

STATUTE I.
April 14, 1792.

CHAP. XXIV.—*An Act concerning Consuls and Vice-Consuls.*

For carrying into full effect the convention between the King of the French, and the United States of America, entered into for the purpose of defining and establishing the functions and privileges of their respective Consuls and Vice-Consuls;

Duty of Consuls and district judges concerning wrecks.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That where in the seventh article of the said convention, it is agreed that when there shall be no consul or vice-consul of the King of the French, to attend to the saving of the wreck of any French vessels stranded on the coasts of the United States, or that the residence of the said consul, or vice-consul (he not being at the place of the wreck) shall be more distant from the said place than that of the competent judge of the country, the latter shall immediately proceed to perform the office therein prescribed; the district judge of the United States of the district in which the wreck shall happen, shall proceed therein, according to the tenor of the said article. And in such cases it shall be the duty of the officers of the customs within whose districts such wrecks shall happen, to give notice thereof, as soon as may be, to the said judge, and to aid and assist him to perform the duties hereby assigned to him. The district judges of the United States shall also, within their respective districts be the competent judges, for the purposes expressed in the ninth article of the said convention, and it shall be incumbent on them to give aid to the consuls and vice-consuls of the King of the French, in arresting and securing deserters from vessels of the French nation according to the tenor of the said article.

Duty of Marshals.

And where by any article of the said convention, the consuls and vice-consuls of the King of the French, are entitled to the aid of the competent executive officers of the country, in the execution of any precept, the marshals of the United States and their deputies shall, within their respective districts, be the competent officers, and shall give their aid according to the tenor of the stipulations.

Where commitments shall be made.

And whenever commitments to the jails of the country shall become necessary in pursuance of any stipulation of the said convention, they shall be to such jails within the respective districts as other commitments under the authority of the United States are by law made.

(a) Act of July 6, 1797, chap. 12; act of February 28, 1803, chap. 9; act of February 28, 1811, chap. 23; act of March 3, 1813, chap. 42, sec. 6. 1810, ch. 39.

The decisions of the courts of the United States upon the powers, duties, and obligations of consuls, have been:

A foreign consul has a right to claim or institute a proceeding in rem where the rights of property of his fellow-citizens are in question, without a special procurator from those for whose benefit he acts. *The Bello Corrunnes*, 6 Wheat. 152; 5 Cond. Rep. 45.

A consul cannot receive actual restitution of the res in controversy, without a special authority. To watch over the rights and interests of their subjects, wherever the pursuits of commerce may draw them, or the vicissitudes of human affairs may force them, are the great objects for which consuls are deputed by their sovereigns. *Ibid.*

As an abstract question, it is difficult to understand on what ground a state can claim jurisdiction of civil suits against consuls. By the constitution, the judicial power of the courts of the United States, extends to all cases affecting ambassadors, other public ministers, and consuls, exclusive of the courts of the several states, and the judiciary act gives the district courts jurisdiction of all suits against consuls and vice consuls, except for certain offences enumerated in the act. *Davis v. Packard*, 7 Peters, 276.

Consuls are subject to indictment for misdemeanor in the courts of the United States. *United States v. Ravara*, 2 Dall. 297.

A consul is not personally answerable for a contract made in his official capacity on account of his government. *Jones v. Le Tombe*, 3 Dall. 384.

The advice of an American consul in a foreign port, gives to the master of a vessel no justification for an illegal act. *Wilson v. The Mary*, Gilpin's D. C. R. 31.

A consul's certificate of any fact is not evidence between third persons, unless expressly or impliedly made so by statute. *Levy v. Burley*, 2 Sumner's C. C. R. 355.

Under the consular act of 1803, the penalty of 500 dollars for not depositing the ship's register with the consul, on arrival at a foreign port, must be sued for within two years, the limitation prescribed by the act of 1790; it not being a revenue law within the meaning of the act of 1804. *Parsons v. Hunter*, 2 Sumner's C. C. R. 419.

And for the direction of the consuls and vice-consuls of the United States in certain cases.

