

TITLE XIX.

PROVISIONS APPLICABLE TO SEVERAL CLASSES OF OFFICERS.

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President to regulate admissions to the civil service.

3 March, 1871, c. 114, s. 9, v. 16, p. 514.

Preference of persons disabled in military or naval service.

3 Mar., 1865, Res. No. 27, s. 1, v. 13, p. 571.

Recommendation for employment of such persons.

3 Mar., 1865, Res. No. 27, s. 2, v. 13, p. 571.

Form of oath of office.

2 July, 1862, c. 128, v. 12, p. 502.

*Ex parte* Garland, 4 Wall., 333.

SEC. 1753. The President is authorized to prescribe such regulations for the admission of persons into the civil service of the United States as may best promote the efficiency thereof, and ascertain the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter; and for this purpose he may employ suitable persons to conduct such inquiries, and may prescribe their duties, and establish regulations for the conduct of persons who may receive appointments in the civil service.

SEC. 1754. Persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty, shall be preferred for appointments to civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such offices.

SEC. 1755. In grateful recognition of the services, sacrifices, and sufferings of persons honorably discharged from the military and naval service of the country, by reason of wounds, disease, or the expiration of terms of enlistment, it is respectfully recommended to bankers, merchants, manufacturers, mechanics, farmers, and persons engaged in industrial pursuits, to give them the preference for appointments to remunerative situations and employments.

SEC. 1756. Every person elected or appointed to any office of honor or profit, either in the civil, military, or naval service, excepting the President and the persons embraced by the section following, shall, before entering upon the duties of such office, and before being entitled to any part of the salary or other emoluments thereof, take and subscribe the following oath: "I, A B, do solemnly swear (or affirm) that I have

never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God."

SEC. 1757. Whenever any person who is not rendered ineligible to office by the provisions of the fourteenth amendment to the Constitution is elected or appointed to any office of honor or trust under the Government of the United States, and is not able, on account of his participation in the late rebellion, to take the oath prescribed in the preceding section, he shall, before entering upon the duties of his office, take and subscribe in lieu of that oath the following oath: "I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

SEC. 1758. The oath of office required by either of the two preceding sections may be taken before any officer who is authorized either by the laws of the United States, or by the local municipal law, to administer oaths, in the State, Territory, or District where such oath may be administered. [See § 2617.]

SEC. 1759. The oath of office taken by any person pursuant to the requirements of section seventeen hundred and fifty-six, or of section seventeen hundred and fifty-seven, shall be delivered in by him to be preserved among the files of the House of Congress, Department, or court to which the office in respect to which the oath is made may appertain.

SEC. 1760. No money shall be paid from the Treasury to any person acting or assuming to act as an officer, civil, military, or naval, as salary, in any office when the office is not authorized by some previously existing law, unless such office is subsequently sanctioned by law.

SEC. 1761. No money shall be paid from the Treasury, as salary, to any person appointed during the recess of the Senate, to fill a vacancy in any existing office, if the vacancy existed while the Senate was in session and was by law required to be filled by and with the advice and consent of the Senate, until such appointee has been confirmed by the Senate.

SEC. 1762. No money shall be paid or received from the Treasury, or paid or received from or retained out of any public moneys or funds of the United States, whether in the Treasury or not, to or by or for the benefit of any person appointed to or authorized to act in or holding or exercising the duties or functions of any office contrary to sections seventeen hundred and sixty-seven to seventeen hundred and seventy, inclusive; nor shall any claim, account, voucher, order, certificate, warrant, or other instrument providing for or relating to such payment, receipt, or retention, be presented, passed, allowed, approved, certified, or paid by any officer, or by any person exercising the functions or performing the duties of any office or place of trust under the United States, for or in respect to such office, or the exercising or performing the functions or duties thereof. Every person who violates any of the provisions of this section shall be deemed guilty of a high misdemeanor, and shall be imprisoned not more than ten years, or fined not more than ten thousand dollars, or both.

Oath for certain persons.

11 July, 1868, c. 139, v. 15, p. 85.  
15 Feb., 1871, c. 53, v. 16, p. 412.

Who may administer oath.

