

the usual incidental expenses and commissions, shall be covered into the Treasury of the United States and is hereby appropriated and made available for the purpose of constructing the new customhouse building as herein and hereby provided; and in case of such sale the Secretary of the Treasury shall lease said premises from the purchaser or purchasers thereof, at a rental which shall not exceed four per centum per annum on the purchase price, for use as a customhouse until the new customhouse shall be ready for occupancy, upon such terms as he may deem advantageous, and such sale shall be subject to such right of lease; and the Secretary of the Treasury is hereby authorized to sell said customhouse property and receive the purchase price in several payments from time to time, as he may deem most advantageous: *Provided, however,* That the use, occupation, and possession of said property shall not be surrendered until the new customhouse is ready for occupation, and the final payment is fully made.

Lease of old until completion of new building.

Proviso.

Not to be surrendered until new building ready, etc.

SEC. 3. That the Secretary of the Treasury be, and he is hereby, authorized to appoint five citizens of the State of New York who shall be designated as United States building commissioners, and who shall be charged with the erection and construction of the new customhouse building, as herein provided for. And such commissioners, or a majority of them, subject to the approval of the Secretary of the Treasury, shall have full power to advertise for proposals for contracts for the erection of said customhouse, or the several parts thereof; and the offers in response to such proposals, if they shall not exceed in the aggregate the amount available under this act for the completion of said customhouse, and if they shall be otherwise satisfactory to said commissioners and to the Secretary of the Treasury, shall be accepted, in whole or in part; but in case such offers shall exceed said limits of cost, or be otherwise unsatisfactory, then said commissioners or a majority of them shall have full power and authority to purchase all materials, contract for and employ all necessary labor, including skilled and professional services, with or without advertisement; and said Secretary shall fix a fair and reasonable compensation for the services of such commissioners, to be paid out of any appropriation or appropriations for the construction of said new customhouse.

Commission to be appointed.

Proposals for building.

May purchase material and build, if bids unsatisfactory.

Compensation.

SEC. 4. That no appropriation is made by this bill in addition to the sum or sums already appropriated, or available for this purpose under the provisions of an act entitled "An act for the erection of an appraisers' warehouse in the city of New York, and for other purposes," approved September fourteenth, eighteen hundred and eighty-eight, and any act, or acts amendatory thereof, together with the sum or sums to be derived from the sale of the present customhouse property in the city of New York, as herein provided.

Limit of amount available.

Vol. 25, p. 479.

SEC. 5. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, March 3, 1891.

CHAP. 538.—An act to provide for the adjudication and payment of claims arising from Indian depredations.

March 3, 1891.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the jurisdiction which now is, or may hereafter be, conferred upon the Court of Claims, said Court shall have and possess jurisdiction and authority to inquire into and finally adjudicate, in the manner provided in this act, all claims of the following classes, namely:

Indian depredation claims. Court of Claims to adjudicate.

First. All claims for property of citizens of the United States taken or destroyed by Indians belonging to any band, tribe, or nation, in

Property taken by friendly Indians.

amity with the United States, without just cause or provocation on the part of the owner or agent in charge, and not returned or paid for.

Examined claims.

Vol. 23, p. 376.

Second, Such jurisdiction shall also extend to all cases which have been examined and allowed by the Interior Department and also to such cases as were authorized to be examined under the act of Congress making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June thirtieth, eighteen hundred and eighty-six, and for other purposes, approved March third, eighteen hundred and eighty-five, and under subsequent acts, subject however, to the limitations hereinafter provided.

Offsets and counter claims.

Third. All just offsets and counter claims to any claim of either of the preceding classes which may be before such court for determination.

Limitations waived.

SECTION 2. That all questions of limitations as to time and manner of presenting claims are hereby waived, and no claim shall be excluded from the jurisdiction of the court because not heretofore presented to the Secretary of the Interior or other officer or department of the Government: *Provided*, That no claim accruing prior to July first, eighteen hundred and sixty-five, shall be considered by the court unless the claim shall be allowed or has been or is pending, prior to the passage of this act, before the Secretary of the Interior or the Congress of the United States, or before any superintendent, agent, sub-agent or commissioner, authorized under any act of Congress to enquire into such claims; but no case shall be considered pending unless evidence has been presented therein: *And provided further*, That all claims existing at the time of the taking effect of this act shall be presented to the court by petition, as hereinafter provided, within three years after the passage hereof, or shall be thereafter forever barred: *And provided further*, That no suit or proceeding shall be allowed under this act for any depredation which shall be committed after the passage thereof.

Provisos.

Claims not to be considered.

To be presented in three years.

Future depredations not included.

Petition, etc.

SECTION 3. That all claims shall be presented to the court by petition setting forth in ordinary and concise language, without unnecessary repetition, the facts upon which such claims are based, the persons, classes of persons, tribe or tribes, or band of Indians by whom the alleged illegal acts were committed, as near as may be, the property lost or destroyed, and the value thereof, and any other facts connected with the transactions and material to the proper adjudication of the case involved. The petition shall be verified by the affidavit of the claimant, his agent, administrator, or attorney, and shall be filed with the clerk of said court. It shall set forth the full name and residence of the claimant, the damages sought to be recovered, praying the court for a judgment upon the facts and the law.

