

TITLE XLVII.

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Penalty for violating safe conduct or assaulting public minister.

30 April, 1790, c. 9, s. 28, v. 1, p. 118.

U. S. vs. Ortega, 11 Wh., 467.

SEC. 4062. Every person who violates any safe conduct or passport duly obtained and issued under authority of the United States; or who assaults, strikes, wounds, imprisons, or in any other manner offers violence to the person of a public minister, in violation of the law of nations, shall be imprisoned for not more than three years, and fined, at the discretion of the court.

SEC. 4063. Whenever any writ or process is sued out or prosecuted by any person in any court of the United States, or of a State, or by any judge or justice, whereby the person of any public minister of any foreign prince or state, authorized and received as such by the President, or any domestic or domestic servant of any such minister, is arrested or imprisoned, or his goods or chattels are distrained, seized, or attached, such writ or process shall be deemed void. [See § 687.]

U. S. *vs.* Bonnor, Bald., 234; U. S. *vs.* Lafontaine, 4 Cr. C. C., 173.

SEC. 4064. Whenever any writ or process is sued out in violation of the preceding section, every person by whom the same is obtained or prosecuted, whether as party or as attorney or solicitor, and every officer concerned in executing it, shall be deemed a violator of the laws of nations, and a disturber of the public repose, and shall be imprisoned for not more than three years, and fined at the discretion of the court.

SEC. 4065. The two preceding sections shall not apply to any case where the person against whom the process is issued is a citizen or inhabitant of the United States, in the service of a public minister, and the process is founded upon a debt contracted before he entered upon such service; nor shall the preceding section apply to any case where the person against whom the process is issued is a domestic servant of a public minister, unless the name of the servant has, before the issuing thereof, been registered in the Department of State, and transmitted by the Secretary of State to the marshal of the District of Columbia, who shall upon receipt thereof post the same in some public place in his office.

SEC. 4066. All persons shall have resort to the list of names so posted in the marshal's office, and may take copies without fee.

SEC. 4067. Whenever there is a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion is perpetrated, attempted, or threatened against the territory of the United States, by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being males of the age of fourteen years and upward, who shall be within the United States, and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed, as alien enemies. The President is authorized, in any such event, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, toward the aliens who become so liable; the manner and degree of the restraint to which they shall be subject, and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, refuse or neglect to depart therefrom; and to establish any other regulations which are found necessary in the premises and for the public safety.

SEC. 4068. When an alien who becomes liable as an enemy, in the manner prescribed in the preceding section, is not chargeable with actual hostility, or other crime against the public safety, he shall be allowed, for the recovery, disposal, and removal of his goods and effects, and for his departure, the full time which is or shall be stipulated by any treaty then in force between the United States and the hostile nation or government of which he is a native citizen, denizen, or subject; and where no such treaty exists, or is in force, the President may ascertain and declare such reasonable time as may be consistent with the public safety, and according to the dictates of humanity and national hospitality.

SEC. 4069. After any such proclamation has been made, the several courts of the United States, having criminal jurisdiction, and the several justices and judges of the courts of the United States, are authorized, and it shall be their duty, upon complaint against any alien enemy resi-

Process against ministers and their domestics void.

30 April, 1790, c. 9, s. 25, v. 1, p. 117.

Ex parte Cabrera, 1 Wash. C. C., 232; Lafontaine, 4 Cr. C. C., 173.

Penalty for suing out or executing such process.

Ibid., s. 26.

When process may be issued against persons in service of ministers.

Ibid., s. 27.

Public access to list of names of ministers' servants.

Ibid.

Removal of alien enemies.

6 July, 1798, c. 66, s. 1, v. 1, p. 577.

Brown vs. U. S., 8 Cr., 110; *Passenger Cases*, 7 How., 513; *Lockington vs. Smith*, Pet. C. C., 466.

Time for removal.

Ibid.

6 July, 1812, c. 130, v. 2, p. 781.

Jurisdiction of United States courts over alien enemies.

6 July, 1798, c. 66, s. 2, v. 1, p. 577.

dent and at large within such jurisdiction or district, to the danger of the public peace or safety, and contrary to the tenor or intent of such proclamation, or other regulations which the President may have established, to cause such alien to be duly apprehended and conveyed before such court, judge, or justice; and after a full examination and hearing on such complaint, and sufficient cause appearing, to order such alien to be removed out of the territory of the United States, or to give sureties for his good behavior, or to be otherwise restrained, conformably to the proclamation or regulations established as aforesaid, and to imprison, or otherwise secure such alien, until the order which may be so made shall be performed.

Duties of marshal in removing alien enemies.

