

TITLE LXIX.

INSURRECTION.

Sec.	Sec.
5297. Insurrection against a State government.	5309. Proceedings, where had.
5298. Insurrection against the Government of the United States.	5310. Property taken on inland waters.
5299. Power to suppress insurrection in violation of civil rights.	5311. How proceedings shall be instituted.
5300. Proclamation to insurgents to disperse.	5312. Prohibition upon transportation of goods to aid insurrection.
5301. Suspension of commercial intercourse.	5313. Prohibition upon trade in captured or abandoned property.
5302. In loyal States.	5314. Change of port of entry in case of insurrection.
5303. To whom prohibition shall extend.	5315. Removal of custom-house.
5304. Commercial intercourse; to what extent permitted.	5316. Enforcement of preceding sections.
5305. Appointment and compensation of officers.	5317. Entire district closed to entry.
5306. Trading without license, &c.	5318. Vessels, in addition to revenue-cutters, may be employed.
5307. Investigations to detect frauds.	5319. Forfeiture of vessels belonging to citizens of insurrectionary States.
5308. Confiscation of property employed in aid of insurrection.	5320. Refusal of clearance to vessels laden with suspected merchandise.
	5321. Bond upon clearance.
	5322. Liens upon condemned vessels.

SEC. 5297. In case of an insurrection in any State against the government thereof, it shall be lawful for the President, on application of the legislature of such State, or of the executive, when the legislature cannot be convened, to call forth such number of the militia of any other State or States, which may be applied for, as he deems sufficient to suppress such insurrection; or, on like application, to employ, for the same purposes, such part of the land or naval forces of the United States as he deems necessary.

SEC. 5298. Whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or rebellion against the authority of the Government of the United States, it shall become impracticable, in the judgment of the President, to enforce, by the ordinary course of judicial proceedings, the laws of the United States within any State or Territory, it shall be lawful for the President to call forth the militia of any or all the States, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States, or to suppress such rebellion, in whatever State or Territory thereof the laws of the United States may be forcibly opposed, or the execution thereof forcibly obstructed.

SEC. 5299. Whenever insurrection, domestic violence, unlawful combinations, or conspiracies in any State so obstructs or hinders the execution of the laws thereof, and of the United States, as to deprive any portion or class of the people of such State of any of the rights, privileges, or immunities, or protection, named in the Constitution and secured by the laws for the protection of such rights, privileges, or immunities, and the constituted authorities of such State are unable to protect, or, from any cause, fail in or refuse protection of the people in such rights, such facts shall be deemed a denial by such State of the equal protection of the laws to which they are entitled under the Constitution of the United States; and in all such cases, or whenever any such insurrection, violence, unlawful combination, or conspiracy, opposes or obstructs the laws of the United States, or the due execution thereof, or impedes or obstructs the due course of justice under the same, it shall be lawful for the President, and it shall be his duty, to take such measures, by the employment of the militia or the land and naval forces of the United States, or of either, or by other means, as he may deem necessary, for the suppression of such insurrection, domestic violence, or combinations.

Insurrection against a State government.

28 Feb., 1795, c. 36, s. 1, v. 1, p. 424.
3 Mar., 1807, c. 39, v. 2, p. 443.

Luther v. Borden, 7 How., 1.

Insurrection against the Government of the United States.

29 July, 1861, c. 25, s. 1, v. 12, p. 281.

Power to suppress insurrection in violation of civil rights.

20 April, 1871, c. 22, s. 3, v. 17, p. 14.

Proclamation to insurgents to disperse.

29 July, 1861, c. 25, s. 2, v. 12, p. 282.

Suspension of commercial intercourse.

13 July, 1861, c. 3, s. 5, v. 12, p. 257.

31 July, 1861, c. 32, v. 12, p. 284.

The Reform, 2 Wall., 258; *ibid.*, 3 Wall., 617; U. S. v. Weed, 5 Wall., 62; The Hampton, 5 Wall., 372; The Ouachita Cotton, 6 Wall., 521; The Venice, 2 Wall., 258; *Cutner v. U. S.*, 17 Wall., 517.

Hamilton v. Dillon, 21 Wall., 73; *Walker's Case*, 13 C. Cls., 408.

