

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.

or publish, or attempt to pass, utter or publish as true, any false, forged, or counterfeited bill, or note, 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 false, forged, or counterfeited order or check, upon the said bank or corporation, or any cashier thereof, knowing the same to be falsely forged or counterfeited, or shall pass, utter, or publish, or attempt to pass, utter or publish, as true, any falsely altered bill or note, issued by order of the president, directors and company of the Bank of the United States, or any falsely altered order or check, on the said bank or corporation, or any cashier thereof, knowing the same to be falsely altered with intention to defraud the said corporation, or any other body politic, or person; every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned, and kept to hard labour, for a period not less than three years, nor more than ten years, or shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars: *Provided*, that nothing herein contained shall be construed to deprive the courts of the individual states of a jurisdiction under the laws of the several states, over the offence, declared punishable by this act.

Or checks or orders thereon.

Saving of the jurisdiction of state courts.

Repeal of act of June 27, 1798, ch. 61.

SEC. 2. *And be it further enacted*, That the act, intituled "An act to punish frauds committed on the Bank of the United States," passed the twenty-seventh day of June, one thousand seven hundred and ninety-eight, shall be and the same is hereby repealed: *Provided nevertheless*, that the repeal of the said act shall not be so construed, as to prevent the trial, condemnation or punishment of any person, or persons, charged with or guilty of a violation of any of its provisions, previous to the passing of this act.

APPROVED, February 24, 1807.

STATUTE II.

March 2, 1807.

CHAP. XXI.—*An Act to extend the time for locating Virginia military [land] warrants, for returning surveys thereon to the office of the Secretary of the department of War, and appropriating lands for the use of schools, in the Virginia military reservation, in lieu of those heretofore appropriated.* (a)

Act of Aug. 10, 1790, ch. 40.

Act of June 9, 1794, ch. 62.

Act of June 26, 1812, ch. 109.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the officers and soldiers

(a) Under the reserve contained in the cession act of Virginia, and under the acts of Congress of August 10, 1790, and of June 9, 1794, the whole country lying between the Sciota and Little Miami rivers, was subjected to military warrants, to satisfy which the reserve was made. *Doddridge v. Thompson*, 9 Wheat. 469; 5 Cond. Rep. 645.

The territory lying between the two rivers, is the whole country from their sources to their mouths; and if no branch of either of them has acquired the name exclusively of another, the main branch to its source must be considered the true river. *Ibid.*

The act of June 26, 1812, to ascertain the western boundary of the tract reserved for military warrants, and which provisionally designates Ludlow's line, as the western boundary, did not invalidate the title to the land between that line and Roberts's line, acquired under a Virginia military warrant previous to the passage of that act. *Ibid.*

The land between Ludlow's and Roberts's line was not withdrawn from the territory liable to be surveyed for military warrants by any act of Congress passed before the act of June 12, 1812. *Ibid.*

The reservation made by the law of Virginia of 1783, ceding to Congress the territory northwest of the river Ohio, is not a reservation of the whole tract of country between the rivers Sciota and Little Miami. It is a reservation of only so much as may be necessary to make up any deficiency of good land in the country set apart for the officers and soldiers of the Virginia line on continental establishment, on the southeast side of the Ohio. The residue of the lands are ceded to the United States as a common fund for those states who come or might become members of the Union; to be disposed of for that purpose. *Jackson v. Clarke et al.*, 1 Peters, 635.

Although the military lands constituted the primary claim upon the trust, that claim was according to the intention of the parties so to be satisfied, as still to keep in view the interests of the Union, which were also vital objects of the trust. This was only to be effected by prescribing the time in which the lands to be appropriated by those claimants should be separated from the general mass, so as to enable the government to apply the residue to the general purposes of the trust. *Ibid.*

If the right existed in Congress to prescribe the time in which military warrants should be located, the right to annex conditions to its extension, follows as a necessary consequence. *Ibid.*

If it be conceded that the proviso in the act of March 2, 1807, was not intended for the protection of surveys which were in themselves absolutely void, it must be admitted that it was intended to protect