6 July, 1798, c. 66, s. 3, v. 1, p. 578.

Lockington vs. Smith, Pet. C. C., 466.

Taking testimony to be used in foreign countries.

3 March, 1863, c. 95, s. 1, v. 12, p. 769.

3 March, 1873, c. 245, s. 1, v. 17, p. 581.

Witness need not criminate himself.

3 March, 1873, c. 245, s. 2, v. 17, p. 581.

Punishment of witness for contempt.

3 March, 1863, c. 95, s. 2, v. 12, p. 769.

Fees and mileage of witnesses.

Ibid., s. 3.

Passports, how granted.

30 May, 1866, c. 102, v. 14, p. 54.

SEC. 4070. When an alien enemy is required by the President, or by order of any court, judge, or justice, to depart and to be removed, it shall be the duty of the marshal of the district in which he shall be apprehended to provide therefor, and to execute such order in person, or by his deputy, or other discreet person to be employed by him, by causing a removal of such alien out of the territory of the United States; and for such removal the marshal shall have the warrant of the President, or of the court, judge, or justice ordering the same, as the case may be.

SEC. 4071. The testimony of any witness residing within the United States, to be used in any suit for the recovery of money or property depending in any court in any foreign country with which the United States are at peace, and in which the government of such foreign country shall be a party or shall have an interest, may be obtained, to be used in such suit. If a commission or letters rogatory to take such testimony, together with specific written interrogatories, accompanying the same, and addressed to such witness, shall have been issued from the court in which such suit is pending, on producing the same before the district judge of any district where the witness resides or shall be found, and on due proof being made to such judge that the testimony of any witness is material to the party desiring the same, such judge shall issue a summons to such witness requiring him to appear before the officer or commissioner named in such commission or letters rogatory, to testify in such suit. And no witness shall be compelled to appear or to testify under this section except for the purpose of answering such interrogatories so issued and accompanying such commission or letters: *Provided*, That when counsel for all the parties attend the examination, they may consent that questions in addition to those accompanying the commission or letters rogatory may be put to the witness, unless the commission or letters rogatory exclude such additional interrogatories. The summons shall specify the time and place at which the witness is required to attend, which place shall be within one hundred miles of the place where the witness resides or shall be served with such summons.

SEC. 4072. No witness shall be required, on such examination or any other under letters rogatory, to make any disclosure or discovery which shall tend to criminate him either under the laws of the State or Territory within which such examination is had, or any other, or any foreign state.

SEC. 4073. If any person shall refuse or neglect to appear at the time and place mentioned in the summons issued, in accordance with section forty hundred and seventy-one, or if upon his appearance he shall refuse to testify, he shall be liable to the same penalties as would be incurred for a like offense on the trial of a suit in the district court of the United States.

SEC. 4074. Every witness who shall so appear and testify shall be allowed, and shall receive from the party at whose instance he shall have been summoned, the same fees and mileage as are allowed to witnesses in suits depending in the district courts of the United States.

SEC. 4075. The Secretary of State may grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by such diplomatic or consular officers of the United States, and under such rules as the President shall designate and prescribe for and on be-

half of the United States; and no other person shall grant, issue, or verify any such passport. Where a legation of the United States is established in any country, no person other than the diplomatic representative of the United States at such place shall be permitted to grant or issue any passport, except in the absence therefrom of such representative. [See § 212.]

SEC. 4076. No passport shall be granted or issued to or verified for any other persons than citizens of the United States.

SEC. 4077. All persons who shall be authorized to grant, issue, or verify passports, shall make return of the same to the Secretary of State, in such manner and as often as he shall require; and such returns shall specify the names and all other particulars of the persons to whom the same shall be granted, issued, or verified, as embraced in such passport.

SEC. 4078. If any person acting, or claiming to act, in any office or capacity, under the United States, or any of the States of the United States, who shall not be lawfully authorized so to do, shall grant, issue, or verify any passport or other instrument in the nature of a passport, to or for any citizen of the United States, or to or for any person claiming to be or designated as such in such passport or verification, or if any consular officer who shall be authorized to grant, issue, or verify passports shall knowingly and willfully grant, issue, or verify any such passport to or for any person not a citizen of the United States, he shall be imprisoned for not more than one year, or fined not more than five hundred dollars, or both; and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody.

SEC. 4079. Whenever it is stipulated by treaty or convention between the United States and any foreign nation that the consul-general, consuls, vice-consuls, or consular or commercial agents of each nation, shall have exclusive jurisdiction of controversies, difficulties, or disorders arising at sea or in the waters or ports of the other nation, between the master or officers and any of the crew, or between any of the crew themselves, of any vessel belonging to the nation represented by such consular officer, such stipulations shall be executed and enforced within the jurisdiction of the United States as hereinafter declared. But before this section shall take effect as to the vessels of any particular nation having such treaty with the United States, the President shall be satisfied that similar provisions have been made for the execution of such treaty by the other contracting party, and shall issue his proclamation to that effect, declaring this section to be in force as to such nation. [See § 5290.]

