

In pursuance of the authority thus conferred, legislation was enacted early in the history of the Government, which is now embodied in section 5297 of the Revised Statutes of the United States, which reads as follows:

"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."

Occasion has recently arisen for the construction of section 5297, and it is contained in a telegram sent by my direction, by Secretary Root, to the Governor of Colorado, who had asked for troops to suppress local disturbances. Secretary Root said:

"The President has no lawful authority to comply with the request contained in this despatch. His authority in such cases is regulated by title 69 of the United States Revised Statutes. The circumstances detailed in your despatch indicate that if any of the provisions of that title are applicable they are the provisions to be found in section 5297. Under that section disturbances must amount to an insurrection against the government of the State and there must be an application by the legislature of the State if it is in session or can be convened; or if it is not in session or cannot be convened, then by the Executive. Upon such application the President is authorized to employ such part of the military forces of the United States as he deems necessary and sufficient to suppress such insurrection. He cannot place such forces at the disposal of the Governor of the State but must himself direct their operations and he must be furnished with such facts as shall enable him to judge whether the exigency has arisen upon which the Government of the United States is bound to interfere. Such exigency