

SEC. 2. The Secretary of the Interior is hereby authorized, in his discretion, to acquire by purchase, donation, or otherwise, in behalf of the United States, such lands or interests in lands, easements, and buildings comprising the following: Glass House Point, in James City County; the area known as "The Hook", including the site of the action of October 3, 1781, in Gloucester County; and such additional lands as are desirable for the proper rounding out of the boundaries and for the administrative control of the Colonial National Historical Park: *Provided*, That the total acreage of lands to be added to the park, with the exception of parkways under the terms hereof shall not exceed seven hundred and fifty acres: *Provided further*, That the said acquisition of lands or improvements shall be made from such funds as may be appropriated pursuant to the authorization of the Act of March 3, 1931 (46 Stat. 1490).

Approved, June 28, 1938.

Acquisitions for rounding out boundaries.

*Provisos.*  
Maximum addition.

Funds available.

46 Stat. 1490.  
16 U. S. C. § 443c.

[CHAPTER 776]

AN ACT

Conferring jurisdiction upon the United States Court of Claims to hear, examine, adjudicate, and render judgment on any and all claims which the Ute Indians or any Tribe or Band thereof may have against the United States, and for other purposes.

June 28, 1938  
[H. R. 3162]  
[Public, No. 754]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That jurisdiction is hereby conferred on the United States Court of Claims to hear, determine, and render final judgment on all legal and equitable claims of whatsoever nature which the Ute Indians or any tribe or band or any constituent<sup>1</sup> band thereof, may have against the United States, including, but without limiting the generality of the foregoing, claims arising under or growing out of any treaty or agreement of the United States, law of Congress, Executive order, or by reason of any lands taken from them, without compensation, or for the failure or refusal of the United States to protect the interest of any of said bands in lands (as to which any of said bands had the possessory right of use and occupancy), or because of any mismanagement or wrongful handling of any of the funds, land, property, or business enterprises belonging to or held in trust for any of said bands by the United States, or any misfeasance or nonfeasance on the part of the United States with respect thereto, or otherwise.

Ute Indians.  
Jurisdiction conferred on Court of Claims to hear, etc., claims of.

SEC. 2. Suit or suits under this Act may be instituted by any of the aforesaid bands of Indians (each band to have the right to sue for constituent bands comprising said band), either separately or jointly, as party or parties plaintiff against the United States as party defendant, by filing within five years of the enactment of this Act its or their petition or petitions in the Court of Claims and serving with respect to each suit, a copy thereof on the Attorney General of the United States who, either in person or by some attorney from the Department of Justice to be designated by him, shall appear and defend the interests of the United States. Such petition or petitions shall set forth the facts on which the claim or claims for recovery is or are based and shall be verified by the attorney or attorneys employed by said band or bands of Ute Indians, under contracts approved in accordance with existing law, to prosecute said claims, which may be made upon information and belief, and no other verification shall be necessary. The petition or petitions shall be subject to amendment at any time prior to final submission of the case to the Court of Claims. Such petition or petitions may, in addition to alleg-

Presentation of claims.

Time limitation for filing petition.  
Service on Attorney General.

Amendments to petition.

Audit of accounts.

<sup>1</sup> So in original.

ing specific claims, demand a general accounting of all funds and property expended or used by the United States for it or their account, in which event the General Accounting Office or its successor shall within a reasonable time from the time of filing said petition make a complete audit of said accounts and, in addition to the usual copies for the Attorney General, shall deliver a copy thereof to the Secretary of the Interior, and the court, after full hearing, shall state the account, and render judgment in accordance therewith.

Principles of law applicable.

SEC. 3. At the trial of any suit instituted hereunder the court shall apply as respects the United States the same principles of law as would be applied to an ordinary fiduciary and shall settle and determine the rights therein, both legal and equitable, of said bands of Ute Indians against the United States, notwithstanding lapse of time or statutes of limitation. In the determination of the validity of any claim asserted or defense interposed hereunder, the Court shall have the full power and authority of a court of equity.

Joining of other Indians to suit.

SEC. 4. The court shall have authority, by proper orders and process, to make parties to any suit or suits instituted hereunder any other tribe, band, or group of Indians deemed by it necessary or proper to a final determination of the matters in controversy.

Set-offs, etc.

SEC. 5. No payment or payments which have been made by the United States upon or in satisfaction of any claim or claims asserted in any suit brought hereunder or expended for any of the aforesaid bands of Ute Indians or members thereof shall apply as an estoppel against any suit brought hereunder, but there shall be set off against any recovery obtained by any band of said Indians hereunder, any payment made by the United States on any claim asserted by said band and such gratuity expenditures made by the United States for the benefit of said band as are directed to be set off by the Second Deficiency Appropriation Act, fiscal year 1935 (Public, Numbered 270<sup>1</sup>, Seventy-fourth Congress).