SEC. 4080. In all cases within the purview of the preceding section the consul-general, consul, or other consular or commercial authority of such foreign nation charged with the appropriate duty in the particular case, may make application to any court of record of the United States, or to any judge thereof, or to any commissioner of a circuit court, setting forth that such controversy, difficulty, or disorder has arisen, briefly stating the nature thereof, and when and where the same occurred, and exhibiting a certified copy or extract of the shipping-articles, roll, or other proper paper of the vessel, to the effect that the person in question is of the crew or ship's company of such vessel; and further stating and certifying that such person has withdrawn himself, or is believed to be about to withdraw himself, from the control and discipline of the master and officers of the vessel, or that he has refused, or is about to refuse, to submit to and obey the lawful jurisdiction of such consular or commercial authority in the premises; and further stating and certifying that, to the best of the knowledge and belief of the officer certifying, such person is not a citizen of the United States. Such application shall be in writing and duly authenticated by the consular or other sufficient official seal. Thereupon such court, judge, or commis-

To be issued to citizens only.

Ibid.

Returns of passports issued.

Ibid.

False passports.

Ibid.

Powers of foreign consuls over disputes between seamen.

11 June, 1864, c. 116, s. 1, v. 13, p. 121.

Arrest of seamen on application of consul.

11 June, 1864, c. 116, s. 2, v. 13, p. 121.

sioner shall issue his warrant for the arrest of the person so complained of, directed to the marshal of the United States for the appropriate district, or in his discretion to any person, being a citizen of the United States, whom he may specially depute for the purpose, requiring such person to be brought before him for examination at a certain time and place.

Commitment and discharge.

Ibid.

SEC. 4081. If, on such examination, it is made to appear that the person so arrested is a citizen of the United States, he shall be forthwith discharged from arrest, and shall be left to the ordinary course of law. But if this is not made to appear, and such court, judge, or commissioner finds, upon the papers hereinbefore referred to, a sufficient prima-facie case that the matter concerns only the internal order and discipline of such foreign vessel, or, whether in its nature civil or criminal, does not affect directly the execution of the laws of the United States, or the rights and duties of any citizen of the United States, he shall forthwith, by his warrant, commit such person to prison, where prisoners under sentence of a court of the United States may be lawfully committed, or, in his discretion, to the master or chief officer of such foreign vessel, to be subject to the lawful orders, control, and discipline of such master or chief officer, and to the jurisdiction of the consular or commercial authority of the nation to which such vessel belongs, to the exclusion of any authority or jurisdiction in the premises of the United States or any State thereof. No person shall be detained more than two months after his arrest, but at the end of that time shall be set at liberty and shall not again be arrested for the same cause. The expenses of the arrest and the detention of the person so arrested shall be paid by the consular officers making the application.

Power of United States consular officers to solemnize marriages.

22 June, 1860, c. 179, s. 31, v. 12, p. 79.

SEC. 4082. Marriages in presence of any consular officer of the United States in a foreign country, between persons who would be authorized to marry if residing in the District of Columbia, shall be valid to all intents and purposes, and shall have the same effect as if solemnized within the United States. And such consular officers shall, in all cases, give to the parties married before them a certificate of such marriage, and shall send another certificate thereof to the Department of State, there to be kept; such certificates shall specify the names of the parties, their ages, places of birth, and residence.

Judicial authority of United States ministers and consuls in certain countries.

22 June, 1860, c. 179, s. 1, v. 12, p. 72.

28 July, 1866, c. 296, s. 11, v. 14, p. 322.

1 July, 1870, c. 194, s. 1, v. 16, p. 183.

SEC. 4083. To carry into full effect the provisions of the treaties of the United States with China, Japan, Siam, Egypt, and Madagascar, respectively, the minister and the consuls of the United States, duly appointed to reside in each of those countries, shall, in addition to other powers and duties imposed upon them, respectively, by the provisions of such treaties, respectively, be invested with the judicial authority herein described, which shall appertain to the office of minister and consul, and be a part of the duties belonging thereto, wherein, and so far as, the same is allowed by treaty.

Their jurisdiction of crimes.

22 June, 1860, c. 179, s. 2, v. 12, p. 72.

SEC. 4084. The officers mentioned in the preceding section are fully empowered to arraign and try, in the manner herein provided, all citizens of the United States charged with offenses against law, committed in such countries, respectively, and to sentence such offenders in the manner herein authorized; and each of them is authorized to issue all such processes as are suitable and necessary to carry this authority into execution.

