

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 Appalachicola 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.*

clerk for said court.

Attorney and marshal's salaries, &c.

Stated sessions of said courts.

Where in any case concerning wrecked property, &c., the judge shall have determined the rate of salvage, to be allowed to salvors.

Articles in the cargo of a perishable nature, a sale of them to be directed.

Property remaining after the portion adjudged to the salvors, not to be removed from such stores as may be used for public purposes.

No vessel to be employed as a wrecker, unless under the authority of the judge of said court, &c.

for said court. There shall also be appointed an attorney and marshal, who shall exercise all the duties, give the same bond and security, and be entitled to the same salaries, fees, and compensation, that is now allowed by law to attorneys and marshals in other districts in the territory.

SEC. 2. *And be it further enacted*, That the stated sessions of said court shall be held on the first Mondays of May and November annually, at Key West; and such other intermediate sessions, from time to time, as the judge in his discretion may think advisable and necessary. The judge shall reside at the island of Key West, and shall be entitled to receive, as a salary for his services, two thousand dollars per annum, to be paid quarterly, out of any moneys in the treasury not otherwise appropriated.

SEC. 3. *And be it further enacted*, That whenever, in any case concerning wrecked property, or property abandoned at sea, the judge aforesaid shall have determined the rate of salvage to be allowed to salvors, it shall be his duty, unless the salvage decreed shall have been adjusted, without recourse to vessel and cargo, to direct such proportion of salvage to be paid to the salvors in kind; and that the property saved shall be divided accordingly, under the inspection of the officers of the court, and before it shall have been taken out of the custody of the revenue officers.

SEC. 4. *And be it further enacted*, That whenever it shall be ascertained, to the satisfaction of the judge of said court that any of the property saved, is, from its character, not susceptible of being divided in the manner proposed, or that there are articles in the cargo of a perishable nature, it shall be his duty to direct a sale of the same, for the benefit of all concerned.

SEC. 5. *And be it further enacted*, That the property remaining, after separating the portion adjudged to the salvors shall not be removed from such store as may be used for public purposes, nor disposed of in any other way, within nine months, unless by the order of the owners, or of their authorized agents: and that the duties accruing upon such property may be secured at any port in the United States, where the owners may reside.

SEC. 6. *And be it further enacted*, That no vessel shall be employed as a wrecker, unless under the authority of the judge of said court; and that it shall not be lawful to employ on board such vessel, any wrecker who shall have made conditions with the captain or supercargo of any wrecked vessel, before or at the time of affording relief.

APPROVED, May 23, 1828.

STATUTE I.

May 23, 1828.

CHAP. LXXXV.—*An Act to amend and explain an act, entitled "An act confirming an act of the legislature of Virginia, incorporating the Chesapeake and Ohio Canal Company, and an act of the state of Maryland, for the same purpose."*(a)

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the assent already given by the United States to the charter of the Chesapeake and Ohio Canal Company, by an act of Congress, entitled "An act confirming an act of the legislature of Virginia, entitled an act incorporating the Chesapeake and Ohio Canal Company;" and an act of the state of Maryland confirming the same, shall not be impaired by any change of the route of the said canal, from or above the town of Cumberland, on the river

Assent already given by the United States to the charter of the Chesapeake and Ohio Canal by an act of Congress incorporating, and of

(a) For the acts of the states of Virginia and Maryland, and of the Congress of the United States, incorporating the Chesapeake and Ohio Canal Company, the proceedings of the general special meeting of the Patowmac Company declaring their assent thereto, made necessary by said acts, to which, are added, extracts from the charter of the Patowmac Company; see Appendix, No. 1.