Desmare's Case, 10 C. Cls., 385; 93 U. S., 605.

In loyal States.

2 July, 1864, c. 225, s. 5, v. 13, p. 376.

To whom prohibitions shall extend.

Ibid., s. 4.

Commercial intercourse, to what extent permitted.

13 July, 1861, c. 3, s. 5, v. 12, p. 257.

2 July, 1864, c. 225, s. 9, v. 13, p. 377.

The Sea Lion, 5 Wall., 630; The Ouachita Cotton, 6 Wall., 521; *Coppell v. Hall*, 7 Wall., 542; *McKee v. U. S.*, 8 Wall., 163; U. S. v. Lane, 8 Wall., 185.

SEC. 5300. Whenever, in the judgment of the President, it becomes necessary to use the military forces under this Title, the President shall forthwith, by proclamation, command the insurgents to disperse and retire peaceably to their respective abodes, within a limited time.

SEC. 5301. Whenever the President, in pursuance of the provisions of this Title, has called forth the militia to suppress combinations against the laws of the United States, and to cause the laws to be duly executed, and the insurgents shall have failed to disperse by the time directed by the President, and when the insurgents claim to act under the authority of any State or States, and such claim is not disclaimed or repudiated by the persons exercising the functions of government in such State or States, or in the part or parts thereof in which such combination exists, and such insurrection is not suppressed by such State or States, or whenever the inhabitants of any State or part thereof are at any time found by the President to be in insurrection against the United States, the President may, by proclamation, declare that the inhabitants of such State, or of any section or part thereof where such insurrection exists, are in a state of insurrection against the United States; and thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue; and all goods and chattels, wares and merchandise, coming from such State or section into the other parts of the United States, or proceeding from other parts of the United States to such State or section, by land or water, shall, together with the vessel or vehicle conveying the same, or conveying persons to or from such State or section, be forfeited to the United States.

SEC. 5302. Whenever any part of a State not declared to be in insurrection is under the control of insurgents, or is in dangerous proximity to places under their control, all commercial intercourse therein and therewith shall be subject to the prohibitions and conditions of the preceding section for such time and to such extent as shall become necessary to protect the public interests, and be directed by the Secretary of the Treasury, with the approval of the President.

SEC. 5303. The provisions of this Title in relation to commercial intercourse shall apply to all commercial intercourse by and between persons residing or being within districts within the lines of national military occupation in the States or parts of States declared in insurrection, whether with each other or with persons residing or being within districts declared in insurrection and not within those lines; and all persons within the United States, not native or naturalized citizens thereof, shall be subject to the same prohibitions, in all commercial intercourse with inhabitants of States or parts of States declared in insurrection, as citizens of States not declared to be in insurrection.

SEC. 5304. The President may, in his discretion, license and permit commercial intercourse with any part of such State or section, the inhabitants of which are so declared in a state of insurrection, so far as may be necessary to authorize supplying the necessities of loyal persons residing in insurrectionary States, within the lines of actual occupation by the military forces of the United States, as indicated by published order of the commanding general of the department or district so occupied; and, also, so far as may be necessary to authorize persons residing within such lines to bring or send to market in the loyal States any products which they shall have produced with their own labor or the labor of freedmen, or others employed and paid by them, pursuant to rules relating thereto, which may be established under proper authority. And no goods, wares, or merchandise shall be taken into a State declared in insurrection, or transported therein, except to and from such places and to such monthly amounts as shall have been previously agreed upon, in writing, by the commanding general of the department in which such places are situated, and an officer designated by the Secretary of the Treasury for that purpose. Such commercial intercourse shall be in such articles and for such time and by such persons as the President, in his discretion, may

think most conducive to the public interest; and, so far as by him licensed, shall be conducted and carried on only in pursuance of rules and regulations prescribed by the Secretary of the Treasury.

SEC. 5305. The Secretary of the Treasury may appoint such officers at places where officers of the customs are not now authorized by law as may be needed to carry into effect such licenses, rules, and regulations. In all cases where officers of the customs, or other salaried officers, are appointed by him to carry into effect such licenses, rules, and regulations, such officer shall be entitled to receive one thousand dollars a year for his services, in addition to his salary or compensation under any other law. But the aggregate compensation of any such officer shall not exceed the sum of five thousand dollars in any one year.