Jurisdiction in civil cases.

Ibid., s. 3, p. 73.

SEC. 4085. Such officers are also invested with all the judicial authority necessary to execute the provisions of such treaties, respectively, in regard to civil rights, whether of property or person; and they 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, provided such port be one of the ports at which the United States are represented

by consuls. Such jurisdiction shall embrace all controversies between citizens of the United States, or others, provided for by such treaties, respectively.

SEC. 4086. Jurisdiction in both 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 such treaties, respectively, and so far as they are suitable to carry the same into effect, extended over all citizens of the United States in those countries, and over all others to the extent that the terms of the treaties, respectively, justify or require. 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 and the law of equity and admiralty shall be extended in like manner over such citizens and others in those countries; and if neither the common law, nor the law of equity or admiralty, nor the statutes of the United States, furnish appropriate and sufficient remedies, the ministers in those countries, respectively, shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies.

SEC. 4087. Each of the consuls mentioned in section forty hundred and eighty-three, at the port for which he is appointed, is authorized 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 minister, to issue his warrant for the arrest of any citizen of the United States charged with committing in the country an offense against law; and to arraign and try any such offender; and to sentence him to punishment in the manner herein prescribed.

SEC. 4088. The consuls and commercial agents of the United States at islands or in countries not inhabited by any civilized people, or recognized by any treaty with the United States, are authorized to try, hear, and determine all cases in regard to civil rights, whether of person or property, where the real debt or damages do not exceed the sum of one thousand dollars, exclusive of costs, and upon full hearing of the allegations and evidence of both parties, to give judgment according to the laws of the United States, and according to the equity and right of the matter, in the same manner as justices of the peace are now authorized and empowered where the United States have exclusive jurisdiction. They are also invested with the powers conferred by the provisions of sections forty hundred and eighty-six and forty hundred and eighty-seven for trial of offenses or misdemeanors.

SEC. 4089. Any consul when sitting alone 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 term of imprisonment for misdemeanor exceeds sixty days, the defendants or any of them, if there be more than one, may take the case, by appeal, before the minister, if allowed jurisdiction, either upon errors of law or matters of fact, under such rules as may be prescribed by the minister for the prosecution of appeals in such cases.

SEC. 4090. Capital cases for murder or insurrection against the government of either of the countries hereinbefore mentioned, by citizens of the United States, or for offenses against the public peace amounting to felony under the laws of the United States, may be tried before the minister of the United States in the country where the offense is committed if allowed jurisdiction; and every such minister may issue all manner of writs, to prevent the citizens of the United States from enlisting in the military or naval service of either of the said countries, to make war upon any foreign power with whom the United States are at peace, or in the service of one portion of the people against any other portion of the same people; and he may carry out this power by a resort to such force belonging to the United States, as may at the time be within his reach.

Jurisdiction, how exercised and enforced.

Ibid., s. 4.

Arrest, trial, and sentence of criminals.

22 June, 1860, c. 179, s. 7, v. 12, p. 74.

Powers of consular officers in uncivilized countries.

22 June, 1860, c. 179, s. 30, v. 12, p. 78.

Decisions of consuls; appeal to minister.

22 June, 1860, c. 179, s. 9, v. 12, p. 74.

Jurisdiction of ministers over certain offenses against foreign governments.

22 June, 1860, c. 179, s. 24, v. 12, p. 77.

Appellate jurisdiction of ministers in certain countries.

22 June, 1860, c. 179, s. 13, v. 12, p. 75.

Appeals from consular courts in China and Japan.

1 July, 1870, c. 194, s. 4, v. 16, p. 184.

When appeal allowed to circuit court for California.

Ibid., s. 5.

Appeal from minister's decisions in civil cases.

Ibid., s. 6.

In criminal cases.

Ibid., s. 3.

Circuit court for California to hear appeals.

Ibid., s. 7.

Evidence in consular courts, how taken.

Ibid., s. 12, p. 75.

Compromise or reference of civil cases, to be encouraged.

22 June, 1860, c. 179, s. 19, v. 12, p. 76.

SEC. 4091. Each of the ministers mentioned in section forty hundred and eighty-three shall, in the country to which he is appointed, be fully authorized to hear and decide all cases, criminal and civil, which may come before him, by appeal, under the provisions of this Title, and to issue all processes necessary to execute the power conferred upon him; and he is 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 sufficient grounds.

