

or demand, or any part thereof, has or has not already been allowed or paid; or, if any person shall present or use or attempt to use any such document, record, file, or paper, so taken and carried away in order to procure the payment of any money from or by the United States, or any officer or agent thereof, or the allowance or payment of the whole or any part of any claim, account, or demand against the United States; such person, so offending, shall be deemed guilty of felony, and on conviction be imprisoned not more than ten years, or fined not exceeding five thousand dollars, at the discretion of the court.

APPROVED, February 5, 1867.

paper has or has not been so used, or such claim has or has not been so allowed.

Penalty for using, or attempting to use any such paper.

CHAP. XXVII. — *An Act amendatory of "An Act to amend an Act entitled 'An Act relating to Habeas Corpus, and regulating judicial Proceedings in certain Cases,'" approved May eleventh, eighteen hundred and sixty-six.*

Feb. 5, 1867.

1866, ch. 80.

Ante, p. 46.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever in any suit or prosecution which has been or may be commenced in any State court, and which the defendant is authorized to have removed from said court to the circuit court of the United States, under and by virtue of the provisions of "An act relating to habeas corpus, and regulating judicial proceedings in certain cases," approved March third, eighteen hundred and sixty-three, or by virtue of an act amendatory thereof, approved May eleventh, eighteen hundred and sixty-six, and all the acts necessary for the removal of said cause to the circuit court shall have been performed, and the defendant in any suit shall be in actual custody on process issued by said State court, it shall be the duty of the clerk of the said circuit court of the United States to issue a writ of habeas corpus cum causa; and it shall be the duty of the marshal, by virtue of the said writ of habeas corpus, to take the body of the defendant into his custody to be dealt with in said circuit court according to rules of law, and the orders of the said court, or of any judge thereof in vacation; and he shall file a duplicate copy of said writ of habeas corpus with the clerk of the State court in which said suit was commenced, or deliver said duplicate to the clerk of said court; and all attachments made, and all bail and other security given in any suit or prosecution which has been or shall be removed from any State court to the circuit court of the United States, in pursuance of law, shall be and continue in like force and effect as if the same suit had proceeded to final judgment and execution in the State court.

APPROVED, February 5, 1867.

When in any suit begun in a State court and removed to the circuit court of the United States, the defendant is in actual custody under the State process, the clerk of the circuit court shall issue a habeas corpus cum causa.

1863, ch. 81.
Vol. xii. p. 755.
Proceedings thereon.

The marshal to take the body; to file duplicate copy with the clerk of the State court.

Attachments, bail, &c. to continue in full force.

CHAP. XXVIII. — *An Act to amend "An Act to establish the judicial Courts of the United States," approved September twenty-fourth, seventeen hundred and eighty-nine.*

Feb. 5, 1867.

1789, ch. 20.

Vol. i. p. 73.

See Post, p. 545.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the several courts of the United States, and the several justices and judges of such courts, within their respective jurisdictions, in addition to the authority already conferred by law, shall have power to grant writs of habeas corpus in all cases where any person may be restrained of his or her liberty in violation of the constitution, or of any treaty or law of the United States; and it shall be lawful for such person so restrained of his or her liberty to apply to either of said justices or judges for a writ of habeas corpus, which application shall be in writing and verified by affidavit, and shall set forth the facts concerning the detention of the party applying, in whose custody he or she is detained, and by virtue of what claim or authority, if known; and the said justice or judge to whom such application shall be made shall forthwith award a writ of habeas corpus, unless it shall appear from the petition itself that the party is not deprived of his or her liberty in

The United States courts and judges, in addition to present authority, may grant writs of habeas corpus in certain cases.

Proceedings in applications for the writ.

The writ to be awarded forthwith, unless, &c.

Writ how to be directed.

Return to be made, and within what time.

Upon the return, a day to be set for hearing the case, and within what time.

Petitioner may on oath deny facts set forth in the return and allege others.

Return may be amended, &c. Court or

Judge to determine the facts summarily, and discharge the petitioner if, &c.

Penalty for refusing to obey the writ, &c.

for not making return, or making a false return.

Appeals.

Terms, regulations and orders respecting appeals, &c.

Pending proceedings or appeal, and after final judgment discharging the petitioner, all proceedings in State court to be null.

Writs of error from the Supreme Court of the United States, for what causes may be issued.

