

and emoluments of lieutenants of cavalry for the first five years' service, and with the rank, pay, and emoluments of captains of cavalry after five years' service; and four medical store-keepers, with the same compensation as is now provided by law; and all the original vacancies in the grade of assistant surgeon shall be filled by selection by competitive examination; and the Secretary of War is hereby authorized to appoint, from the enlisted men of the Army, or cause to be enlisted, as many hospital-stewards as the service may require, to be permanently attached to the Medical Department, under such regulations as the Secretary of War may prescribe. And the number of contract-surgeons shall be limited to seventy-five on or before the first day of January in the year eighteen hundred and seventy-five; and thereafter no more than that number shall be employed.

Original vacancies in grade of assistant surgeon, how to be filled.
Enlistment of hospital stewards.

Contract-surgeons limited.
Post, 294.

SEC. 5. That the Ordnance Department shall consist of one Chief of Ordnance, with the rank, pay, and emoluments of a brigadier-general; three colonels, four lieutenant-colonels, ten majors, twenty captains, sixteen first lieutenants; and all vacancies which may hereafter exist in the grade of first lieutenant in said Department shall be filled by transfer from the line of the Army: *Provided*, That no appointment or promotion in said Department shall hereafter be made until the officer or person so appointed or promoted shall have passed a satisfactory examination before a board of ordnance-officers senior to himself.

Ordnance Department.

Vacancies in grade of first lieutenant, how to be filled.

Examinations for appointment or promotion.

SEC. 6. That no officer now in service shall be reduced in rank or mustered out by reason of any provision of law herein made reducing the number of officers in any department or corps of the staff.

Officers not to be hereby reduced in rank or mustered out.

SEC. 7. That as vacancies shall occur in any of the grades of the Ordnance and Medical Departments, no appointments shall be made to fill the same until the numbers in such grade shall be reduced to the numbers which are fixed for permanent appointments by the provisions of this act; and thereafter the number of permanent officers in said grades shall continue to conform to said reduced numbers, and all other grades in said Ordnance and Medical Departments than those authorized by the provisions of this act shall cease to exist as soon as the same shall become vacant by death, resignation or otherwise; and no appointment or promotion shall hereafter be made to fill any vacancy which may occur therein.

No appointments to be made to fill vacancies in Ordnance and Medical Departments until, &c.

Certain grades in Ordnance and Medical Departments to cease to exist when.

SEC. 8. That so much of section six of an act entitled "An act making appropriations for the support of the Army for the year ending June thirtieth, eighteen hundred and seventy, and for other purposes," approved March third, eighteen hundred and sixty-nine, as applies to the Ordnance, Subsistence and Medical Departments of the Army be, and the same is hereby, repealed: *Provided*, That this section repealing said section shall not apply to any of the grades of the Medical or Ordnance Departments which are omitted or abolished by the provisions of this act.

Repeal of part of section 6, act of 1869, ch. 124, vol. xv, p. 318.

Proviso.

Approved, June 23, 1874.

CHAP. 459.—An act for the creation of a court for the adjudication and disposition of certain moneys received into the Treasury under an award made by the tribunal of arbitration constituted by virtue of the first article of the treaty concluded at Washington the eighth of May, anno Domini eighteen hundred and seventy-one, between the United States of America and the Queen of Great Britain.

June 23, 1874.

Vol. xvii, p. 863.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby authorized to nominate and, by and with the advice and consent of the Senate, appoint five suitable persons, who shall constitute a court, to be known as the "Court of Commissioners of Alabama Claims." Each of the judges and other officers of said court shall take the oath of office prescribed by law to be taken by all officers of the United States. The President shall designate, by appointment, one of the said judges to be presiding judge of the court; and

Court of Commissioners of Alabama Claims established.

Oath of office.

Presiding judge to be designated by President.

Vacancies, how filled. all vacancies which may occur in said court by reason of death, resignation, or inability, or refusal or neglect of any or either of said judges to discharge the duties of his position, shall be filled in the same manner as vacancies occurring in offices under the Constitution of the United States are filled.

Court to be held in Washington.

SEC. 2. That the said judges shall meet and organize said court in the city of Washington, where the said court shall hold its sittings. Three judges of said court shall constitute a quorum for the transaction of business, and the agreement of three shall be necessary to decide any question arising before said court.

Quorum.

Agreement of three judges necessary to decide questions.

SEC. 3. That the said court be, and it is hereby, authorized to publish notice of its sessions, and to make all needful rules and regulations not contravening the laws of the United States or the provisions of this act, for regulating the forms and mode of procedure before the said court, and for carrying into full and complete effect the provisions of this act.

Court to publish notice of sessions, make rules and regulations, &c.