SEC. 4092. On any final judgment in a consular court of China or Japan, where the matter in dispute exceeds five hundred dollars and does not exceed two thousand five hundred dollars, exclusive of costs, an appeal shall be allowed to the minister in such country, as the case may be. But the appellant shall comply with the conditions established by general regulations. And the ministers are hereby authorized and required to receive, hear, and determine such appeals.

SEC. 4093. On any final judgment in any consular court of China or Japan, where the matter in dispute, exclusive of costs, exceeds the sum of two thousand five hundred dollars, an appeal shall be allowed to the circuit court for the district of California, and upon such appeal a transcript of the libel, bill, answer, depositions, and all other proceedings in the cause shall be transmitted to the circuit court, and no new evidence shall be received on the hearing of the appeal; and the appeal shall be subject to the rules, regulations, and restrictions prescribed in law for writs of error from district courts to circuit courts.

SEC. 4094. On any final judgment of the minister to China, or to Japan, given in the exercise of original jurisdiction, where the matter in dispute, exclusive of costs, exceeds two thousand five hundred dollars, an appeal shall be allowed to the circuit court, as provided in the preceding section.

SEC. 4095. When any final judgment of the minister to China, or to Japan, is given in the exercise of original or of appellate criminal jurisdiction, the person charged with the crime or offense, if he considers the judgment erroneous in point of law, may appeal therefrom to the circuit court for the district of California; but such appeal shall not operate as a stay of proceedings, unless the minister certifies that there is probable cause to grant the same, when the stay shall be such as the interests of justice may require.

SEC. 4096. The circuit court for the district of California is authorized and required to receive, hear, and determine the appeals provided for in this Title, and its decisions shall be final.

SEC. 4097. 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, with the ruling in all such cases, and the evidence shall be part of the case.

SEC. 4098. It shall be the duty of the ministers and the consuls in the countries mentioned in section forty hundred and eighty-three, 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; and the minister in each country shall prepare a form of submission for such cases, to be signed by the parties, and acknowledged before the consul. When parties have so agreed to refer, the referees may, after suitable notice of the time and place of meeting for the trial, proceed to hear the case, and a majority of them shall have power to decide the matter. If either party refuses or neglects to appear, the referees may proceed *ex parte*. After hearing any case such referees may deliver their award, sealed, to the consul, who, in court, shall open the same; and if he accepts it, he shall indorse the fact, and judgment shall be ren-

dered thereon, and execution issue in compliance with the terms thereof. The parties, however, may always settle the same before return thereof is made to the consul.

SEC. 4099. 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 minister in the country, or consul, to adjust and settle the same among themselves, upon pecuniary or other considerations.

SEC. 4100. The ministers and consuls shall be fully authorized to call upon the local authorities to sustain and support them in the execution of the powers confided to them by treaty, and on their part to do and perform whatever is necessary to carry the provisions of the treaties into full effect, so far as they are to be executed in the countries, respectively.

SEC. 4101. In all cases, except as herein otherwise provided, the punishment of crime provided for by this Title shall be by fine or imprisonment, or both, at the discretion of the officer 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 such officer to award punishment according to the magnitude and aggravation of the offense. Every person who refuses or neglects to comply with the sentence passed upon him shall stand committed until he does comply, or is discharged by order of the consul, with the consent of the minister in the country.

SEC. 4102. Insurrection or rebellion against the government of either of those countries, with intent to subvert the same, and murder, shall be capital offenses, punishable with death; but no person shall be convicted of either of those crimes, unless the consul and his associates in the trial all concur in opinion, and the minister also approves of the conviction. But it shall be lawful to convict one put upon trial for either of these crimes, of a less offense of a similar character, if the evidence justifies it, and to punish, as for other offenses, by fine or imprisonment, or both.

SEC. 4103. Whenever any person is convicted of either of the crimes punishable with death, in either of those countries, it shall be the duty of the minister to issue his warrant for the execution of the convict, appointing the time, place, and manner; but if the minister is satisfied that the ends of public justice demand it, he may from time to time postpone such execution; and if he finds mitigating circumstances which authorize it, he may submit the case to the President for pardon.

SEC. 4104. No fine imposed by a consul for a contempt committed in presence of the court, or for failing to obey a summons from the same, shall exceed fifty dollars; nor shall the imprisonment exceed twenty-four hours for the same contempt.

SEC. 4105. Any consul, when sitting alone for the trial of offenses or misdemeanors, shall decide finally all cases where the fine imposed does not exceed one hundred dollars, or the term of imprisonment does not exceed sixty days.

