

Act of Feb. 28, 1806, ch. 9.

Prohibitions of former act extended further.

and certain parts of the island of St. Domingo," passed on the twenty-eighth day of February, one thousand eight hundred and six, be, and the same hereby is continued in force until the end of the next session of Congress, and no longer.

SEC. 2. *And be it further enacted*, That the prohibitions and provisions of the aforesaid act shall be construed, and are hereby declared to extend to Gonoave and Tortuga, and to any other dependency of the said island of St. Domingo, in possession of, or under the acknowledged government of France.

APPROVED, February 24, 1807.

STATUTE II.

Feb. 24, 1807.

Act of Feb. 27, 1801, ch. 15. Act of May 3, 1802, ch. 53.

Provisions of a former act respecting writs of *capias ad satisfaciendum* repealed.

Said writs made returnable as if that act had not passed, &c.

Part of former act repealed.

CHAP. XVIII.—*An Act further supplementary to the act, intituled "An act concerning the District of Columbia."*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That so much of the act, intituled "An act additional to, and amendatory of an act, intituled An act concerning the district of Columbia," as directs that no *capias ad satisfaciendum* shall thereafter issue on any judgment rendered by a single magistrate, or in any case where the judgment shall not exceed twenty dollars, shall be, and the same is hereby repealed, and in all such cases a writ or writs of *capias ad satisfaciendum* may hereafter issue, any thing in the said recited act to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That such writs of *capias ad satisfaciendum* shall be issued, directed, and made returnable in like manner, and the clerk and constable shall be entitled to the same fees therein, as the said act herein before recited directs and allows in cases of executions against the goods and chattels of the debtor.

SEC. 3. *And be it further enacted*, That the eighth section of the aforesaid act shall be, and the same is hereby also repealed.

APPROVED, February 24, 1807.

STATUTE II.

Feb. 24, 1807.

Costs to be paid by claimants when there was a reasonable cause for seizure.

Proviso.

CHAP. XIX.—*An Act respecting seizures made under the authority of the United States, and for other purposes.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That when any prosecution shall be commenced on account of the seizure of any ship or vessel, goods, wares, or merchandise, made by any collector or other officer, under any act of Congress authorizing such seizure, and judgment shall be given for the claimant or claimants, if it shall appear to the court before whom such prosecution shall be tried, that there was a reasonable cause of seizure, the said court shall cause a proper certificate or entry to be made thereof: and in such case the claimant or claimants shall not be entitled to costs, nor shall the person who made the seizure, or the prosecutor, be liable to action, suit or judgment on account of such seizure and prosecution: (a) *Provided*, that the ship or vessel, goods, wares, or

(a) Seizure. "Probable cause" means less than evidence which would justify condemnation. It imports a seizure made under circumstances which warrant suspicion. *Locke v. The United States*, 7 Cranch, 339; 2 Cond. Rep. 521.

A doubt concerning the construction of a law, may be a good ground for seizure, and authorize a certificate of probable cause. *The United States v. Riddle*, 5 Cranch, 311; 2 Cond. Rep. 266.

If a collector justify the detention of a vessel under the 11th section of the embargo law of April 25, 1808, he need not show that his opinion was correct, nor that he used reasonable care and diligence in ascertaining the facts upon which his opinion was founded. It is sufficient if he honestly entertained the opinion in which he acted. *Otis v. Watkins*, 9 Cranch, 339; 3 Cond. Rep. 424.

Where a seizure for a breach of the laws of the United States, is finally adjudged wrongful and without probable cause by the courts, the party may proceed, at his election, by a suit at common law, or in the instance court of the admiralty for the illegal act. But the common law remedy in such cases must be sought in the state courts, the courts of the United States having no jurisdiction to decide on the conduct of their officers in the execution of their laws, in suits at common law, until the case shall have passed through the state courts. *Slocum v. Mayberry et al.*, 2 Wheat. 1; 4 Cond. Rep. 1.

merchandise be, after judgment, forthwith returned to such claimant or claimants, his, her, or their agent or agents.