contravention of the constitution or laws of the United States. Said writ shall be directed to the person in whose custody the party is detained, who shall make return of said writ and bring the party before the judge who granted the writ, and certify the true cause of the detention of such person within three days thereafter, unless such person be detained beyond the distance of twenty miles; and if beyond the distance of twenty miles and not above one hundred miles, then within ten days; and if beyond the distance of one hundred miles, then within twenty days. And upon the return of the writ of habeas corpus a day shall be set for the hearing of the cause, not exceeding five days thereafter, unless the party petitioning shall request a longer time. The petitioner may deny any of the material facts set forth in the return, or may allege any fact to show that the detention is in contravention of the constitution or laws of the United States, which allegations or denials shall be made on oath. The said return may be amended by leave of the court or judge before or after the same is filed, as also may all suggestions made against it, that thereby the material facts may be ascertained. The said court or judge shall proceed in a summary way to determine the facts of the case, by hearing testimony and the arguments of the parties interested, and if it shall appear that the petitioner is deprived of his or her liberty in contravention of the constitution or laws of the United States, he or she shall forthwith be discharged and set at liberty. And if any person or persons to whom such writ of habeas corpus may be directed shall refuse to obey the same, or shall neglect or refuse to make return, or shall make a false return thereto, in addition to the remedies already given by law, he or they shall be deemed and taken to be guilty of a misdemeanor, and shall, on conviction before any court of competent jurisdiction, be punished by fine not exceeding one thousand dollars, and by imprisonment not exceeding one year, or by either, according to the nature and aggravation of the case. From the final decision of any judge, justice, or court, inferior to the circuit court, an appeal may be taken to the circuit court of the United States for the district in which said cause is heard, and from the judgment of said circuit court to the Supreme Court of the United States, on such terms and under such regulations and orders, as well for the custody and appearance of the person alleged to be restrained of his or her liberty, as for sending up to the appellate tribunal a transcript of the petition, writ of habeas corpus, return thereto, and other proceedings, as may be prescribed by the Supreme Court, or, in default of such, as the judge hearing said cause may prescribe; and pending such proceedings or appeal, and until final judgment be rendered therein, and after final judgment of discharge in the same, any proceeding against such person so alleged to be restrained of his or her liberty in any State court, or by or under the authority of any State, for any matter or thing so heard and determined, or in process of being heard and determined, under and by virtue of such writ of habeas corpus, shall be deemed null and void.

SEC. 2. *And be it further enacted,* That a final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity, or where is drawn in question the validity of a statute of or an authority exercised under any State, on the ground of their being repugnant to the constitution, treaties, or laws of the United States, and the decision is in favor of such their validity, or where any title, right, privilege, or immunity is claimed under the constitution, or any treaty or statute of or commission held, or authority exercised under the United States, and the decision is against the title, right, privilege, or immunity specially set up or claimed by either party under such constitution, treaty, statute, commission, or authority, may be re-examined and re-

versed or affirmed in the Supreme Court of the United States, upon a writ of error, the citation being signed by the chief justice, or judge, or chancellor of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner, and under the same regulations, and the writ shall have the same effect, as if the judgment or decree complained of had been rendered or passed in a court of the United States; and the proceeding upon the reversal shall also be the same, except that the Supreme Court may, at their discretion, proceed to a final decision of the same, and award execution, or remand the same to an inferior court. This act shall not apply to the case of any person who is or may be held in the custody of the military authorities of the United States, charged with any military offence, or with having aided or abetted rebellion against the government of the United States prior to the passage of this act.

Citation, how signed

Effect of writ.

Proceedings upon reversal. Supreme Court may award execution, or remand to the lower court.

This act not to apply to certain cases.

APPROVED, February 5, 1867.

CHAP. XXIX. — *An Act to authorize the Extension, Construction, and Use of a lateral Branch of the Baltimore and Potomac Railroad into and within the District of Columbia.*

Feb. 5, 1867.

WHEREAS it is represented to this present Congress that the Baltimore and Potomac Railroad Company, incorporated by an act of the General Assembly of Maryland, entitled "An act to incorporate the Baltimore and Potomac Railroad Company," passed the sixth day of May, eighteen hundred and fifty-three, are desirous, under the powers which they claim to be vested in them by the provisions of the before-recited act, to construct a lateral branch from the said Baltimore and Potomac Railroad to the District of Columbia: Therefore,

Preamble.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Baltimore and Potomac Railroad Company, incorporated by the said act of the General Assembly of Maryland, shall be, and they are hereby, authorized to extend into and within the District of Columbia a lateral railroad, such as the said company shall construct or cause to be constructed in a direction towards the said District, in connection with the railroad which they are about to locate and construct from the city of Baltimore to the Potomac river, in pursuance of their said act of incorporation; and the said Baltimore and Potomac Railroad Company are hereby authorized to exercise the same powers, rights, and privileges, and shall be subject to the same restrictions, in the extension and construction of the said lateral railroad into and within the said District, as they may exercise or are subject to under and by intent of their said charter or act of incorporation, in the extension and construction of any railroad within the State of Maryland; and shall be entitled to the same rights, compensation, benefits, and immunities, in the use of the said road, and in regard thereto, as are provided in their said charter, except the right to construct any lateral road or roads within the said District from the said lateral branch or road hereby authorized; it being expressly understood that the said Baltimore and Potomac Railroad Company shall have power only to construct from the said Baltimore and Potomac Railroad one lateral road within the said District to some point or terminus within the city and county of Washington, to be determined in the manner hereinafter mentioned.

The Baltimore and Potomac Railroad Company may extend lateral railroad into the District of Columbia.

Powers, privileges, and restrictions.

Rights and immunities.

One lateral road only to be constructed.

SEC. 2. *And be it further enacted,* That before the Baltimore and Potomac Railroad Company aforesaid shall proceed to construct any railroad which they may lay out or locate on, through, or over any land or improvements, or to use, take for use, any earth, stone, or other materials necessary for the construction of said road, on any land within the said District, they shall first obtain the assent of the owner of such land, improvements, or materials; or if such owner shall be absent from said District, or shall refuse to give such assent on such terms as the said company

Before locating road upon, or using materials from, lands of another, the assent of the owner to be obtained.

Proceedings where owner is absent or under