing the same; and the said state shall also have exclusive jurisdiction, for the like purposes of and over the waters of the sound from the westernmost end of Schooter's Island to Woodbridge creek, as to all vessels bound to any port in the said state of New York.

ARTICLE FIFTH. The state of New Jersey shall have and enjoy exclusive jurisdiction of and over all the waters of the sound between Staten Island and New Jersey lying south of Woodbridge creek, and of and over all the waters of Raritan bay lying westward of a line drawn from the lighthouse at Prince's bay to the mouth of Mattavan creek; subject to the following rights of property and of jurisdiction of the state of New York, that is to say:

1. The state of New York shall have the exclusive right of property in and to the land under water lying between the middle of the said waters and Staten Island.

2. The state of New York shall have the exclusive jurisdiction of and over the wharves, docks and improvements made and to be made on the shore of Staten Island, and of and over all vessels aground on said shore, or fastened to any such wharf or dock; except that the said vessels shall be subject to the quarantine or health laws, and laws in relation to passengers of the state of New Jersey, which now exist or which may hereafter be passed.

3. The state of New York shall have the exclusive right of regulating the fisheries between the shore of Staten Island and the middle of the said waters: *Provided*, That the navigation of the said waters be not obstructed or hindered.

ARTICLE SIXTH. Criminal process, issued under the authority of the state of New Jersey, against any person accused of an offence committed within that state; or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid; or committed against the regulations made or to be made by that state in relation to the fisheries mentioned in the third article; and also civil process issued under the authority of the state of New Jersey against any person domiciled in that state, or against property taken out of that state to evade the laws thereof; may be served upon any of the said waters within the exclusive jurisdiction of the state of New York, unless such person or property shall be on board a vessel aground upon, or fastened to, the shore of the state of

New York, or fastened to a wharf adjoining thereto, or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New York.

Articles of agreement.

ARTICLE SEVENTH. Criminal process issued under the authority of the state of New York against any person accused of an offence committed within that state, or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid, or committed against the regulations made or to be made by that state in relation to the fisheries mentioned in the fifth article; and also civil process issued under the authority of the state of New York against any person domiciled in that state, or against property taken out of that state, to evade the laws thereof, may be served upon any of the said waters within the exclusive jurisdiction of the state of New Jersey, unless such person or property shall be on board a vessel aground upon or fastened to the shore of the state of New Jersey, or fastened to a wharf adjoining thereto, or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New Jersey.

ARTICLE EIGHTH. This agreement shall become binding on the two states when confirmed by the legislatures thereof, respectively, and when approved by the Congress of the United States.

Done in four parts (two of which are retained by the commissioners of New York, to be delivered to the governor of that state, and the other two of which are retained by the commissioners of New Jersey, to be delivered to the governor of that state,) at the city of New York this sixteenth day of September, in the year of our Lord one thousand eight hundred and thirty-three and of the independence of the United States the fifty-eighth.

B. F. BUTLER,
PETER AUGUSTUS JAY,
HENRY SEYMOUR,
THEO. FRELINGHUYSEN,
JAMES PARKER,
LUCIUS Q. C. ELMER.

And whereas the said agreement has been confirmed by the legislatures of the said states of New York and New Jersey, respectively,—therefore,

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the consent of the Congress of the United States is hereby given to the said agreement, and to each and every part and article thereof, *Provided*, That nothing therein contained shall be construed to impair or in any manner affect, any right of jurisdiction of the United States in and over the islands or waters which form the subject of the said agreement.

Consent of Congress given to the agreement.
Proviso.

APPROVED, June 28, 1834.

STATUTE I.

June 30, 1834.

CHAP. CXXVIII.—*An Act to amend an act entitled "An act to annex a part of the state of New Jersey to the collection district of New York; to remove the office of collector of Niagara to Lewistown; to make Cape St. Vincent, in the district of Sackett's Harbour, a port of delivery; and out of the districts of Miami and Mississippi, to make two new districts, to be called the districts of Sandusky and Teche, and for other purposes."*

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That there shall be paid, annually, to the collector of the port of Franklin, in the district of Teche, in lieu of all demands against the government of the United States for house rent, storage, and so forth, the sum of two hundred and fifty dollars.

Vol. ii. 657.
Annual pay of the collector of the district of Teche.

APPROVED, June 30, 1834.