SEC. 2. *And be it further enacted*, That the accounting officers of the treasury be, and they are hereby authorized and directed to allow to the collector of New York, in the settlement of his accounts, the amount of damages and costs recovered from and paid by him, by virtue of judgments rendered in the supreme court of the state of New York, on account of the seizure of the ship Liberty, and of the ship Two Marys; which vessels had been seized and labelled for a presumed infraction of the provisions of the act, intitled "An act concerning the registering and recording of ships or vessels."

APPROVED, February 24, 1807.

Officers of the treasury to allow the collector of New York for certain sums recovered of him, &c.

1792, ch. 1.

STATUTE II.

CHAP. XX.—*An Act to punish frauds committed on the Bank of the United States.*(a)

Feb. 24, 1807.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any bill or note in imitation of, or purporting to be a bill or note issued by order of the president, directors and company of the Bank of the United States, or any order or check on the said bank or corporation, or any cashier thereof, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any bill or note issued by order of the president, directors and company of the Bank of the United States, or any order or check, on the said bank or corporation, or any cashier thereof, or shall pass, utter

Act of April 10, 1816, ch. 44, sec. 18.

Punishment for falsely making, forging, or counterfeiting notes of the Bank of the U. States.

If a suit be brought against the seizing officer for a supposed trespass in making a seizure of a vessel for a supposed forfeiture, while the suit is depending, the fact of such pendency may be pleaded in abatement, or as a temporary bar to the action; if after a decree of condemnation, then that fact may be pleaded as a bar; if after an acquittal without a certificate of probable cause, then the officer is without any justification for the seizure, and it is definitively settled to be a tortious act. *Gelston et al. v. Hoyt*, 3 Wheat. 246; 4 Cond. Rep. 244.

To justify a seizure there must be probable cause of seizure; and if an officer of the customs seize without probable cause, no indictment lies for resisting him in the seizure, for he is not in the execution of his office. *United States v. Gay*, 2 Gallis. C. C. R. 359.

Seizures for breach of municipal laws, are made at the peril of the seizers. If made without probable cause, the seizers are liable for all the consequences; for the act is construed a tortious act, and his diligence for the preservation of the property, is no defence against losses occasioned by the superior force, or inevitable casualty. *Burke v. Trevitt*, 1 Mason's C. C. R. 96.

(a) Indictment in the circuit court of North Carolina, for the forging of, and an attempt to pass a certain paper writing in imitation of, and purporting to be, a bill or note issued by the president and directors of the Bank of the United States, provided in the 18th section of the act of 1816, establishing the Bank of the United States. The note was signed with the name of "John Huske," who had not been at any time president of the Bank of the United States; but who at the date of the counterfeiting was president of the office of discount at Fayetteville; and was countersigned by the name of "John W. Sanford," who at no time was cashier of the mother Bank, but was at the said date cashier of the said office of discount and deposit. Held, that this was an offence within the provisions of the law. *United States v. Turner*, 7 Peters, 132.

Indictment on the 18th section of the act of Congress, entitled, "An act to incorporate the Bank of the United States," passed April 15, 1816. The indictment charged the defendant with uttering and forging "a counterfeit bill in imitation of a bill used by the president, &c., of the bank." The forged paper was in these words and figures: "Cashier of the Bank of the United States, pay C. W. Earnest or order, five dollars. Office of discount and deposit in Pittsburg, 10th day of December, 1829. A. Brack-enridge, Pres't, J. Correy, Cash'r." "Pay bearer, C. W. Earnest." Held, that a genuine instrument of which the forged and counterfeited instrument is an imitation, is not a bill issued by order of the president of the Bank of the United States, according to the true intent and meaning of the 18th section of the act incorporating the bank. *The United States v. Brewster*, 7 Peters, 164.

Counterfeiting an indorsement on a post note of the Bank of the United States, is not an offence under the 18th section of the act incorporating the bank. *United States v. Stewart*, 4 Wash. C. C. R. 226.

In a prosecution for forging the notes of the Bank of the United States, it is not necessary to prove that it was committed with intention to defraud some corporation or person, and that the notes stated in the indictment, and given in evidence as forged, and those alleged to be forged, are the same. *United States v. Reuben Moses*, 4 Wash. C. C. R. 726.

An order on the cashier of the Bank of the United States, is evidence for supporting an indictment for forging an order on the cashier of the corporation of the Bank of the United States. *United States v. Hinman*, Baldwin's C. C. R. 292.