

petency of witnesses in the courts of the United States, in trials at common law, in equity, and admiralty.

SEC. 2. *And be it further enacted*, That so much of section twenty-nine of an act entitled "An act to establish [the] judicial courts of the United States," approved September twenty-four, seventeen hundred and eighty-nine, as requires, in cases punishable with death, twelve petit jurors to be summoned from the county where the offence was committed, be, and the same is hereby, repealed.

Jurors in capital cases.

1789, ch. 20, § 29.
Vol. i. p. 83.

APPROVED, July 16, 1862.

CHAP. CXC. — *An Act prohibiting the Confinement of Persons in the Military Service of the United States in the Penitentiary of the District of Columbia, except as a Punishment for certain Crimes, and to discharge therefrom certain Convicts by Sentence of Courts-martial, and for other Purposes.* July 16, 1862.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter no person in the military service of the United States, convicted and sentenced by a court-martial, shall be punished by confinement in the penitentiary of the District of Columbia, unless the offence of which such person may be convicted would by some statute of the United States or at common law, as the same exists in the said District, subject such convict to said punishment.

When persons in military service may be confined in penitentiary.

SEC. 2. *And be it further enacted*, That all such persons in the military service, as aforesaid, who have heretofore been, or may hereafter be, convicted and sentenced by a court-martial for any offence which, if tried before the criminal court of said District, would not subject such person to imprisonment in said penitentiary, and who are now or may hereafter be confined therein, shall be discharged from said imprisonment, upon such terms and conditions of further punishment as the President of the United States may, in his discretion, impose as a commutation of said sentence.

When such persons now therein may be discharged.

SEC. 3. *And be it further enacted*, That upon the application of any citizen of the United States, supported by his oath, alleging that a person or persons in the military service, as aforesaid, are confined in said penitentiary under the sentence of a court-martial for any offence not punishable by imprisonment in the penitentiary by the authority of the criminal court aforesaid, it shall be the duty of the judge of said court, or, in case of his absence or inability, of one of the judges of the circuit court of said District, if, upon an inspection of the record of proceedings of said court-martial, he shall find the facts to be as alleged in said application, immediately to issue the writ of habeas corpus to bring before him the said convict; and if, upon an investigation of the case, it shall be the opinion of such judge that the case of such convict is within the provisions of the previous sections of this act, he shall order such convict to be confined in the common jail of said District, until the decision of the President of the United States as to the commutation aforesaid shall be filed in said court, and then such convict shall be disposed of and suffer such punishment as by said commutation of his said sentence may be imposed.

Mode of discharge.

SEC. 4. *And be it further enacted*, That no person convicted upon the decision of a court-martial shall be confined in any penitentiary of the United States, except under the conditions of this act.

Convicts by court-martial not to be confined in penitentiary.

APPROVED, July 16, 1862.

CHAP. CXCV. — *An Act to suppress Insurrection, to punish Treason and Rebellion, to seize and confiscate the Property of Rebels, and for other Purposes.* July 17, 1862.

Post, p. 627.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person who shall hereafter commit the crime of treason against the United States, and shall

Treason, how punished.

Post, p. 627.

Engaging or assisting, &c., in rebellion against the United States, how punished.

Disqualified to hold office.

This act not to affect those guilty before, unless, &c.

President to cause the seizure of the estate, &c.

of rebel officers,

of President or other officer of so-called confederate states,

of governor, &c., of any of the said states,
Post, p. 627.

of certain persons holding offices of honor, &c.

Same subject.

Proviso.

of certain persons aiding, &c., the rebellion.

Sales of such property to be void.

What shall be bar to suits.

be adjudged guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or, at the discretion of the court, he shall be imprisoned for not less than five years and fined not less than ten thousand dollars, and all his slaves, if any, shall be declared and made free; said fine shall be levied and collected on any or all of the property, real and personal, excluding slaves, of which the said person so convicted was the owner at the time of committing the said crime, any sale or conveyance to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That if any person shall hereafter incite, set on foot, assist, or engage in any rebellion or insurrection against the authority of the United States, or the laws thereof, or shall give aid or comfort thereto, or shall engage in, or give aid and comfort to, any such existing rebellion or insurrection, and be convicted thereof, such person shall be punished by imprisonment for a period not exceeding ten years, or by a fine not exceeding ten thousand dollars, and by the liberation of all his slaves, if any he have; or by both of said punishments, at the discretion of the court.

SEC. 3. *And be it further enacted*, That every person guilty of either of the offences described in this act shall be forever incapable and disqualified to hold any office under the United States.

SEC. 4. *And be it further enacted*, That this act shall not be construed in any way to affect or alter the prosecution, conviction, or punishment of any person or persons guilty of treason against the United States before the passage of this act, unless such person is convicted under this act.

