

force and effect within the said state as elsewhere within the United States; and said state shall constitute one judicial district, and be called the district of Nebraska.

Expenses of convention.

SEC. 14. *And be it further enacted*, That any unexpended balance of the appropriations for said territorial legislative expenses of Nebraska remaining for the fiscal years eighteen hundred and sixty-three and eighteen hundred and sixty-four, or so much thereof as may be necessary, shall be applied to and used for defraying the expenses of said convention and for the payment of the members thereof, under the same rules, regulations, and rates as are now provided by law for the payment of the territorial legislature.

APPROVED, April 19, 1864.

CHAP. LX.—*An Act in Addition to "An Act for the Establishment of certain Arsenals.*

April 19, 1864.

Preamble.

1862, ch. 148.
Vol. xii. p. 537.

WHEREAS it is necessary that the government of the United States should at an early day, for the purpose of the arsenal at Rock Island, in the State of Illinois, provided for in the act passed July eleventh, eighteen hundred and sixty-two, obtain the possession of and title to certain lands, now the property of private persons, upon which to locate the said arsenal, with the grounds and buildings needful for and to make a part of the same: Now, therefore,

Rock Island to be taken possession of by the Secretary of War and held.

Arsenal, &c., to be built thereon.

Compensation for private property taken.

Mode of procedure where damages are agreed upon.

Proviso.

Deed to be given.

Proceedings where owners do not agree as to damages, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and empowered to take and hold full, complete, and permanent possession in behalf of the United States, of all the lands and shores of the island of Rock Island, in the state of Illinois, the same, when so possessed, to be held and kept as a military reservation by the War Department, upon which shall be built and maintained an arsenal for the construction, deposit, and repair of arms and munitions of war, and such other military establishments as have been or may be authorized by law to be placed thereon in connection with such arsenal.

SEC. 2. *And be it further enacted*, That if it shall appear upon examination by the Attorney-General of the United States of the titles of the lands on Rock Island taken and occupied by the Secretary of War for an arsenal and other military purposes, as provided in the foregoing section, that any part or parcels thereof are now the property of, and are rightfully possessed by, any individual or corporation as his or their own private property, the value of such private property so taken, and a just compensation for any damages caused by such taking, shall, if mutually agreed on by the Secretary of War and the rightful owner or owners thereof and approved by the President, be paid by the Secretary of the Treasury to said rightful owner or owners so agreeing, out of the appropriations made or to be made for the construction of said arsenal: *Provided*, That before such payment shall be made, the said owner or owners of such private lands so taken, or such of them as shall agree, shall by good and sufficient deed or deeds, in due form of law, and approved by the Attorney-General of the United States, fully release and convey to the United States all their and each of their several and respective rights in and titles to such lands so taken.

SEC. 3. *And be it further enacted*, That if the Secretary of War shall not agree with any private owner or owners of lands so taken for the use of the United States for military purposes, or if any such owner or owners shall refuse to accept the sum to be paid to him or them by the Secretary of the Treasury as and for the true value thereof, or shall from any other cause neglect or fail, for the space of twelve months after such taking to execute and deliver the deed or deeds thereof, needful in the opinion of the Attorney-General of the United States, to convey to the United States the title of said lands taken,

there shall forthwith be selected three competent persons, who shall be named and appointed by the President, and shall by him be constituted a board of commissioners, whose duty it shall be to hear the parties interested, who may appear before them upon reasonable notice of time and place, and ascertain the true value of the land taken, and of the several parcels thereof that shall not have been conveyed to or paid for by the United States as hereinbefore provided, and the names and titles of the claimants thereof, if more than one, and their respective interests therein, and what compensation for the taking of their lands is due to each claimant; and the said board of commissioners shall report the same as early as practicable after their appointment to the circuit court of the United States within and for the district in which such lands are situated; and in case of a difference of opinion in the said board as to the matters referred to them, the report of a majority of the commissioners shall be held to be the report of the board. And the compensation and expenses of the said commissioners shall be fixed and approved by the Secretary of War, and paid by the Secretary of the Treasury upon his requisition.

Commissioners to be appointed, &c.

Report to the circuit court.

Pay of commissioners.

Court to order payment.

SEC. 4. *And be it further enacted*, That the said circuit court, upon the return and examination of the report of the said commissioners, shall, for the parcels of land taken, as to which there appear to be no conflicting claims for compensation, by decree, order the sums awarded by the commissioners in said report, to be paid to the person or persons who shall, according to said report, be entitled thereto, and who shall apply therefor, and who shall, by writing filed in the said court, waive his or their right to an appeal from the determination of the said board of commissioners, and agree to accept the said sum, in full satisfaction of his or their claims for such lands, taken by the United States: *Provided*, That if the party entitled and applying as aforesaid, or filing a complaint as hereinafter provided, shall have an estate for life only in said land, or any estate less than a fee simple, or shall be a married woman, or a minor, or *non compos mentis*, the court aforesaid shall, in its final judgment or decree, make such order for the payment of the said compensation to the party or for its payment into court; and as to the investment of the principal and disposal of the income, or interest thereof, as shall be just and equitable, and for the protection of the rights of those interested, in accordance with the rules and practice of courts of equity, in cases where a fund in court is to be divided and administered.