Mode of procedure.

Such rules and mode of procedure shall conform, as far as practicable, to the mode of procedure and practice of the circuit courts of the United States; and the said court is hereby vested with the same powers now possessed by the circuit and district courts of the United States to compel the attendance and testimony of parties, claimants, and witnesses, to preserve order, and to punish for contempts; and in all claims which shall be presented before said court the person or persons prosecuting such claim shall be deemed the complainant and the United States shall be deemed the respondent. And said court shall have power to compel the production of any books or papers deemed material to the consideration of any claim or matter pending therein.

Powers of court.

Complainant and respondent.

Production of books and papers.

SECTION 4. That each of the said judges shall be paid monthly, at the rate of six thousand dollars per annum; and they shall have a clerk, who shall be appointed by the President, by and with the advice and consent of the Senate, to be paid at the rate of three thousand dollars per annum; and the said court shall have authority to appoint one short-hand reporter, to be paid monthly, at the rate of two thousand five hundred dollars per annum; and said court shall be further allowed the necessary actual expenses of office-rent, furniture, fuel, stationery, and printing, and other necessary incidental expenses, to be certified by the presiding judge of said court, and to be audited and paid on vouchers under the direction of the Secretary of State.

Pay of judges.

Clerk.

Short-hand reporter.

Office expenses, &c., how paid.

Counsel on behalf of the United States.

SECTION 5. That the President may designate a counsellor-at-law, admitted to practice in the Supreme Court of the United States to appear as counsel on behalf of the United States, and represent the interest of the Government in said suit, and in all claims filed for indemnity for losses, as provided by this act, subject to the supervision and control of the Attorney General. Such Counsel shall receive for his services and expenses such reasonable allowance in each claim as may be approved by the court, to be apportioned in each claim adjudicated, and paid from said award upon the certificate of one of the judges.

Allowance for services and expenses, how paid.

Marshal for District of Columbia to serve process, &c.

SECTION 6. That the marshal of the United States for the District of Columbia, or his deputies, shall serve all process issued by said court, preserve order in the place of sitting, and execute the orders of the said court.

Docket of claims.

Proceedings of court.

Time for production of evidence.

Award.

SECTION 7. That the said court shall proceed immediately after its first meeting in the city of Washington, with all convenient dispatch, to arrange and docket the several claims admissible under this act, and to consider the evidence which shall have been or which may be offered by the respective claimants, and in opposition thereto, allowing such further time for the production of such further evidence as may be required and as it shall think reasonable and just, and shall thereupon proceed to determine and award upon each of said claims according to the provisions of this act.

Judges to convene, when.

Term of existence of court.

SECTION 8. That the judges of the court created by this act shall convene in the city of Washington as soon as conveniently may be after their appointment; and the said court shall exist for one year from the

date of its first convening and organizing; and should it be found impracticable to complete the work of the said court before the expiration of the said one year, the President may, by proclamation, extend the time of the duration thereof to a period not more than six months beyond the expiration of the said one year; and in such case all the provisions of this act shall be taken and held to be the same as though the continuance of the said court had been originally fixed by this act at the limit to which it may be thus extended.

Term of court may be extended by proclamation not more than six months, &c.

SECTION 9. That all records, documents, or other papers which now are or hereafter, during the continuance of the court, may come into possession of the Department of State, in relation to such claims, and which shall be found necessary to the examination and adjudication of the same, shall, upon the order or requisition of said court, be delivered to the court for that purpose, and to be given such weight as evidence as the court shall think just.

Records, documents, &c., from Department of State to be delivered to court upon requisition, &c.

SECTION 10. That each of the said judges shall have authority to administer oaths and affirmations, and to take the depositions of claimants, parties, and witnesses, in all matters pertaining to the presentation or examination of said claims; and if any person shall knowingly and willfully swear or affirm falsely in such examination or deposition to any matter or fact material to the investigation of the claim touching which such person is examined, or if any person, whether claimant or witness, shall so swear or affirm falsely to the contents of any memorial, petition, affidavit, deposition, or other paper containing any matter or fact material in the examination of any claim pending before, or to be presented before said court, or shall, in giving testimony, or in swearing or affirming to any deposition, affidavit, or other paper, before any officer authorized to administer oaths or to take such testimony, so swear or affirm falsely to any matter or thing material in the examination of any claim pending or to be presented before said court, every such person so swearing or affirming falsely as aforesaid shall be deemed guilty of perjury, the same as if such false oath or affirmation had been taken in a judicial proceeding in any of the courts of the United States, and shall be liable to indictment and trial in the district or circuit court of the United States for the district in which such perjury shall have been committed, or in the proper courts of the United States for the Territory or District of Columbia in which such perjury shall have been committed, and shall, upon conviction, suffer such punishment as is provided by the laws of the United States for that offense.