SEC. 5306. Every officer of the United States, civil, military, or naval, and every sutler, soldier, marine, or other person, who takes, or causes to be taken into a State declared to be in insurrection, or to any other point to be thence taken into such State, or who transports or sells, or otherwise disposes of therein, any goods, wares, or merchandise whatsoever, except in pursuance of license and authority of the President, as provided in this Title, or who makes any false statement or representation upon which license and authority is granted for such transportation, sale, or other disposition, or who, under any license or authority obtained, willfully and knowingly transports, sells, or otherwise disposes of any other goods, wares, or merchandise than such as are in good faith so licensed and authorized, or who willfully and knowingly transports, sells, or disposes of the same, or any portion thereof, in violation of the terms of such license or authority, or of any rule or regulation prescribed by the Secretary of the Treasury concerning the same, or who is guilty of any act of embezzlement, of willful misappropriation of public or private money or property, of keeping false accounts, or of willfully making any false returns, shall be deemed guilty of a misdemeanor, and shall be fined not more than five thousand dollars, and imprisoned in the penitentiary not more than three years. Violations of this section shall be cognizable before any court, civil or military, competent to try the same.

SEC. 5307. It shall be the duty of the Secretary of the Treasury, from time to time, to institute such investigations as may be necessary to detect and prevent frauds and abuses in any trade or transactions which may be licensed between inhabitants of loyal States and of States in insurrection. And the agents making such investigations shall have power to compel the attendance of witnesses, and to make examinations on oath. [See § 183.]

SEC. 5308. Whenever during any insurrection against the Government of the United States, after the President shall have declared by proclamation that the laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law, any person, or his agent, attorney, or employé, purchases or acquires, sells or gives, any property of whatsoever kind or description, with intent to use or employ the same, or suffers the same to be used or employed in aiding, abetting, or promoting such insurrection or resistance to the laws, or any person engaged therein; or being the owner of any such property, knowingly uses or employs, or consents to such use or employment of the same, all such property shall be lawful subject of prize and capture wherever found; and it shall be the duty of the President to cause the same to be seized, confiscated, and condemned.

SEC. 5309. Such prizes and capture shall be condemned in the district or circuit court of the United States having jurisdiction of the amount, or in admiralty in any district in which the same [may] be seized, or into which they may be taken and proceedings first instituted.

SEC. 5310. No property seized or taken upon any of the inland waters of the United States by the naval forces thereof shall be regarded as

Appointment and compensation of officers.

13 July, 1861, c. 3, s. 5, v. 12, p. 257.
30 June, 1864, c. 171, s. 28, v. 13, p. 218.

Trading without license, &c.

2 July, 1864, c. 225, s. 10, v. 13, p. 377.

Investigations to detect frauds.

Ibid.

Confiscation of property employed in aid of insurrection.

6 Aug., 1861, c. 60, s. 1, v. 12, p. 319.

Mrs. Alexander's Cotton, 2 Wall., 404; Union Ins. Co. v. U. S., 6 Wall., 759; Armstrong's Foundry, 6 Wall., 766; Morris' Cotton, 8 Wall., 507; U. S. v. Shares of Capital Stock, 5 Blatch., 231.

Proceedings, where had.

6 Aug., 1861, c. 60, s. 2, v. 12, p. 319.
c. 69, v. 19, p. 253.

Property taken on inland waters.

27 Feb., 1877,

2 July, 1864, c. 225, s. 7, v. 13, p. 377. maritime prize; but all property so seized or taken shall be promptly delivered to the proper officers of the courts.

How proceedings shall be instituted. SEC. 5311. The Attorney-General, or the attorney of the United States for any judicial district in which such property may at the time be, may

6 Aug., 1861, c. 68, s. 3, v. 12, p. 319. institute the proceedings of condemnation, and in such case they shall be wholly for the benefit of the United States; or any person may file an information with such attorney, in which case the proceedings shall be for the use of such informer and the United States in equal parts. [See § 629.]