6 Aug., 1861, c. 64, s. 2, v. 12, p. 326.  
18 April 1876, c. 66, v. 19, p. 34.

Custody of oath.

2 July, 1862, c. 128, v. 12, p. 502.

Unauthorized office, no salary for.

9 Feb., 1863, c. 25, s. 2, v. 12, p. 646.

No salaries to certain appointees to fill vacancies during recess of Senate.

9 Feb., 1863, c. 25, s. 2, v. 12, p. 646.

Salaries to officers improperly holding over.

2 Mar., 1867, c. 154, s. 9, v. 14, p. 431.

20 June, 1874, c. 328, v. 18, p. 109.

Double salaries.

31 Aug., 1852, c. 108, s. 18, v. 10, p. 100.

20 June, 1874, c. 328, v. 18, p. 109.

SEC. 1763. No person who holds an office, the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars, shall receive compensation for discharging the duties of any other office, unless expressly authorized by law.

—Talbot's Case, 10 C. Cls., 426.

Extra services.

26 Aug., 1842, c. 202, s. 12, v. 5, p. 525.

Stansbury v. U.S., 8 Wall., 33.

SEC. 1764. No allowance or compensation shall be made to any officer or clerk, by reason of the discharge of duties which belong to any other officer or clerk in the same or any other Department; and no allowance or compensation shall be made for any extra services whatever, which any officer or clerk may be required to perform, unless expressly authorized by law.

Extra allowances.

3 Mar., 1839, c. 82, s. 3, v. 5, p. 349.

23 Aug., 1842, c. 183, s. 2, v. 5, p. 510.

1 May, 1876, c. 88, v. 19, p. 45.

SEC. 1765. No officer in any branch of the public service, or any other person whose salary, pay, or emoluments are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or for any other service or duty whatever, unless the same is authorized by law, and the appropriation therefor explicitly states that it is for such additional pay, extra allowance, or compensation.

Converse, adm., v. U. S., 21 How., 463; U. S. v. Shoemaker, 7 Wall., 338; Stansbury v. U. S., 8 Wall., 33.

Officer in arrears.

25 Jan., 1828, c. 2, v. 4, p. 246.

20 May, 1836, c. 77, v. 5, p. 31.

SEC. 1766. No money shall be paid to any person for his compensation who is in arrears to the United States, until he has accounted for and paid into the Treasury all sums for which he may be liable. In all cases where the pay or salary of any person is withheld in pursuance of this section, the accounting officers of the Treasury, if required to do so by the party, his agent or attorney, shall report forthwith to the Solicitor of the Treasury the balance due; and the Solicitor shall, within sixty days thereafter, order suit to be commenced against such delinquent and his sureties.

Tenure of office.

2 Mar., 1867, c. 154, s. 1, v. 14, p. 430.

5 April, 1869, c. 10, s. 1, v. 16, p. 6.

Embry's Case, 13 C. Cls., 455.

SEC. 1767. Every person holding any civil office to which he has been or hereafter may be appointed by and with the advice and consent of the Senate, and who shall have become duly qualified to act therein, shall be entitled to hold such office during the term for which he was appointed, unless sooner removed by and with the advice and consent of the Senate, or by the appointment, with the like advice and consent, of a successor in his place, except as herein otherwise provided.

Suspension and filling vacancies.

2 Mar., 1867, c. 154, s. 2, v. 14, p. 430.

5 April, 1869, c. 10, s. 2, v. 16, p. 7.

Embry's Case, 13 C. Cls., 455.

SEC. 1768. During any recess of the Senate the President is authorized, in his discretion, to suspend any civil officer appointed by and with the advice and consent of the Senate, except judges of the courts of the United States, until the end of the next session of the Senate, and to designate some suitable person, subject to be removed, in his discretion, by the designation of another, to perform the duties of such suspended officer in the mean time; and the person so designated shall take the oath and give the bond required by law to be taken and given by the suspended officer, and shall, during the time he performs the duties of such officer, be entitled to the salary and emoluments of the office, no part of which shall belong to the officer suspended. The President shall, within thirty days after the commencement of each session of the Senate, except for any office which in his opinion ought not to be filled, nominate persons to fill all vacancies in office which existed at the meeting of the Senate, whether temporarily filled or not, and also in the place of all officers suspended; and if the Senate during such session shall refuse to advise and consent to an appointment in the place of any suspended officer, then, and not otherwise, the President shall nominate another person as soon as practicable to the same session of the Senate for the office.