SEC. 2. *Be it enacted by the authority aforesaid,* That they shall have right in the ports or places to which they are or may be severally appointed of receiving the protests or declarations, which such captains, masters, crews, passengers and merchants, as are citizens of the United States may respectively choose to make there; and also such as any foreigner may choose to make before them relative to the personal interest of any citizens of the United States; and the copies of the said acts duly authenticated by the said consuls or vice-consuls, under the seal of their consulates, respectively, shall receive faith in law, equally as their originals would in all courts in the United States. It shall be their duty where the laws of the country permit, to take possession of the personal estate left by any citizen of the United States, other than seamen belonging to any ship or vessel who shall die within their consulate; leaving there no legal representative, partner in trade or trustee by him appointed to take care of his effects, they shall inventory the same with the assistance of two merchants of the United States, or for want of them, of any others at their choice; shall collect the debts due to the deceased in the country where he died, and pay the debts due from his estate which he shall have there contracted; shall sell at auction after reasonable public notice such part of the estate as shall be of a perishable nature and such further part, if any, as shall be necessary for the payment of his debts, and at the expiration of one year from his decease, the residue; and the balance of the estate they shall transmit to the treasury of the United States, to be holden in trust for the legal claimants. But if at any time before such transmission, the legal representative of the deceased shall appear and demand his effects in their hands, they shall deliver them up, being paid their fees, and shall cease their proceedings.

Right of Consuls and Vice Consuls,

to take charge of personal estates of deceased persons, &c.

To collect debts, &c. and transmit balance to the Treasury of the U. S. if not called for by legal representative.

For the information of the representative of the deceased, it shall be the duty of the consul or vice-consul authorized to proceed as aforesaid in the settlement of his estate, immediately to notify his death in one of the gazettes published in the consulate, and also to the Secretary of State, that the same may be notified in the state to which the deceased shall belong; and he shall also, as soon as may be, transmit to the Secretary of State, an inventory of the effects of the deceased taken as before directed.

Consul to notify the death in a gazette published in the consulate.

SEC. 3. *And be it further enacted,* That the said consuls and vice-consuls, in cases where ships or vessels of the United States shall be stranded on the coasts of their consulates respectively, shall, as far as the laws of the country will permit, take proper measures, as well for the purpose of saving the said ships or vessels, their cargoes and appurtenances, as for storing and securing the effects and merchandise saved, and for taking an inventory or inventories thereof; and the merchandise and effects saved with the inventory or inventories thereof taken as aforesaid, shall, after deducting therefrom the expense, be delivered to the owner or owners. *Provided,* That no consul or vice-consul shall have authority to take possession of any such goods, wares, merchandise or other property, when the master, owner or consignee thereof is present or capable of taking possession of the same.

Duty as to stranded vessels.

SEC. 4. *And be it further enacted,* That it shall and may be lawful for every consul and vice-consul of the United States, to take and receive the following fees of office for the services which he shall have performed.

Fees.

For authenticating under the consular seal, every protest, declaration, deposition, or other act, which such captains, masters, mariners, seamen, passengers, merchants or others as are citizens of the United States may respectively choose to make, the sum of two dollars.

For the taking into possession, inventorying, selling and finally settling and paying, or transmitting as aforesaid, the balance due on the personal estate left by any citizen of the United States who shall die within the limits of his consulate, five per centum on the gross amount of such estate.

For taking into possession and otherwise proceeding on any such estate which shall be delivered over to the legal representative before a final settlement of the same, as is herein before directed, two and an half per centum on such part delivered over as shall not be in money, and five per centum on the gross amount of the residue.

Consuls to receipt for them.

And it shall be the duty of the consuls and vice-consuls of the United States, to give receipts for all fees which they shall receive by virtue of this act, expressing the particular services for which they are paid.

President authorized to grant a salary to Consuls in Barbary. 1797, ch. 12.

SEC. 5. *And be it further enacted*, That in case it be found necessary for the interest of the United States, that a consul or consuls be appointed to reside on the coast of Barbary, the President be authorized to allow an annual salary, not exceeding two thousand dollars to each person so to be appointed: *Provided*, That such salary be not allowed to more than one consul for any one of the states on the said coast.

Consuls to give bond with sureties to be approved by the Secretary of State;

SEC. 6. *And be it further enacted*, That every consul and vice-consul shall, before they enter on the execution of their trusts, or if already in the execution of the same, within one year from the passing of this act, or if resident in Asia, within two years, give bond with such sureties as shall be approved by the Secretary of State, in a sum of not less than two thousand nor more than ten thousand dollars, conditioned for the true and faithful discharge of the duties of his office according to law, and also for truly accounting for all monies, goods and effects which may come into his possession by virtue of this act: and the said bond shall be lodged in the office of the Secretary of the Treasury.

where to be lodged.

Provision for mariners left in foreign ports.

Repealed by the fifth section of the Act of Feb. 28, 1803.