Francis v. U. S., 5 Wall., 338; Confiscation Cases, 7 Wall., 454; Miller v. U. S., 11 Wall., 268; Tyler v. Defrees, 11 Wall., 331; Titus v. U. S., 20 Wall., 475. Prohibition upon transportation of goods to aid insurrection. SEC. 5312. The Secretary of the Treasury is authorized to prohibit and prevent the transportation in any vessel, or upon any railroad, turnpike, or other road or means of transportation within the United States, of any property, whatever may be the ostensible destination of the same, in all cases where there are satisfactory reasons to believe that such property is intended for any place in the possession or under the control of insurgents against the United States, or that there is imminent danger that such property will fall into the possession or under the control of such insurgents; and he is further authorized, in all cases where he deems it expedient so to do, to require reasonable security to be given that property shall not be transported to any place under insurrectionary control, and shall not, in any way, be used to give aid or comfort to such insurgents; and he may establish all such general or special regulations as may be necessary or proper to carry into effect the purposes of this section; and if any property is transported in violation of this act, or of any regulation of the Secretary of the Treasury, established in pursuance thereof, or if any attempt shall be made so to transport any, it shall be forfeited.

Prohibition upon trade in captured or abandoned property.

2 July, 1864, c. 225, s. 10, v. 13, p. 377. SEC. 5313. All persons in the military or naval service of the United States are prohibited from buying or selling, trading, or in any way dealing in captured or abandoned property, whereby they shall receive or expect any profit, benefit, or advantage to themselves, or any other person, directly or indirectly connected with them; and it shall be the duty of such person whenever such property comes into his possession or custody, or within his control, to give notice thereof to some agent, appointed by virtue of this Title, and to turn the same over to such agent without delay. Any officer of the United States, civil, military, or naval, or any sutler, soldier, or marine, or other person who shall violate any provision of this section, shall be deemed guilty of a misdemeanor, and shall be fined not more than five thousand dollars, and imprisoned in the penitentiary not more than three years. Violations of this section shall be cognizable before any court, civil or military, competent to try the same.

Change of port of entry in case of insurrection.

13 July, 1861, c. 3, s. 1, v. 12, p. 255. SEC. 5314. Whenever the President shall deem it impracticable, by reason of unlawful combinations of persons in opposition to the laws of the United States, to collect the duties on imports in the ordinary way, at any port of entry in any collection-district, he may cause such duties to be collected at any port of delivery in the district until such obstruction ceases; in such case the surveyor at such port of delivery shall have the powers and be subject to all the obligations of a collector at a port of entry. The Secretary of the Treasury, with the approval of the President, shall also appoint such weighers, gaugers, measurers, inspectors, appraisers, and clerks, as he may deem necessary, for the faithful execution of the revenue laws at such port of delivery, and shall establish the limits within which such port of delivery is constituted a port of entry. And all the provisions of law regulating the issue of marine papers, the coasting-trade, the warehousing of imports, and the collection of duties, shall apply to the ports of entry thus constituted, in the same manner as they do to ports of entry established by law.

Removal of custom-house.

Ibid., s. 2, p. 256. SEC. 5315. Whenever, at any port of entry, the duties on imports cannot, in the judgment of the President, be collected in the ordinary way, or by the course provided in the preceding section, by reason of the cause mentioned therein, he may direct that the custom-house for the district be established in any secure place within the district, either on

3 Mar., 1875, c. 136, s. 2, v. 18, p. 469.

land or on board any vessel in the district, or at sea near the coast; and in such case the collector shall reside at such place, or on ship-board, as the case may be, and there detain all vessels and cargoes arriving within or approaching the district, until the duties imposed by law on such vessels and their cargoes are paid in cash. But if the owner or consignee of the cargo on board any vessel thus detained, or the master of the vessel, desires to enter a port of entry in any other district where no such obstructions to the execution of the laws exist, the master may be permitted so to change the destination of the vessel and cargo in his manifest; whereupon the collector shall deliver him a written permit to proceed to the port so designated. And the Secretary of the Treasury, with the approval of the President, shall make proper regulations for the enforcement on shipboard of such provisions of the laws regulating the assessment and collection of duties as in his judgment may be necessary and practicable.