SEC. 4106. Whenever, in any case, the consul is of opinion that, by reason of the legal questions which may arise therein, assistance will be useful to him, or whenever he is of opinion that severer punishments than those specified in the preceding sections will be required, he shall summon, to sit with him on the trial, one or more citizens of the United States, not exceeding four, and in capital cases not less than four, who shall be taken by lot from a list which had previously been submitted to and approved by the minister, and shall be persons of good repute and competent for the duty. Every such associate shall enter upon the record his judgment and opinion, and shall sign the same; but the consul shall give judgment in the case. If the consul and his associates concur in opinion, the decision shall, in all cases, except of capital offenses and except as provided in the preceding section, be final. If any of the associates differ in opinion from the consul, the case, without further proceedings, together with the evidence and opinions, shall be referred to the minister for his adjudication, either by entering up judgment therein,

Certain criminal cases may be settled.

Ibid., s. 18.

Aid of local authorities may be invoked.

22 June, 1860, c. 179, s. 20, v. 12, p. 76.

Punishments by fine or imprisonment.

22 June, 1860, c. 179, s. 14, v. 12, p. 75.

For murder, insurrection, or rebellion.

Ibid., s. 15.

Execution of criminals.

Ibid.

Punishment of contempts.

22 June, 1860, c. 179, s. 8, v. 12, p. 74.

Decisions of consul sitting alone in criminal cases.

Ibid.

Associates may be called by consul in criminal trials.

Ibid., s. 10.

or by remitting the same to the consul with instructions how to proceed therewith.

Associates in
civil cases.

Ibid., s. 11.

SEC. 4107. Each of the consuls mentioned in section four thousand and eighty-three shall have at the port for which he is appointed, jurisdiction as herein provided, in all civil cases arising under such treaties, respectively, wherein the damages demanded do 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 whenever he is of opinion that any such case involves legal perplexities, and that assistance will be useful to him, or whenever the damages demanded exceed five hundred dollars, he shall summon, to sit with him on the hearing of the case, not less than two nor more than three citizens of the United States, if such are residing at the port, who shall be taken from a list which had previously been submitted to and approved by the minister, and shall be of good repute and competent for the duty. Every such associate shall note upon the record his opinion, and also, in case he dissents from the consul, such reasons therefor as he thinks proper to assign; but the consul shall give judgment in the case. If the consul and his associates concur in opinion, the judgment shall be final. If any of the associates differ in opinion from the consul, either party may appeal to the minister, under such regulations as may exist; but if no appeal is lawfully claimed, the decision of the consul shall be final.

Where jurisdiction
of ministers
may be exercised.

22 June, 1860, c.
179, s. 27, v. 12, p.
78.

Jurisdiction of
minister, when ap-
pellate and when
original.

Ibid.

SEC. 4108. The jurisdiction allowed by treaty to the ministers, respectively, in the countries named in section four thousand and eighty-three shall be exercised by them in those countries, respectively, wherever they may be.

Responsibility of
diplomatic and
consular officers.

22 June, 1860, c.
179, s. 23, v. 12, p. 76.

Marshals of con-
sular courts.

22 June, 1860, c.
179, s. 25, v. 12, p. 77.

Execution and
return of process.

Ibid.

Marshal's bond.

Ibid.

Suits on mar-
shal's bond.

Ibid.

SEC. 4109. The jurisdiction of such ministers in all matters of civil redress, or of crimes, except in capital cases for murder or insurrection against the governments of such countries, respectively, or for offenses against the public peace amounting to felony under the laws of the United States, shall be appellate only: *Provided*, That in cases where a consular officer is interested, either as party or witness, such minister shall have original jurisdiction.

SEC. 4110. All such officers shall be responsible for their conduct to the United States, and to the laws thereof, not only as diplomatic or consular officers, but as judicial officers, when they perform judicial duties, and shall be held liable for all negligences and misconduct as public officers.

SEC. 4111. The President is authorized to appoint marshals for such of the consular courts in those countries as he may think proper, not to exceed seven in number, namely: one in Japan, four in China, one in Siam, and one in Turkey, each of whom shall receive a salary of one thousand dollars a year, in addition to the fees allowed by the regulations of the ministers, respectively, in those countries.

SEC. 4112. It shall be the duty of the marshals, respectively, to execute all process issued by the minister of the United States in those countries, respectively, or by the consul at the port at which they reside, and to make due return thereof to the officer by whom it was issued, and to conform in all respects to the regulations prescribed by the ministers, respectively, in regard to their duties.

SEC. 4113. Each marshal, before entering upon the duties of his office, shall give bond for the faithful performance thereof in a penal sum not to exceed ten thousand dollars, with two sureties to be approved by the Secretary of State. Such bond shall be transmitted to the Secretary of the Treasury, and a certified copy thereof be lodged in the office of the minister.