SEC. 5. *And be it further enacted*, That, to insure the speedy termination of the present rebellion, it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, stocks, credits, and effects of the persons hereinafter named in this section, and to apply and use the same and the proceeds thereof for the support of the army of the United States, that is to say:

First. Of any person hereafter acting as an officer of the army or navy of the rebels in arms against the government of the United States.

Secondly. Of any person hereafter acting as President, Vice-President, member of Congress, judge of any court, cabinet officer, foreign minister, commissioner or consul of the so-called confederate states of America.

Thirdly. Of any person acting as governor of a state, member of a convention or legislature, or judge of any court of any of the so-called confederate states of America.

Fourthly. Of any person who, having held an office of honor, trust, or profit in the United States, shall hereafter hold an office in the so-called confederate states of America.

Fifthly. Of any person hereafter holding any office or agency under the government of the so-called confederate states of America, or under any of the several states of the said confederacy, or the laws thereof, whether such office or agency be national, state, or municipal in its name or character: *Provided*, That the persons, thirdly, fourthly, and fifthly above described shall have accepted their appointment or election since the date of the pretended ordinance of secession of the state, or shall have taken an oath of allegiance to, or to support the constitution of the so-called confederate states.

Sixthly. Of any person who, owning property in any loyal State or Territory of the United States, or in the District of Columbia, shall hereafter assist and give aid and comfort to such rebellion; and all sales, transfers, or conveyances of any such property shall be null and void; and it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section.

SEC. 6. *And be it further enacted*, That if any person within any State or Territory of the United States, other than those named as aforesaid, after the passage of this act, being engaged in armed rebellion against the government of the United States, or aiding or abetting such rebellion, shall not, within sixty days after public warning and proclamation duly given and made by the President of the United States, cease to aid, countenance, and abet such rebellion, and return to his allegiance to the United States, all the estate and property, moneys, stocks, and credits of such person shall be liable to seizure as aforesaid, and it shall be the duty of the President to seize and use them as aforesaid or the proceeds thereof. And all sales, transfers, or conveyances, of any such property after the expiration of the said sixty days from the date of such warning and proclamation shall be null and void; and it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section.

Property, &c., of persons in States in rebellion, engaged, &c., in the rebellion, not ceasing to give such aid within sixty days after proclamation by the President, liable to seizure, &c.

Sales, &c. void.

SEC. 7. *And be it further enacted*, That to secure the condemnation and sale of any of such property, after the same shall have been seized, so that it may be made available for the purpose aforesaid, proceedings in rem shall be instituted in the name of the United States in any district court thereof, or in any territorial court, or in the United States district court for the District of Columbia, within which the property above described, or any part thereof, may be found, or into which the same, if movable, may first be brought, which proceedings shall conform as nearly as may be to proceedings in admiralty or revenue cases, and if said property, whether real or personal, shall be found to have belonged to a person engaged in rebellion, or who has given aid or comfort thereto, the same shall be condemned as enemies' property and become the property of the United States, and may be disposed of as the court shall decree and the proceeds thereof paid into the treasury of the United States for the purposes aforesaid.

Proceedings to secure condemnation, &c., of such property.

SEC. 8. *And be it further enacted*, That the several courts aforesaid shall have power to make such orders, establish such forms of decree and sale, and direct such deeds and conveyances to be executed and delivered by the marshals thereof where real estate shall be the subject of sale, as shall fitly and efficiently effect the purposes of this act, and vest in the purchasers of such property good and valid titles thereto. And the said courts shall have power to allow such fees and charges of their officers as shall be reasonable and proper in the premises.

Power of courts in such cases.

SEC. 9. *And be it further enacted*, That all slaves of persons who shall hereafter be engaged in rebellion against the government of the United States, or who shall in any way give aid or comfort thereto, escaping from such persons and taking refuge within the lines of the army; and all slaves captured from such persons or deserted by them and coming under the control of the government of the United States; and all slaves of such persons found on [or] being within any place occupied by rebel forces and afterwards occupied by the forces of the United States, shall be deemed captives of war, and shall be forever free of their servitude, and not again held as slaves.

Certain slaves to be deemed captives of war and to be set free.

SEC. 10. *And be it further enacted*, That no slave escaping into any State, Territory, or the District of Columbia, from any other State, shall be delivered up, or in any way impeded or hindered of his liberty, except for crime, or some offence against the laws, unless the person claiming said fugitive shall first make oath that the person to whom the labor or service of such fugitive is alleged to be due is his lawful owner, and has not borne arms against the United States in the present rebellion, nor in any way given aid and comfort thereto; and no person engaged in the military or naval service of the United States shall, under any pretence whatever, assume to decide on the validity of the claim of any person to the service or labor of any other person, or surrender up any such person to the claimant, on pain of being dismissed from the service.

Escaped slaves not to be surrendered, unless claimant shall make oath that the alleged owner is loyal, &c.