Filling vacancies temporarily.

2 Mar., 1867, c. 154, s. 3, v. 14, p. 430.

5 April, 1869, c. 10, s. 3, v. 16, p. 7.

SEC. 1769. The President is authorized to fill all vacancies which may happen during the recess of the Senate by reason of death or resignation or expiration of term of office, by granting commissions which shall expire at the end of their next session thereafter. And if no appointment, by and with the advice and consent of the Senate, is made to an office so vacant or temporarily filled during such next session of the Senate, the

office shall remain in abeyance, without any salary, fees, or emoluments attached thereto, until it is filled by appointment thereto by and with the advice and consent of the Senate; and during such time all the powers and duties belonging to such office shall be exercised by such other officer as may by law exercise such powers and duties in case of a vacancy in such office.

SEC. 1770. Nothing in sections seventeen hundred and sixty-seven, seventeen hundred and sixty-eight, or seventeen hundred and sixty-nine shall be construed to extend the term of any office the duration of which is limited by law.

SEC. 1771. Every person who, contrary to the four preceding sections, accepts any appointment to or employment in any office, or holds or exercises, or attempts to hold or exercise, any such office or employment, shall be deemed guilty of a high misdemeanor, and shall be imprisoned not more than five years, or fined not more than ten thousand dollars, or both.

SEC. 1772. Every removal, appointment, or employment, made, had, or exercised, contrary to sections seventeen hundred and sixty-seven, to seventeen hundred and seventy, inclusive, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed a high misdemeanor, and every person guilty thereof shall be imprisoned not more than five years, or fined not more than ten thousand dollars, or both.

SEC. 1773. The President is authorized to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointments have been advised and consented to by the Senate.

SEC. 1774. Whenever the President, without the advice and consent of the Senate, designates, authorizes, or employs any person to perform the duties of any office, he shall forthwith notify the Secretary of the Treasury thereof, and the Secretary of the Treasury shall thereupon communicate such notice to all the proper accounting and disbursing officers of his Department.

SEC. 1775. The Secretary of the Senate shall, at the close of each session thereof, deliver to the Secretary of the Treasury, and to each of the Assistant Secretaries of the Treasury, and to each of the Auditors, and to each of the Comptrollers in the Treasury, and to the Treasurer, and to the Register of the Treasury, a full and complete list, duly certified, of all the persons who have been nominated to and rejected by the Senate during such session, and a like list of all the offices to which nominations have been made and not confirmed and filled at such session.

SEC. 1776. Whenever any public office is removed by reason of sickness which may prevail in the town or city where it is located, a particular account of the cost of such removal shall be laid before Congress. [See §§ 4797-4799.]

SEC. 1777. The various officers of the United States, to whom, in virtue of their offices and for the uses thereof, copies of the United States Statutes at Large, published by Little, Brown and Company, have been or may be distributed at the public expense, by authority of law, shall preserve such copies, and deliver them to their successors respectively as a part of the property appertaining to the office. A printed copy of this section shall be inserted in each volume of the Statutes distributed to any such officers.

SEC. 1778. In all cases in which, under the laws of the United States, oaths or acknowledgments may now be taken or made before any justice of the peace of any State or Territory, or in the District of Columbia, they may hereafter be also taken or made by or before any notary public duly appointed in any State, district, or Territory, or any of the commissioners of the circuit courts, and, when certified under the hand and official seal of such notary or commissioner, shall have the same force and effect as if taken or made by or before such justice of the peace.

Term of office not to be extended.

2 Mar., 1867, c. 154, s. 4, v. 14, p. 431.

Accepting or exercising office contrary to law.

2 Mar., 1867, c. 154, s. 5, v. 14, p. 431.

Removing, appointing, or commissioning officer contrary to law.

2 Mar., 1867, c. 154, s. 6, v. 14, p. 431.

Commissions.

2 Mar., 1867, c. 154, s. 6, v. 14, p. 431.

Notification of appointments to Secretary of Treasury.