SEC. 4114. Whenever any person desires to bring suit upon the bond of any such marshal, it shall be the duty of the Secretary of the Treasury, or of the minister having custody of a copy of the same, to give to the person so applying a certified copy thereof, upon which suit may be brought and prosecuted with the same effect as could be done upon the

original: *Provided*, The Secretary of the Treasury, or the minister to whom the application is made, is satisfied that there is probable cause of action against the marshal.

SEC. 4115. Upon a plea of non est factum, verified upon oath, or any other good cause shown, the court or the consul or minister trying the cause may require the original bond of the marshal in those countries to be produced; and it shall be the duty of the Secretary of the Treasury to forward the original bond to the court, or consul, or minister requiring the same.

SEC. 4116. All rules, orders, writs, and processes of every kind which are intended to operate or be enforced against any of the marshals, in any of the countries named in this Title, shall be directed to and executed by such persons as may be appointed for that purpose by the minister or consul issuing the same.

SEC. 4117. In order to organize and carry into effect the system of jurisprudence demanded by such treaties, respectively, the ministers, with the advice of the several consuls in each of the countries, respectively, or of so many of them as can be conveniently assembled, shall prescribe the forms of all processes to be issued by any of the consuls; the mode of executing and the time of returning the same; the manner in which trials shall be conducted, and how the records thereof shall be kept; the form of oaths for Christian witnesses, and the mode of examining all other witnesses; the costs to be allowed to the prevailing party, and the fees to be paid for judicial services; the manner in which all officers and agents to execute process, and to carry this Title 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 shall make all such further decrees and regulations from time to time, under the provisions of this Title, as the exigency may demand.

SEC. 4118. All such regulations, decrees, and orders shall be plainly drawn up in writing, and submitted, as hereinbefore provided, for the advice of the consuls, or as many of them as can be consulted without prejudicial delay or inconvenience, and such consul shall signify his assent or dissent in writing, with his name subscribed thereto. After taking such advice, and considering the same, the minister in each of those countries may, nevertheless, by causing the decree, order, or regulation to be published with his signature thereto, and the opinions of his advisers inscribed thereon, make it 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. 4119. All such regulations, orders, and decrees shall, as speedily as may be after publication, be transmitted by the ministers, with the opinion of their advisers, as drawn up by them severally, to the Secretary of State, to be laid before Congress for revision.

SEC. 4120. It shall be the duty of the minister in each of those countries to establish a tariff of fees for judicial services, which shall be paid by such parties, and to such persons, as the minister shall direct; and the proceeds shall, as far as is necessary, be applied to defray the expenses incident to the execution of this Title; and regular accounts, both of receipts and expenditures, shall be kept by the minister and consuls and transmitted annually to the Secretary of State.

SEC. 4121. The President, when provision is not otherwise made, is authorized to allow, in the adjustment of the accounts of each of the ministers or consuls, the actual expenses of the rent of suitable buildings or parts of buildings to be used as prisons for American convicts in those countries, not to exceed in any case the rate of six hundred dollars a year; and also the wages of the keepers of the same, and for the care of offenders, not to exceed, in any case, the sum of eight hundred dollars per annum. But no more than one prison shall be hired in Japan, four in China, one in Turkey, and one in Siam, at such port or ports as the minister, with the sanction of the President, may desig-

Production of original bond.

Ibid.

Process against marshal, how executed.

Ibid.

Ministers to make regulations for consular courts.

22 June, 1860, c. 179, s. 5, v. 13, p. 73.

Publication of regulations.

Ibid.

Transmission to Secretary of State.

Ibid., s. 6.

Fees for judicial services.

22 June, 1860, c. 179, s. 17, v. 12, p. 75.

Expenses of prisons in foreign countries.

22 June, 1860, c. 179, s. 26, v. 12, p. 77.
3 March, 1869, c. 125, s. 7, v. 15, p. 322.

nate, and the entire expense of prison and prison-keepers at the consulate of Bangkok, in Siam, shall not exceed the sum of one thousand dollars a year.

In China.

1 July, 1870, c. 194, s. 9, v. 16, p. 184.

SEC. 4122. The President is authorized to allow, in the adjustment of the accounts of the consul-general at Shanghai, the actual expense of the rent of a suitable building, to be used as a prison for American convicts in China, not to exceed one thousand five hundred dollars a year; and also the wages of the keepers of the same, and for the care of offenders, not to exceed five thousand dollars a year; and to allow, in the adjustment of the accounts of the consuls at other ports in China, the actual expense of the hire of constables and the care of offenders, not to exceed in all five thousand dollars a year.

In Japan.

Ibid., s. 10.

