

May 11, 1866.

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

See 1867, ch. 27.  
Post, p. 385.

Orders from proper officer to perform certain acts to be a defence to suits on account of such acts;

1863, ch. 81,  
§§ 4-6.  
Vol. xii. pp. 756,  
757.

but not for acts done after the passage of this act.

Order, how proved.

Right of removal from State to United States Court, when it may be exercised.

Proceedings in State court to cease on filing petition, &c.

Subsequent acts in State court, void.

Damages.

Double costs.

Clerk of State court to furnish copies of papers, &c.

CHAP. LXXX. — *An Act to amend an Act entitled "An Act relating to Habeas Corpus, and regulating Judicial Proceedings in certain Cases," approved March third, eighteen hundred and sixty-three.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any search, seizure, arrest, or imprisonment made, or any acts done or omitted to be done during the said rebellion, by any officer or person, under and by virtue of any order, written or verbal, general or special, issued by the President or Secretary of War, or by any military officer of the United States holding the command of the department, district, or place within which such seizure, search, arrest, or imprisonment was made, done, or committed, or any acts were so done, or omitted to be done, either by the person or officer to whom the order was addressed, or for whom it was intended, or by any other person aiding or assisting him therein, shall be held, and are hereby declared, to come within the purview of the fourth, fifth, and sixth sections of the said act of March third, eighteen hundred and sixty-three, for all the purposes of defence, transfer, appeal, error, or limitation provided therein. But no such order shall, by force of this act, or the act to which this is an amendment, be a defence to any suit or action for any act done or omitted to be done after the passage of this act.*

SEC. 2. *And be it further enacted, That when the said order is in writing, it shall be sufficient to produce in evidence the original, with proof of its authenticity, or a certified copy of the same; or if sent by telegraph, the production of the telegram purporting to emanate from such military officer shall be prima facie evidence of its authenticity; or if the original of such order or telegram is lost or cannot be produced, secondary evidence thereof shall be admissible, as in other cases.*

SEC. 3. *And be it further enacted, That the right of removal from the State court into the circuit court of the United States, provided in the fifth section of the act to which this is amendatory, may be exercised after the appearance of the defendant and the filing of his plea or other defence in said court, or at any term of said court subsequent to the term when the appearance is entered, and before a jury is empanelled to try the same; but nothing herein contained shall be held to abridge the right of such removal after final judgment in the State court, nor shall it be necessary in the State court to offer or give surety for the filing of copies in the circuit court of the United States; but, on the filing of the petition, verified as provided in said fifth section, the further proceedings in the State court shall cease, and not be resumed until a certificate under the seal of the circuit court of the United States, stating that the petitioner has failed to file copies in the said circuit court, at the next term, is produced.*

SEC. 4. *And be it further enacted, That if the State court shall, notwithstanding the performance of all things required for the removal of the case to the circuit court aforesaid, proceed further in said cause or prosecution before said certificate is produced, then, in that case, all such further proceedings shall be void and of none effect; and all parties, judges, officers, and other persons, thenceforth proceeding thereunder, or by color thereof, shall be liable in damages therefor to the party aggrieved, to be recovered by action in a court of the State having proper jurisdiction, or in a circuit court of the United States for the district in which such further proceedings may have been had, or where the party, officer, or other person, so offending, shall be found; and upon a recovery of damages in either court, the party plaintiff shall be entitled to double costs.*

SEC. 5. *And be it further enacted, That it shall be the duty of the clerk of the State court to furnish copies of the papers and files in the case to the party so petitioning for the removal; and upon the refusal or neglect of the clerk to furnish such copies, the said party may docket the*

case in the circuit court of the United States; and thereupon said circuit court shall have jurisdiction therein, and may, upon proof of such refusal or neglect of the clerk of the State court, and upon reasonable notice being given to the plaintiff, require him to file a declaration or petition therein; and upon his default may order a nonsuit, and dismiss the case at the costs of the plaintiff, which dismissal shall be a bar to any further suit touching the matter in controversy.

APPROVED, May 11, 1866.

If clerk does not furnish copies, case may be docketed in U. S. Court, and plaintiff ordered to file declaration, &c. therein.

Nonsuit, &c.

CHAP. LXXXI. — *An Act to authorize the Coinage of Five-cent Pieces.*

May 16, 1866.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, so soon as practicable after the passage of this act, there shall be coined at the mint of the United States a five-cent piece composed of copper and nickel, in such proportions, not exceeding twenty-five per centum of nickel, as shall be determined by the director of the mint, the standard weight of which shall be seventy-seven and sixteen hundredths grains, with no greater deviation than two grains to each piece; and the shape, mottoes and devices of said coin shall be determined by the director of the mint, with the approval of the Secretary of the Treasury; and the laws now in force relating to the coinage of cents, and providing for the purchase of material, and prescribing the appropriate duties of the officers of the mint and the Secretary of the Treasury, be, and the same are hereby, extended to the coinage herein provided for.

Five-cent pieces to be coined of copper and nickel.

Weight, shape, devices, &c.

Laws relating to coinage of cents, &c., to apply to this coinage.

SEC. 2. *And be it further enacted,* That all laws now in force relating to the coins of the United States, and the striking and coining of the same, shall, so far as applicable, be extended to the coinage herein authorized, whether said laws are penal or otherwise, for the security of the coin, regulating and guarding the process of striking and coining, for preventing debasement or counterfeiting, or for any other purpose. And the director of the mint shall prescribe suitable regulations to insure a due conformity to the required weights and proportions of alloy in the said coin, and shall order trials thereof to be made from time to time by the assayer of the mint, whereof a report shall be made in writing to the director.

Laws relating to coins extended to this act so far as applicable.

Regulations as to alloy.

SEC. 3. *And be it further enacted,* That said coin shall be a legal tender in any payment to the amount of one dollar. And it shall be lawful to pay out such coins in exchange for the lawful currency in the United States, (except cents, or half cents, or two-cent pieces, issued under former acts of Congress,) in suitable sums, by the treasurer of the mint, and by such other depositaries as the Secretary of the Treasury may designate, and under general regulations approved by the Secretary of the Treasury. And under the like regulations the same may be exchanged in suitable sums for any lawful currency of the United States, and the expenses incident to such exchange, distribution, and transmission may be paid out of the profits of said coinage; and the net profits of said coinage, as ascertained in the manner prescribed in the second section of the act entitled "An act relating to foreign coins and the coinage of cents at the mint of the United States," approved February twenty-first, eighteen hundred and fifty-seven, shall be transferred to the treasury of the United States: *Provided,* That from and after the passage of this act no issues of fractional notes of the United States shall be of a less denomination than ten cents; and all such issues at that time outstanding shall, when paid into the treasury or any designated depository of the United States, or redeemed or exchanged as now provided by law, be retained and cancelled.

To be legal tender to amount of a dollar.

To be paid in exchange for currency.

1857, ch. 56, § 2. Vol. xi. p. 163.

No fractional currency of less than ten cents to be issued, and old issues to be cancelled.

SEC. 4. *And be it further enacted,* That, if any person or persons not lawfully authorized shall knowingly make, issue, or pass, or cause to be made, issued, or passed, or aid in the making, issuing, or passing of any

Unauthorized making, &c., of such coins punished.