

to be held subject to sale at private entry according to such regulations as the Secretary of the Interior may prescribe: *Provided*, That no lot shall be disposed of at public sale or private entry for less than the appraised value thereof: *And provided, further*, That said sales shall be conducted by the register and receiver of the land-office in the district in which said reservations may be situated, in accordance with the laws and rules and instructions of the department regulating the sales of public lands.

APPROVED, March 3, 1863.

Lots to be sold at public sale or private entry. *Provido.*

CHAP. LXXXI.—*An Act relating to Habeas Corpus, and regulating Judicial Proceedings in Certain Cases.*

March 3, 1863.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, during the present rebellion, the President of the United States, whenever, in his judgment, the public safety may require it, is authorized to suspend the privilege of the writ of habeas corpus in any case throughout the United States, or any part thereof. And whenever and wherever the said privilege shall be suspended, as aforesaid, no military or other officer shall be compelled, in answer to any writ of habeas corpus, to return the body of any person or persons detained by him by authority of the President; but upon the certificate, under oath, of the officer having charge of any one so detained that such person is detained by him as a prisoner under authority of the President, further proceedings under the writ of habeas corpus shall be suspended by the judge or court having issued the said writ, so long as said suspension by the President shall remain in force, and said rebellion continue.

The President may suspend the writ of habeas corpus during the rebellion.

Effect of the suspension.

SEC. 2. *And be it further enacted*, That the Secretary of State and the Secretary of War be, and they are hereby, directed, as soon as may be practicable, to furnish to the judges of the circuit and district courts of the United States and of the District of Columbia a list of the names of all persons, citizens of states in which the administration of the laws has continued unimpaired in the said Federal courts, who are now, or may hereafter be, held as prisoners of the United States, by order or authority of the President of the United States or either of said Secretaries, in any fort, arsenal, or other place, as state or political prisoners, or otherwise than as prisoners of war; the said list to contain the names of all those who reside in the respective jurisdictions of said judges, or who may be deemed by the said Secretaries, or either of them, to have violated any law of the United States in any of said jurisdictions, and also the date of each arrest; the Secretary of State to furnish a list of such persons as are imprisoned by the order or authority of the President, acting through the State Department, and the Secretary of War a list of such as are imprisoned by the order or authority of the President, acting through the Department of War. And in all cases where a grand jury, having attended any of said courts having jurisdiction in the premises, after the passage of this act, and after the furnishing of said list, as aforesaid, has terminated its session without finding an indictment or presentment, or other proceeding against any such person, it shall be the duty of the judge of said court forthwith to make an order that any such prisoner desiring a discharge from said imprisonment be brought before him to be discharged; and every officer of the United States having custody of such prisoner is hereby directed immediately to obey and execute said judge's order; and in case he shall delay or refuse so to do, he shall be subject to indictment for a misdemeanor, and be punished by a fine of not less than five hundred dollars and imprisonment in the common jail for a period not less than six months, in the discretion of the court: *Provided, however*, That no person shall be discharged by virtue of the provisions of this act until after he or she shall have taken an oath of allegiance

List of state or political prisoners to be furnished to the judges of the United States courts.

When such prisoners are to be discharged.

Penalty for refusing to obey order of the court.

Oath of allegiance to be taken before discharge.

to the Government of the United States, and to support the Constitution thereof; and that he or she will not hereafter in any way encourage or give aid and comfort to the present rebellion, or the supporters thereof:

Sureties of the peace may be required by the judge.

And provided, also, That the judge or court before whom such person may be brought, before discharging him or her from imprisonment, shall have power, on examination of the case, and, if the public safety shall require it, shall be required to cause him or her to enter into recognizance, with or without surety, in a sum to be fixed by said judge or court, to keep the peace and be of good behavior towards the United States and its citizens, and from time to time, and at such times as such judge or court may direct, appear before said judge or court to be further dealt with, according to law, as the circumstances may require. And it shall be the duty of the district attorney of the United States to attend such examination before the judge.

Duty of district attorney.

Prisoners under indictment, &c., to be discharged on bail.