SEC. 5316. It shall be unlawful to take any vessel or cargo detained under the preceding section from the custody of the proper officers of the customs, unless by process of some court of the United States; and in case of any attempt otherwise to take such vessel or cargo by any force, or combination, or assemblage of persons, too great to be overcome by the officers of the customs, the President, or such person as he shall have empowered for that purpose, may employ such part of the Army or Navy or militia of the United States, or such force of citizen volunteers as may be necessary, to prevent the removal of such vessel or cargo, and to protect the officers of the customs in retaining the custody thereof.

SEC. 5317. Whenever, in any collection-district, the duties on imports cannot, in the judgment of the President, be collected in the ordinary way, nor in the manner provided by the three preceding sections, by reason of the cause mentioned in section fifty-three hundred and fourteen, the President may close the port of entry in that district; and shall in such case give notice thereof by proclamation. And thereupon all right of importation, warehousing, and other privileges incident to ports of entry shall cease and be discontinued at such port so closed until it is opened by the order of the President on the cessation of such obstructions. Every vessel from beyond the United States, or having on board any merchandise liable to duty, which attempts to enter any port which has been closed under this section, shall, with her tackle, apparel, furniture, and cargo, be forfeited.

SEC. 5318. In the execution of laws providing for the collection of duties on imports and tonnage, the President, in addition to the revenue-cutters in service, may employ in aid thereof such other suitable vessels as may, in his judgment, be required.

SEC. 5319. From and after fifteen days after the issuing of the proclamation, as provided in section fifty-three hundred and one, any vessel belonging in whole or in part to any citizen or inhabitant of such State or part of a State whose inhabitants are so declared in a state of insurrection, found at sea, or in any port of the rest of the United States, shall be forfeited.

SEC. 5320. The Secretary of the Treasury is authorized to refuse a clearance to any vessel or other vehicle laden with merchandise, destined for a foreign or domestic port, whenever he shall have satisfactory reason to believe that such merchandise, or any part thereof, whatever may be its ostensible destination, is intended for ports in possession or under control of insurgents against the United States; and if any vessel for which a clearance or permit has been refused by the Secretary of the Treasury, or by his order, shall depart or attempt to depart for a foreign or domestic port without being duly cleared or permitted, such vessel, with her tackle, apparel, furniture, and cargo, shall be forfeited.

SEC. 5321. Whenever a permit or clearance is granted for either a foreign or domestic port, it shall be lawful for the collector of the customs granting the same, if he deems it necessary, under the circumstances of

Enforcement of preceding sections.

12 July, 1861, c. 3, s. 3, v. 12, p. 256.

Entire district closed to entry.

Ibid., s. 4.

Vessels in addition to revenue-cutters may be employed.

Ibid., s. 7, p. 257.

Forfeiture of vessels belonging to citizens of insurrectionary States.

Ibid.

The Schooner Keeling, Blatch. Pr. Cas., 92.

Refusal of clearance to vessels laden with suspected merchandise.

20 May, 1862, c. 81, s. 1, v. 12, p. 404.

Bond upon clearance.

Ibid., s. 2.

the case, to require a bond to be executed by the master or the owner of the vessel, in a penalty equal to the value of the cargo, and with sureties to the satisfaction of such collector, that the cargo shall be delivered at the destination for which it is cleared or permitted, and that no part thereof shall be used in affording aid or comfort to any person or parties in insurrection against the authority of the United States.

Liens upon condemned vessels.

3 Mar., 1863, c. 90, v. 12, p. 762.

The Hampton, 5 Wall., 372.

SEC. 5322. In all cases wherein any vessel, or other property, is condemned in any proceeding by virtue of any laws relating to insurrection or rebellion, the court rendering judgment of condemnation shall, notwithstanding such condemnation, and before awarding such vessel, or other property, or the proceeds thereof, to the United States, or to any informer, first provide for the payment, out of the proceeds of such vessel, or other property, of any bona-fide claims which shall be filed by any loyal citizen of the United States, or of any foreign state or power at peace and amity with the United States, intervening in such proceeding, and which shall be duly established by evidence as a valid claim against such vessel, or other property, under the laws of the United States or of any State thereof not declared to be in insurrection. No such claim shall be allowed in any case where the claimant has knowingly participated in the illegal use of such ship, vessel, or other property. This section shall extend to such claims only as might have been enforced specifically against such vessel, or other property, in any State not declared to be in insurrection, wherein such claim arose.