Proviso.

SEC. 5. *And be it further enacted*, That any person or persons aggrieved by the doings of the aforesaid board of commissioners, in the estimation of his or their damages, or in the refusal or omission thereof, may at any time within twelve months from and after the return of said report to the said circuit court, or within three years after the land claimed shall have been taken, make application by complaint in writing to the said court sitting as a court of equity, setting forth the title which he or they may have or claim in said lands taken, or in parcels thereof, and the grievance complained of; and the said court, after reasonable notice to the district attorney of the United States for that district, who shall appear and act for and in behalf of the United States, shall proceed and hear the parties, and their evidence according to the course of proceedings in equity, and shall determine what right or title, if any, the complainant or complainants had in and to the parcels of land taken, claimed by him or them, and shall ascertain, and by decree fix the sum or sums of money to which as damages or just compensation for such taking the complainants, severally or jointly, if they apply jointly, are entitled: *Provided*, That if a complainant in any case shall, in writing or by motion, so request, the value of the land taken or his interest therein shall be assessed or determined by a jury upon the law side of the court, upon issues properly framed, under the direction or allowance of the court sitting in equity.

Appeal from decision of commissioners.

Time of proceedings.

Proviso.

Trial by jury.

Complainants may be required to give security for costs.

SEC. 6. *And be it further enacted,* That, if the attorney of the United States shall so request, the court may, before ordering issues to be framed for a jury, as provided in the foregoing section, require the complainants applying therefor to undertake and to give security satisfactory to the court therefor, that they will pay the costs of court to be taxed by the court, if the verdict of such jury shall not be in favor of such complainants, and for a sum larger than that allowed by the board of commissioners in their report; and the decision of all questions as to the amount of costs to be paid by or to the complainants shall be within the determination of the court at their discretion, and according to the rules of equity practiced in the courts of the United States.

Appeal to the supreme court of the United States.

Proviso.

SEC. 7. *And be it further enacted,* That either party may appeal to the supreme court of the United States from any final judgment or decree which may be rendered by said circuit court in any case arising under the provisions of this statute, where the amount in controversy exceeds three thousand dollars: *Provided,* That such appeal shall be taken within ninety days after the rendition of such judgment or decree.

Final judgments or decrees in favor of claimant to be paid.

Effect of such payment.

SEC. 8. *And be it further enacted,* That in all cases of final judgments or decrees by said circuit court, or on appeal by the said supreme court, where the same shall be affirmed in favor of the claimant, the sum due thereby shall be paid either to the claimant or into the circuit court aforesaid, as said judgment or decree may determine, by the United States, out of the money appropriated for the construction and maintenance of said arsenal, on presentation to the Secretary of the Treasury of a copy of said judgment or decree signed by the presiding judge, and certified by the clerk of the said circuit court. And such payment shall be a full discharge to the United States for the compensation and damages due for the taking of the lands, in respect of which the said judgment or decree was rendered or made, and shall forever bar any further claim or demand against the United States arising out of the taking of such land. And such payment, or the lawful tender thereof, shall operate as, and shall be deemed and held to be, a full and complete conveyance of the parcel or parcels of land for which it was made to the United States.

Claims for damages to be adjusted, &c., within three years.

Saving in favor of minors, married women, &c.

SEC. 9. *And be it further enacted,* That every claim against the United States for the taking of land for public use as herein authorized, shall be forever barred unless within three years from the time of such taking, the claim for compensation therefor shall be adjusted by agreement with the Secretary of War, or be settled by an award of the board of commissioners, or presented by complaint or petition to the circuit court of the United States in the district in which the land is situated: *Provided, however,* That the claims of persons, who at the time of the taking shall be under the age of twenty-one years, married women, idiots, lunatics, or insane, or beyond seas, shall not be barred if their petition or complaint be filed in said court as aforesaid, within three years after the disability has ceased, but no disability other than those enumerated shall prevent any claim from being barred, nor shall any of the said disabilities operate cumulatively.

APPROVED, April 19, 1864.

April 19, 1864. CHAP. LXI. — *An Act fixing the Date of the Loss of the U. S. Brig "Bainbridge," and for the Relief of the Officers, Seamen, and Marines of the same, and for other Purposes.*

Date when the U. S. brig Bainbridge shall be deemed to have been lost.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of fixing the time at which shall commence the pensions, under the existing laws, of the widows and orphan children of the officers, seamen, marines, and others in service who were lost in the United States brig "Bainbridge," as well as the time to which the pay of said officers, seamen, marines, and others in the service shall be allowed, the twenty-first day of August, in