2 Mar., 1867, c. 154, s. 8, v. 14, p. 431.

Notification of nominations, rejections, &c., to Secretary of Treasury.

2 Mar., 1867, c. 154, s. 7, v. 14, p. 431.

Removal of office.

21 April, 1806, c. 41, s. 6, v. 2, p. 397.

Preservation of copies of Statutes at Large.

8 Aug., 1846, c. 100, s. 1, v. 9, p. 75.

Taking oaths, acknowledgments, &c.

16 Sept., 1850, c. 52, v. 9, p. 458.

29 July, 1854, c. 159, s. 1, v. 10, p. 315.

22 June, 1874, c. 390, s. 20, v. 18, p. 186.

15 Aug., 1876, c. 304, v. 19, p. 206.

Restriction upon payments for newspapers, &c.

3 Mar., 1839, c. 82, s. 3, v. 5, p. 349.

Failure to make returns or reports.

18 July, 1866, c. 201, s. 42, v. 14, p. 188.

Prohibition upon taking consideration for procuring contracts, offices, &c.

16 July, 1862, c. 180, v. 12, p. 577.

25 Feb., 1863, c. 61, v. 12, p. 696.

Upon taking compensation in matters to which United States is a party.

11 June, 1864, c. 119, v. 13, p. 123.

Persons interested not to act as agents of the Government.

2 Mar., 1863, c. 67, s. 8, v. 12, p. 698.

Prohibition of contributions, presents, &c., to superiors.

1 Feb., 1870, c. 11, v. 16, p. 63.

SEC. 1779. No executive officer, other than the heads of Departments, shall apply more than thirty dollars, annually, out of the contingent fund under his control, to pay for newspapers, pamphlets, periodicals, or other books or prints not necessary for the business of his office.

SEC. 1780. Every officer who neglects or refuses to make any return or report which he is required to make at stated times by any act of Congress or regulation of the Department of the Treasury, other than his accounts, within the time prescribed by such act or regulation, shall be fined not more than one thousand dollars and not less than one hundred.

SEC. 1781. Every member of Congress or any officer or agent of the Government who, directly or indirectly, takes, receives, or agrees to receive, any money, property, or other valuable consideration whatever, from any person for procuring, or aiding to procure, any contract, office, or place, from the Government or any Department thereof, or from any officer of the United States, for any person whatever, or for giving any such contract, office, or place to any person whomsoever, and every person who, directly or indirectly, offers or agrees to give, or gives, or bestows any money, property, or other valuable consideration whatever, for the procuring or aiding to procure any such contract, office, or place, and every member of Congress who, directly or indirectly, takes, receives, or agrees to receive any money, property, or other valuable consideration whatever after his election as such member, for his attention to, services, action, vote, or decision on any question, matter, cause, or proceeding which may then be pending, or may by law or under the Constitution be brought before him in his official capacity, or in his place as such member of Congress, shall be deemed guilty of a misdemeanor, and shall be imprisoned not more than two years and fined not more than ten thousand dollars. And any such contract or agreement may, at the option of the President, be declared absolutely null and void; and any member of Congress or officer convicted of a violation of this section, shall, moreover, be disqualified from holding any office of honor, profit, or trust under the Government of the United States.

SEC. 1782. No Senator, Representative, or Delegate, after his election and during his continuance in office, and no head of a Department, or other officer or clerk in the employ of the Government, shall receive or agree to receive any compensation whatever, directly or indirectly, for any services rendered, or to be rendered, to any person, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter or thing in which the United States is a party, or directly or indirectly interested, before any Department, court-martial, Bureau, officer, or any civil, military, or naval commission whatever. Every person offending against this section shall be deemed guilty of a misdemeanor, and shall be imprisoned not more than two years, and fined not more than ten thousand dollars, and shall, moreover, by conviction therefor, be rendered forever thereafter incapable of holding any office of honor, trust, or profit under the Government of the United States.

SEC. 1783. No officer or agent of any banking or other commercial corporation, and no member of any mercantile or trading firm, or person directly or indirectly interested in the pecuniary profits or contracts of such corporation or firm, shall be employed or shall act as an officer or agent of the United States for the transaction of business with such corporation or firm; and every such officer, agent, or member, or person, so interested, who so acts, shall be imprisoned not more than two years, and fined not more than two thousand dollars nor less than five hundred dollars.