Authority of judges to administer oaths, &c.

False swearing to be deemed perjury.

Penalty.

SECTION 11. That it shall be the duty of said court to receive and examine all claims admissible under this act that may be presented to it, directly resulting from damage caused by the so-called insurgent cruisers Alabama, Florida, and their tenders, and also all claims admissible under this act directly resulting from damage caused by the so-called insurgent cruiser Shenandoah after her departure from Melbourne on the eighteenth day of February, eighteen hundred and sixty-five, and to decide upon the amount and validity of such claims, in conformity with the provisions hereinafter contained, and according to the principles of law and the merits of the several cases. All claims shall be verified by oath of the claimant, and filed in said court within six months next after the organization thereof, as provided in section eight of this act; and no claim shall be received, docketed, or considered that shall have not been so filed within the time aforesaid; but every such unrepresented claim shall be deemed and held to be finally and conclusively waived and barred.

What claims to be received and examined.

Rules of decision.

Claims to be verified and filed when.

Unrepresented claims.

SECTION 12. That no claim shall be admissible or allowed by said court for any loss or damage for or in respect to which the party injured, his assignees or legal representatives, shall have received compensation or indemnity from any insurance-company, insurer, or otherwise; but if such compensation or indemnity so received shall not have been equal to the loss or damage so actually suffered, allowance may be made for the difference. And in no case shall any claim be admitted or allowed

What claims not to be admissible or allowed—

Where indemnity was received from insurance, &c.;

Allowance for difference;

Unearned freights, &c.; for or in respect to unearned freights, gross freights, prospective profits, freights, gains, or advantages, or for wages of officers or seamen for a longer time than one year next after the breaking-up of a voyage by the acts aforesaid. And no claim shall be admissible or allowed by said court by or in behalf of any insurance-company or insurer, either in its or his own right, or as assignee, or otherwise, in the right of a person or party insured as aforesaid, unless such claimant shall show, to the satisfaction of said court that during the late rebellion the sum of its or his losses, in respect to its or his war-risks, exceeded the sum of its or his premiums or other gains upon or in respect to such war-risks; and in case of any such allowance, the same shall not be greater than such excess of loss. And no claim shall be admissible or allowed by said court arising in favor of any insurance-company not lawfully existing at the time of the loss under the laws of some one of the United States. And no claim shall be admissible or allowed by said court arising in favor of any person not entitled, at the time of his loss, to the protection of the United States in the premises, nor arising in favor of any person who did not at all times during the late rebellion bear true-allegiance to the United States.

Insurance companies and insurers;

Allowance in certain cases;

Limitation of allowance;

Companies not lawfully existing, &c.;

Persons not entitled to protection of the United States; Disloyalists.

Interest upon judgments.

Not to be included in judgment;

To accompany report of judgment.

Judgments and decisions to be reported to Secretary of State.

Certified copy to be transmitted to Secretary of the Treasury.

Payment of judgments.

Distribution of a ward in ratable proportions.

Payments to be in full satisfaction and discharge.

Judgments out of what money paid.

Secretary of the Treasury authorized to sell bonds for the purpose.

SECTION 13. That in estimating the compensation to claimants, interest shall be allowed, at the rate of four per centum per annum upon the amount of actual loss or damage which shall be ascertained in each case to have been sustained, from such date as the court shall, in each case, decide that the loss was sustained by the claimant: *Provided, however,* That the amount of such interest shall not be included in or added to the amount for which judgment may be rendered on said claim; but in each case a report of the amount of such interest, certified under the seal of the court, shall accompany the report of the judgment on the claim to the Secretary of State.

SECTION 14. That the said court shall report to the Secretary of State a list of the several judgments and decisions made by it, a certified copy of which shall, upon the conclusion of the business of the said court, be by him transmitted to the Secretary of the Treasury, who shall thereafter, as soon as may be and upon such notice and in such manner as he shall prescribe, pay the said judgments, together with interest at the rate of four per centum per annum on the amount of such judgments from the date certified, unto the persons, respectively, in whose favor the same shall have been made, or to their respective legal representatives, in full satisfaction and discharge of said judgments: *Provided,* That if the sum of all the judgments rendered by the said court, together with interest, shall exceed the amount received into the Treasury of the United States as proceeds of the sum to be paid by Great Britain, by virtue of the said decision and award, then the Secretary of the Treasury shall distribute, in ratable proportions, among the parties in whose favor judgments shall have been rendered, or to their legal representatives, such moneys as have been received into the Treasury, according to the proportions which their respective judgments shall bear to the whole amount received into the Treasury as aforesaid, which payments shall be in full satisfaction and discharge of such claims and judgments.

