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

Jurors in capital cases.

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death, twelve petit jurors to be summoned from the county where the offence was committed, be, and the same is hereby, repealed.

1789, ch. 20, § 29 Vol. i. p. 88.

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.

When such persons now therein may be discharged.

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.

Mode of discharge.

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.

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

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.

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.

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