SEC. 1784. No officer, clerk, or employé in the United States Government employ shall at any time solicit contributions from other officers, clerks, or employés in the Government service for a gift or present to those in a superior official position; nor shall any such officials or clerical superiors receive any gift or present offered or presented to them

as a contribution from persons in Government employ receiving a less salary than themselves; nor shall any officer or clerk make any donation as a gift or present to any official superior. Every person who violates this section shall be summarily discharged from the Government employ.

SEC. 1785. Whoever, being an officer, agent, or employé of the Government of the United States, shall knowingly aid or abet any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail, obscene or indecent publications, or representations, or means for preventing conception or procuring abortion, or other articles of indecent or immoral use or tendency, shall be deemed guilty of a misdemeanor, and shall for every offense be punishable by a fine of not less than one hundred dollars and not more than five thousand, or by imprisonment at hard labor for not less than one year nor more than ten, or both. [See §§ 2491, 3593.]

SEC. 1786. Whenever any person holds office, except as a member of Congress or of some State legislature, contrary to the provisions of the third section of the fourteenth article of amendment of the Constitution, the district attorney for the district in which such person holds office shall proceed against him by writ of quo warranto, returnable to the circuit or district court of the United States in such district, and prosecute the same to the removal of such person from office.

SEC. 1787. Every person who knowingly accepts or holds any office under the United States, or any State, to which he is ineligible under the third section of the fourteenth article of amendment of the Constitution, or who attempts to hold or exercise the duties of any such office, shall be deemed guilty of a misdemeanor, and shall be imprisoned not more than one year, or fined not more than one thousand dollars, or both.

SEC. 1788. Every officer of the United States concerned in the disbursement of the revenues thereof who carries on any trade or business in the funds or debts of the United States, or of any State, or in any public property of either, shall be deemed guilty of a misdemeanor, and punished by a fine of three thousand dollars, and shall, upon conviction, be removed from office, and forever thereafter be incapable of holding any office under the United States.

SEC. 1789. Every officer concerned in the collection of the revenues of the United States who carries on any trade or business in any public property of the United States, or of any State, shall be deemed guilty of a misdemeanor, and punished by a fine of three thousand dollars, and shall, upon conviction, be removed from office, and forever thereafter be incapable of holding any office under the United States.

SEC. 1790. No officer or clerk whose duty it is to make payments on account of the salary or wages of any officer or person employed in connection with the customs or the internal-revenue service, shall make any payment to any officer or person so employed on account of services rendered, or of salary, unless such officer or person so to be paid has made and subscribed an oath that, during the period for which he is to receive pay, neither he, nor any member of his family, has received, either personally or by the intervention of another party, any money or compensation of any description whatever, nor any promises for the same, either directly or indirectly, for services rendered or to be rendered, or acts performed or to be performed, in connection with the customs or internal revenue; or has purchased, for like services or acts, from any importer, if affiant is connected with the customs, or manufacturer, if affiant is connected with the internal-revenue service, consignee, agent, or custom-house broker, or other person whomsoever, any merchandise, at less than regular retail market prices therefor.

Punishment for aiding, &c., in importing or trading in obscene literature.

3 March, 1873, c. 258, s. 4, v. 17, p. 599.

Proceedings against persons illegally holding office.

31 May, 1870, c. 114, s. 14, v. 16, p. 143.

Penalty for illegally holding office.

31 May, 1870, c. 114, s. 15, v. 16, p. 143.

Disbursing officers forbidden to trade in public funds or property.

2 Sept., 1789, c. 12, s. 8, v. 1, p. 67.  
8 May, 1792, c. 37, s. 12, v. 1, p. 281.  
2 Mar., 1799, c. 22, s. 87, v. 1, p. 695.

Collecting officers forbidden to trade in public property.

2 Sept., 1789, c. 12, s. 8, v. 1, p. 67.  
8 May, 1792, c. 37, s. 12, v. 1, p. 281.  
2 Mar., 1799, c. 22, s. 87, v. 1, p. 695.

Restriction on payment for services.

18 July, 1866, c. 201, s. 30, v. 14, p. 185.