SECTION 15. That the Secretary of the Treasury is hereby authorized and required to pay the said respective judgments of said court, out of any such money in the Treasury not otherwise appropriated; and for that purpose he is hereby authorized when necessary to issue and sell at public sale, after ten days' notice of the time and place of sale, at not less than par in coin, a sufficient amount of coupon or registered bonds of the United States, in such form as he may prescribe, of denominations of fifty dollars, or some multiple of that sum, redeemable in coin of the present standard value, at the pleasure of the United States after ten years from the date of their issue, and bearing interest payable quarterly in such coin at the rate of five per centum per annum; and upon the payment, from time to time, of the said respective judgments of said court as before provided, the bonds of the United States men-

tioned in the act approved March third, eighteen hundred and seventy-three, entitled "An act for the creation of a court for the adjudication and disposition of certain moneys received into the Treasury under an award made by the tribunal of arbitration constituted by virtue of the first article of the treaty concluded at Washington the eighth of May, anno Domini eighteen hundred and seventy-one, between the United States of America and the Queen of Great Britain", shall be canceled and extinguished to the amount of such payments; and when all such payments shall have been made, any such bonds remaining shall be also canceled and extinguished; and after the payment of the said judgments, and the re-imbursement of the expenses as herein provided, if there shall remain any part of the said money, the same shall be and remain a fund from which Congress may hereafter authorize the payment of other claims thereon. And the moneys necessary for the payment of the salaries of the judges and other officers authorized by this act, and of the expenses of the said court as hereinbefore mentioned, are hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

SECTION 16. That as soon as the business of said court shall be executed and completed, the records, documents, and all other papers in the possession of the court, or its officers, shall be deposited in the office of the Secretary of State.

SECTION 17. In ascertaining the amount of such losses, the memorials, affidavits, depositions, and any other papers in the several cases of losses claimed respectively, now filed in the State Department, or official copies thereof, may be read in evidence: *Provided*, That no affidavit shall be read except where it appears to the satisfaction of the tribunal that the affiant cannot be produced before it as a witness or his testimony taken by a commission upon interrogatories; and in the hearing of the cause, any party claiming shall produce all books, papers, letters, and documents that may be called for by a general description thereof by any opposing party or satisfactorily account for their loss or non-production, or suffer such judgment as is prescribed in section fifteen of the act entitled "An act to establish the judicial courts of the United States" approved September twenty-ninth, seventeen hundred and eighty-nine; and on the hearing of the cause, any competent evidence may be produced by either party, either *viva voce* or by deposition taken upon interrogatories; and for this purpose depositions may be taken by either party *de bene*, or the court may admit affidavits where it is satisfactorily shown that the witness cannot be produced or his examination by interrogatories and cross examination cannot be had.

SECTION 18. That in case any judgment is rendered by said court for indemnity for any loss or claim hereinbefore mentioned against the United States at the time of the giving of the judgment, the court shall, upon motion of the attorney or counsel for the claimant, allow, out of the amount thereby awarded, such reasonable counsel and attorney fees to the counsel and attorney employed by the claimant or claimants respectively as the court shall determine is just and reasonable, as compensation for the services rendered the claimant in prosecuting such claims, which allowance shall be entered as part of the judgment in such case, and shall be made specifically payable as a part of said judgment for indemnification to the attorney or counsel, or both, to whom the same shall be adjudged; and a warrant shall issue from the Treasury in favor of the person to whom such allowance shall be made respectively, which shall be in full compensation to the counsel or attorney for prosecuting such claim; and all other liens upon, or assignments, sales, transfers, either absolute or conditional for services rendered or to be rendered about any claim or part or parcel thereof provided for in this bill heretofore or hereafter made or done before such judgment is awarded and the warrant issued therefor, shall be absolutely null and void and of none effect.

Approved, June 23, 1874:

1873, ch. 261, vol. xvii, p. 601.

Vol. xvii, p. 873.

Certain bonds to be canceled and extinguished.

Balance remaining after payment of judgments and reimbursement of expenses to constitute a fund, &c.

Appropriation for salaries and expenses.

Records of court to be deposited in office of Secretary of State.

What papers may be read in evidence in support of claims.

Proviso.

Production of books and papers.

1789, ch. 20, vol. i, p. 82.

Production of evidence by either party on the hearing of a cause.

Depositions and affidavits.

Allowance of fees to counsel and attorney of claimant.

To be entered as part of the judgment, &c.

Warrant for allowance to be issued in favor of, &c.

To be compensation in full for prosecution of case.

All other liens, assignments, &c., for services to be void.