49 Stat. 584.

If court finds lands taken without compensation.

SEC. 6. If the court shall find that any lands formerly belonging to the said bands of Ute Indians or any of them, have been taken by the United States without compensation therefor and set apart and reserved as national reservations or for other public uses or otherwise classified, reserved, or withdrawn from entry and sale under the public land laws or disposed of in any manner whereby the said Indians have been deprived of the use or benefits of such lands and the natural resources thereof, it is hereby declared that such action shall be sufficient grounds for equitable relief and the court shall render judgment in favor of said Indians, and shall award to them, as for a taking under the power of eminent domain, compensation for all such lands and natural resources, anything in any other Acts of Congress to the contrary notwithstanding, no lands in Colorado north of and including range 35 formerly owned or claimed by the Ute Indians or any band thereof shall be restored to tribal ownership under the provisions of section 3 of the Act of June 18, 1934 (48 Stat. 984), and said lands to the extent that they have not been disposed of by the United States are hereby declared to be the absolute property of the United States: *Provided*, That there is hereby added to the existing Southern Ute Indian Reservation in tribal ownership of the vacant, undisposed of ceded lands within the following described boundaries:

Certain lands in Colorado not to be restored to tribal ownership.

48 Stat. 984.

Proviso. Additions to Southern Ute Reservation.

Description.

Beginning at a point on the western boundary line of the State of Colorado, being the northwest corner of the existing Southern Ute Indian Reservation; thence north to the township line separating townships 34 and 35 north, range 20 west; thence east along said township line to the southwest corner of section 35, township 35

<sup>1</sup> So in original.

north, range 19 west; thence north to the northwest corner of section 2, township 35 north, range 19 west; thence east to the northeast corner of section 1, township 35 north, range 18 west; thence north to the northwest corner of section 31, township 36 north, range 17 west; thence east to the northeast corner of section 35, township 36 north, range 17 west; thence south to the north boundary of the existing Southern Ute Indian Reservation; thence west along the north boundary of the said reservation to the west line of section 9, township 34 north, range 17 west; thence north to the northwest corner of section 21, township 35 north, range 17 west; thence west to the southwest corner of section 17, township 35 north, range 17 west; thence south to the southeast corner of the northeast quarter of the northeast quarter of section 19, township 35 north, range 17 west; thence west to the southwest corner of the northeast quarter of the northwest quarter of said section 19; thence north to the north line of said section 19; thence west to the southwest corner of section 17, township 35 north, range 18 west; thence south to the north boundary of the Southern Ute Indian Reservation in section 7, township 34 north, range 18, all west of the New Mexico principal meridian; thence west along the said north boundary to the point of beginning: *Provided further*, That any orders restoring or attempting to restore to tribal ownership any portion of the lands in Colorado north of range 35 are hereby rescinded and annulled.

Orders restoring, etc., certain Colorado lands rescinded.

• SEC. 7. In any suit instituted hereunder, any letter, paper, document, map, or record in the possession of any officer or department of the United States (or certified copy thereof) may be used in evidence, and the departments of the Government of the United States shall give full and free access to the attorneys for any of said bands of Indians to such letters, papers, documents, or records as may be useful to said attorney or attorneys in the preparation for trial or trials of such suits and shall afford facilities for the examination of the same.

Admissible evidence.

SEC. 8. Upon the final determination of any suit, cause, or action instituted hereunder, whether by judgment, compromise, or otherwise, the Court of Claims, in the event of success by any plaintiff, or in the event any claim asserted by any of said bands of Indians shall be compromised or settled without the institution of any suit hereunder, the Secretary of the Interior, shall decree that there shall be paid to the attorney or attorneys employed therein by said plaintiff under contracts negotiated or entered into as provided by existing law, such fees as, based upon a quantum meruit, it or he shall find reasonable, and in addition such actual and necessary expenses incurred by the attorney or attorneys in preparation and prosecution of said claims. In no case shall the fees decreed by said Court of Claims and/or by the Secretary of the Interior be in excess of the amount stipulated in the contracts approved by the Commissioner of Indian Affairs and the Secretary of the Interior, and in no event to exceed 10 per centum of the amount of the recovery, and shall be paid upon money being appropriated for the benefit of any bands of Ute Indians pursuant to any judgment or settlement hereunder whether distributable thereto or not.

Attorneys' fees.

Limitation.

SEC. 9. The net amount of any judgment recovered shall be placed in the Treasury of the United States to the credit of said Indians and shall draw interest at the rate of 4 per centum per annum from date of judgment or settlement and shall, thereafter, be subject to appropriation by Congress for the benefit of said Indians, including the purchase of lands and building homes, and no part of said judgment, without further legislation, shall be paid out in per-capita payments to said Indians.

Deposit of amounts recovered to credit of Indians; interest, use, etc.

Approved, June 28, 1938.