SEC. 3. *And be it further enacted,* That in case any of such prisoners shall be under indictment or presentment for any offence against the laws of the United States, and by existing laws bail or a recognizance may be taken for the appearance for trial of such person, it shall be the duty of said judge at once to discharge such person upon bail or recognizance for trial as aforesaid. And in case the said Secretaries of State and War shall for any reason refuse or omit to furnish the said list of persons held as prisoners as aforesaid at the time of the passage of this act within twenty days thereafter, and of such persons as hereafter may be arrested within twenty days from the time of the arrest, any citizen may, after a grand jury shall have terminated its session without finding an indictment or presentment, as provided in the second section of this act, by a petition alleging the facts aforesaid touching any of the persons so as aforesaid imprisoned, supported by the oath of such petitioner or any other credible person, obtain and be entitled to have the said judge's order to discharge such prisoner on the same terms and conditions prescribed in the second section of this act: *Provided, however,* That the said judge shall be satisfied such allegations are true.

If list of prisoners is not furnished, &c., what remedy.

Any order of the President to be a defence to any action for false arrest, &c.

SEC. 4. *And be it further enacted,* That any order of the President, or under his authority, made at any time during the existence of the present rebellion, shall be a defence in all courts to any action or prosecution, civil or criminal, pending, or to be commenced, for any search, seizure, arrest, or imprisonment, made, done, or committed, or acts omitted to be done, under and by virtue of such order, or under color of any law of Congress, and such defence may be made by special plea, or under the general issue.

Actions against officers and others for torts in arrests, may be removed to circuit court.

SEC. 5. *And be it further enacted,* That if any suit or prosecution, civil or criminal, has been or shall be commenced in any state court against any officer, civil or military, or against any other person, for any arrest or imprisonment made, or other trespasses or wrongs done or committed, or any act omitted to be done, at any time during the present rebellion, by virtue or under color of any authority derived from or exercised by or under the President of the United States, or any act of Congress, and the defendant shall, at the time of entering his appearance in such court, or if such appearance shall have been entered before the passage of this act, then at the next session of the court in which such suit or prosecution is pending, file a petition, stating the facts and verified by affidavit, for the removal of the cause for trial at the next circuit court of the United States, to be holden in the district where the suit is pending, and offer good and sufficient surety for his filing in such court, on the first day of its session, copies of such process and other proceedings against him, and also for his appearing in such court and entering special bail in the cause, if special bail was originally required therein. It shall then be the duty of the state court to accept the surety and proceed no further in the cause or prosecution, and the bail that shall have been originally taken

Proceedings for removal.

State court to go no further.

shall be discharged. And such copies being filed as aforesaid in such court of the United States, the cause shall proceed therein in the same manner as if it had been brought in said court by original process, whatever may be the amount in dispute or the damages claimed, or whatever the citizenship of the parties, any former law to the contrary notwithstanding. And any attachment of the goods or estate of the defendant by the original process shall hold the goods or estate so attached to answer the final judgment in the same manner as by the laws of such state they would have been holden to answer final judgment had it been rendered in the court in which the suit or prosecution was commenced. And it shall be lawful in any such action or prosecution which may be now pending, or hereafter commenced, before any state court whatever, for any cause aforesaid, after final judgment, for either party to remove and transfer, by appeal, such case during the session or term of said court at which the same shall have taken place, from such court to the next circuit court of the United States to be held in the district in which such appeal shall be taken, in manner aforesaid. And it shall be the duty of the person taking such appeal to produce and file in the said circuit court attested copies of the process, proceedings, and judgment in such cause; and it shall also be competent for either party, within six months after the rendition of a judgment in any such cause, by writ of error or other process, to remove the same to the circuit court of the United States of that district in which such judgment shall have been rendered; and the said circuit court shall thereupon proceed to try and determine the facts and the law in such action, in the same manner as if the same had been there originally commenced, the judgment in such case notwithstanding. And any bail which may have been taken, or property attached, shall be holden on the final judgment of the said circuit court in such action, in the same manner as if no such removal and transfer had been made, as aforesaid. And the state court, from which any such action, civil or criminal, may be removed and transferred as aforesaid, upon the parties giving good and sufficient security for the prosecution thereof, shall allow the same to be removed and transferred, and proceed no further in the case: *Provided, however,* That if the party aforesaid shall fail duly to enter the removal and transfer, as aforesaid, in the circuit court of the United States, agreeably to this act, the state court, by which judgment shall have been rendered, and from which the transfer and removal shall have been made, as aforesaid, shall be authorized, on motion for that purpose, to issue execution, and to carry into effect any such judgment, the same as if no such removal and transfer had been made. *And provided also,* That no such appeal or writ of error shall be allowed in any criminal action or prosecution where final judgment shall have been rendered in favor of the defendant or respondent by the state court. And if in any suit hereafter commenced the plaintiff is nonsuited or judgment pass against him, the defendant shall recover double costs.