SEC. 7. *And be it further enacted*, That to prevent the mariners and seamen, employed in vessels belonging to citizens of the United States, in cases of shipwreck, sickness or captivity, from suffering in foreign ports, it shall be the duty of the consuls and vice-consuls respectively, from time to time to provide for them in the most reasonable manner, at the expense of the United States, subject to such instructions as the Secretary of State shall give, and not exceeding an allowance of twelve cents to a man per diem; and all masters and commanders of vessels belonging to citizens of the United States, and bound to some port of the same, are hereby required and enjoined to take such mariners or seamen on board of their ships or vessels, at the request of the said consuls or vice-consuls respectively, and to transport them to the port, in the United States to which such ships or vessels may be bound free of costs or charge; but that the said mariners or seamen shall, if able, be bound to do duty on board such ships or vessels according to their several abilities: *Provided*, That no master or captain of any ship or vessel, shall be obliged to take a greater number than two men to every one hundred tons burthen of the said ship or vessel, on any one voyage: and if any such captain or master shall refuse the same on the request or order of the consul or vice-consul, such captain or master shall forfeit and pay the sum of thirty dollars for each mariner or seaman so refused, to be recovered for the benefit of the United States by the said consul or vice-consul in his own name, in any court of competent jurisdiction.

Duty of masters of vessels respecting discharged seamen and of Consuls neglecting it.

Repealed by the 5th section

SEC. 8. *And be it further enacted*, That where a ship or vessel belonging to citizens of the United States is sold in a foreign port or place, the master, unless the crew are liable by their contract or do consent to be discharged there, shall send them back to the state where they entered on board, or furnish them with means sufficient for their return, to be ascertained by the consul or vice-consul of the United States,

having jurisdiction of the port or place. And in case of the master's refusal, the said consul or vice-consul may (if the laws of the land permit it) cause his ship, goods and person to be arrested and held until he shall comply with his duty herein.

of the Act of
Feb. 28, 1803.

SEC. 9. *And be it further enacted*, That the specification of certain powers and duties, in this act, to be exercised or performed by the consuls and vice-consuls of the United States, shall not be construed to the exclusion of others resulting from the nature of their appointments, or any treaty or convention under which they may act.

Powers de
finied.

APPROVED, April 14, 1792.

STATUTE I.

CHAP. XXV.—*An Act authorizing the grant and conveyance of certain Lands to the Ohio Company of Associates.*

April 21, 1792.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a certain contract expressed in an indenture executed on the twenty-seventh day of October, in the year one thousand seven hundred and eighty-seven, between the then board of treasury for the United States of America, of the one part, and Manasseh Cutler, and Winthrop Sergeant, as agents for the directors of the Ohio Company of Associates, of the other part, so far as the same respects the following described tract of land; that is to say: "Beginning at a station where the western boundary line of the seventh range of townships, laid out by the authority of the United States in Congress assembled, intersects the river Ohio; thence extending along that river south-westerly to a place where the western boundary line of the fifteenth range of townships, when laid out agreeably to the land ordinance passed the twentieth day of May, one thousand seven hundred and eighty-five, would touch the said river; thence running northerly on the said western bounds of the said fifteenth range of townships, 'till a line drawn due east to the western boundary line of the said seventh range of townships, will comprehend, with the other lines of this tract, seven hundred and fifty thousand acres of land, besides the several lots and parcels of land in the said contract reserved or appropriated to particular purposes; thence running east to the western boundary line of the said seventh range of townships, and thence along the said line to the place of beginning," be and the same is hereby confirmed: And that the President of the United States be and he hereby is authorized and empowered to issue letters patent in the name and under the seal of the United States, thereby granting and conveying to Rufus Putnam, Manasseh Cutler, Robert Oliver, and Griffin Green, and to their heirs and assigns, in fee simple, the said described tract of land, with the reservations in the said indenture expressed, in trust for the persons composing the said Ohio company of associates, according to their several rights and interests, and for their heirs and assigns, as tenants in common.

Certain tract
of land contract-
ed for in 1787

confirmed, and
President of the
United States to
grant letters pa-
tent in the name
of Rufus Put-
nam, &c.

SEC. 2. *And be it further enacted*, That the President be and he hereby is further authorized and empowered, by letters patent as aforesaid, to grant and convey to the said Rufus Putnam, Manasseh Cutler, Robert Oliver and Griffin Green, and to their heirs and assigns, in trust, for the uses above expressed, one other tract of two hundred and fourteen thousand, two hundred and eighty-five acres of land. *Provided*, That the said Rufus Putnam, Manasseh Cutler, Robert Oliver and Griffin Green, or either of them, shall deliver to the Secretary of the Treasury within six months, warrants which issued for army bounty-rights sufficient for that purpose, according to the provision of a resolve of Congress of the twenty-third day of July, one thousand seven hundred and eighty-seven.

To grant one
other tract to
Rufus Putnam,
&c.

on certain con-
ditions.