SEC. 4123. The President is hereby authorized to allow, in the adjustment of the accounts of the consul at Kanagawa, the actual expense of the rent of a suitable building, to be used as a prison for American convicts in Japan, not to exceed seven hundred and fifty dollars a year; and also the wages of the keepers of the same, and for the care of offenders, not to exceed two thousand five hundred dollars a year; and to allow in the adjustment of the accounts of the consuls at other ports in Japan the actual expense of the hire of constables and the care of offenders, not to exceed in all two thousand five hundred dollars a year.

Court-house and jail in Jeddo.

3 March, 1873, c. 249, s. 2, v. 17, p. 582.

SEC. 4124. The Secretary of State, through the minister resident at Japan, is authorized to rent, furnish, and keep suitable buildings, with grounds appurtenant, in Jeddo, or such other place as he may designate, for a court-house and jail, at an annual cost not exceeding five thousand dollars: *Provided*, That the period for which the buildings shall be rented shall be for two years, with renewals for two years, as the Secretary of State may determine.

Provisions of Title extended to Turkey.

22 June, 1860, c. 179, s. 21, v. 12, p. 76.

SEC. 4125. The provisions of this Title, so far as the same relate to crimes and offenses 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 Ottoman dominions in conformity with the provisions of the treaty, and of this Title, by the minister and the consuls appointed to reside therein, who are hereby *ex-officio* vested with the powers herein conferred upon the ministers and consuls in China, for the purposes above expressed, so far as regards the punishment of crime, and also for the exercise of jurisdiction in civil cases wherein the same is permitted by the laws of Turkey, or its usages in its intercourse with the Franks, or other foreign Christian nations.

To Persia.

22 June, 1860, c. 179, s. 28, v. 12, p. 78.

SEC. 4126. The provisions of this Title shall extend to Persia, in respect to all suits and disputes which may arise between citizens of the United States therein; and the minister and consuls who may be appointed to reside in Persia are hereby invested, in relation to such suits and disputes, with such powers as are by this Title conferred upon the ministers and consuls in China. All suits and disputes arising in Persia between Persian subjects and citizens of the United States shall be carried before the Persian tribunal to which such matters are usually referred, at the place where a consul or agent of the United States may reside, and shall be discussed and decided according to equity, in the presence of an employé of the consul or agent of the United States; and it shall be the duty of the consular officer to attend the trial in person, and see that justice is administered. All suits and disputes occurring in Persia between the citizens of the United States and the subjects of other foreign powers, shall be tried and adjudicated by the intermeditation of their respective ministers or consuls, in accordance with such regulations as shall be mutually agreed upon by the minister of the United States for the time being, and the ministers of such foreign powers, respectively, which regulations shall from time to time be submitted to the Secretary of State.

SEC. 4127. The provisions of this Title, so far as the same are in conformity with the stipulations in the existing treaties between the United States and Tripoli, Tunis, Morocco, and Muscat, respectively, shall extend to those countries, and shall be executed in conformity with the provisions of the treaties, and of the provisions of this Title, by the consuls appointed by the United States to reside therein, who are hereby ex-officio invested with the powers herein delegated to the ministers and consuls of the United States appointed to reside in the countries named in section forty hundred and eighty-three, so far as the same can be exercised under the provisions of treaties between the United States and the several countries mentioned in this section, and in accordance with the usages of the countries in their intercourse with the Franks or other foreign Christian nations.

To Tripoli, Tunis, Morocco, and Muscat.

22 June, 1860, c. 179, s. 29, v. 12, p. 78.

SEC. 4128. If at any time there be no minister in either of the countries hereinbefore mentioned, the judicial duties which are imposed by this Title upon the minister shall devolve upon the Secretary of State, who is authorized and required to discharge the same.

Judicial duties, when to devolve on Secretary of State.

22 June, 1860, c. 179, s. 22, v. 12, p. 76. 1 July, 1870, c. 194, s. 2, v. 16, p. 183.

SEC. 4129. The provisions of this Title relating to the jurisdiction of consular and diplomatic officers over civil and criminal cases in the countries therein named, shall extend to any country of like character with which the United States may hereafter enter into treaty relations.

Provisions of Title extended to other countries.

1 July, 1870, c. 194, s. 1, v. 16, p. 183.

SEC. 4130. The word "minister," when used in this Title, shall be understood to mean the person invested with, and exercising, the principal diplomatic functions. The word "consul" shall be understood to mean any person invested by the United States with, and exercising, the functions of consul-general, consul, or vice-consul.

Definition of words "minister" and "consul."

22 June, 1860, c. 179, s. 22, v. 12, p. 76.

1 July, 1870, c. 194, s. 2, v. 16, p. 183.