SEC. 6. *And be it further enacted,* That any suit or prosecution described in this act, in which final judgment may be rendered in the circuit court, may be carried by writ of error to the supreme court, whatever may be the amount of said judgment.

SEC. 7. *And be it further enacted,* That no suit or prosecution, civil or criminal, shall be maintained for any arrest or imprisonment made, or other trespasses or wrongs done or committed, or act omitted to be done, at any time during the present rebellion, by virtue or under color of any authority derived from or exercised by or under the President of the United States, or by or under any act of Congress, unless the same shall have been commenced within two years next after such arrest, imprisonment, trespass, or wrong may have been done or committed or act may have been omitted to be done: *Provided,* That in no case shall the limitation herein provided commence to run until the passage of this act, so

Original attachment to hold. After final judgment in state court, action may be removed to circuit court by appeal.

Proceedings.

Circuit court to try the case, as though originally commenced therein.

Bail and attachments.

State court to proceed no further.

If removal is not perfected, state court may issue execution.

Appeal not allowable in a criminal case, when, &c.

Double costs.

Suit may be carried to the supreme court.

Suits and prosecutions to be commenced within two years.

Limitation not to commence until passage of this act.

that no party shall, by virtue of this act, be debarred of his remedy by suit or prosecution until two years from and after the passage of this act.

APPROVED, March 3, 1863.

March 3, 1863. CHAP. LXXXII. — *An Act to authorize the Breveting of Volunteer and other Officers in the United States Service.*

Brevet rank of volunteer and other officers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he hereby is, authorized, by and with the advice and consent of the Senate, to confer brevet rank upon such commissioned officers of the volunteer and other forces in the United States service as have been, or may hereafter be, distinguished by gallant actions or meritorious conduct; which rank shall not entitle them to any increase of pay or emoluments.

Pay, &c., not increased.

APPROVED, March 3, 1863.

March 3, 1863. CHAP. LXXXIII. — *An Act for the Relief of certain Persons who have performed the Duties of Assistant Surgeons in Regiments of Cavalry.*

Pay of those acting as assistant surgeons of cavalry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That physicians and surgeons who have since the second day of July last been duly appointed and commissioned as second assistant surgeons in volunteer regiments of cavalry, and as such have been duly mustered into the military service of the United States, and actually performed the duties appertaining to that office, shall be paid therefor in like manner and upon like proof as other assistant surgeons of cavalry: *Provided,* That not more than two assistant surgeons to each regiment shall be allowed and paid for services performed at one and the same time.

Proviso.

APPROVED, March 3, 1863.

March 3, 1863. CHAP. LXXXIV. — *An Act to amend an Act entitled "An Act to authorize the Employment of Volunteers to aid in enforcing the Laws, and protecting Public Property," approved July twenty-two, eighteen hundred and sixty-one.*

1861, ch. 9.
Ante, p. 268.

Persons discharged within two years of enlistment, by reason of wounds, &c., entitled to bounty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every non-commissioned officer, private, or other person who has been or shall hereafter be discharged from the army of the United States, within two years from the date of their enlistment, by reason of wounds received in battle, shall be entitled to receive the same bounty as is granted or may be granted to the same classes of persons who are discharged after a service of two years; and all acts and parts of acts inconsistent with this, are hereby repealed.

Repealing clause.

APPROVED, March 3, 1863.

March 3, 1863. CHAP. LXXXV. — *An Act concerning Letters of Marque, Prizes, and Prize Goods.*

President may issue letters of marque, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all domestic and foreign wars the President of the United States is authorized to issue to private armed vessels of the United States, commissions, or letters of marque and general reprisal in such form as he shall think proper, and under the seal of the United States, and make all needful rules and regulations for the government and conduct thereof, and for the adjudication and disposal of the prizes and salvages made by such vessels: *Provided,* That the authority conferred by this act shall cease and terminate at the end of three years from the passage of this act.

Rules for adjudication, &c., of prizes.

Authority, when to cease.

APPROVED, March 3, 1863.