Service of petition. Attorney-General to defend.

SECTION 4. The service of the petition shall be made upon the Attorney-General of the United States in such manner as may be provided by the rules or orders of said court. It shall be the duty of the Attorney-General of the United States to appear and defend the interests of the Government and of the Indians in the suit, and within sixty days after the service of the petition upon him, unless the time shall be extended by order of the court made in the case, to file a plea, answer or demurrer on the part of the Government and the Indians, and to file a notice of any counterclaim, set-off, claim of damages, demand, or defense whatsoever of the Government or of the Indians in the premises: *Provided*, That should the Attorney-General neglect or refuse to file the plea, answer, demurrer, or defense as required, the claimant may proceed with the case under such rules as the court may adopt in the premises; but the claimant shall not have judgment for his claim, or for any part thereof, unless he shall establish the same by proof satisfactory to the court; *Provided*, That any Indian or Indians interested in the proceedings

Provisos.

Proceedings on failure of Attorney-General to defend.

Special attorney for Indians.

may appear and defend, by an attorney employed by such Indian or Indians with the approval of the Commissioner of Indian Affairs, if he or they shall choose so to do.

In considering the merits of claims presented to the court, any testimony, affidavits, reports of special agents or other officers, and such other papers as are now on file in the departments or in the courts, relating to any such claims, shall be considered by the court as competent evidence and such weight given thereto as in its judgment is right and proper: *Provided*, That all unpaid claims which have heretofore been examined, approved, and allowed by the Secretary of the Interior, or under his direction, in pursuance of the act of Congress making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and eighty-six, and for other purposes, approved March third, eighteen hundred and eighty-five, and subsequent Indian appropriation acts, shall have priority of consideration by such court, and judgments for the amounts therein found due shall be rendered, unless either the claimant or the United States shall elect to re-open the case and try the same before the court, in which event the testimony in the case given by the witnesses and the documentary evidence, including reports of Department agents therein, may be read as depositions and proofs: *Provided*, That the party electing to re-open the case shall assume the burden of proof.

SECTION 5. That the said court, shall make rules and regulations for taking testimony in the causes herein provided for, by deposition or otherwise, and such testimony shall be taken in the county where the witness resides, when the same can be conveniently done, and no person shall be excluded as a witness because he is party to or interested in said suit, and any claimant or party in interest may be examined as a witness on the part of the Government; that the court shall determine in each case the value of the property taken or destroyed at the time and place of the loss or destruction, and, if possible, the tribe of Indians or other persons by whom the wrong was committed, and shall render judgment in favor of the claimant or claimants against the United States, and against the tribe of Indians committing the wrong, when such can be identified.

SEC. 6. That the amount of any judgment so rendered against any tribe of Indians shall be charged against the tribe by which, or by members of which, the court shall find that the depredation was committed, and shall be deducted and paid in the following manner: First, from annuities due said tribe from the United States; second, if no annuities are due or available, then from any other funds due said tribe from the United States, arising from the sale of their lands or otherwise; third, if no such funds are due or available, then from any appropriation for the benefit of said tribe, other than appropriations for their current and necessary support, subsistence and education; and, fourth, if no such annuity, fund, or appropriation is due or available, then the amount of the judgment shall be paid from the Treasury of the United States: *Provided*, That any amount so paid from the Treasury of the United States shall remain a charge against such tribe, and shall be deducted from any annuity, fund or appropriation hereinbefore designated which may hereafter become due from the United States to such tribe.

SEC. 7. That all judgments of said court shall be a final determination of the causes decided and of the rights and obligations of the parties thereto, and shall not thereafter be questioned unless a new trial or rehearing shall be granted by said court, or the judgment reversed or modified upon appeal as hereafter provided.

SEC. 8. That immediately after the beginning of each session of Congress the Attorney-General of the United States shall transmit to the Congress of the United States a list of all final judgments

Evidence.

Proviso.
Examined claims to have priority.
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Re-opening cases.

Burden of proof.

Rules for taking testimony, etc.

Judgment to be charged against tribe.

Mode of payment.

Proviso.
Payments from Treasury.

Judgments final.

Appeal.

List of judgments to be sent to Congress.

rendered in pursuance of this act, in favor of claimants and against the United States, and not paid as hereinbefore provided, which shall thereupon be appropriated for in the proper appropriation bill.

Sales, attorneys' contracts, etc., declared void.

SEC. 9. That all sales, transfers, or assignments of any such claims heretofore or hereafter made, except such as have occurred in the due administration of decedents' estates, and all contracts heretofore made for fees and allowances to claimants' attorneys, are hereby declared void, and all warrants issued by the Secretary of the Treasury, in payment of such judgments, shall be made payable and delivered only to the claimant or his lawful heirs, executors or administrators or transferee under administrative proceedings, except so much thereof as shall be allowed the claimant's attorneys by the court for prosecuting said claim, which may be paid direct to such attorneys, and the allowances to the claimant's attorneys shall be regulated and fixed by the court at the time of rendering judgment in each case and entered of record as part of the findings thereof; but in no case shall the allowance exceed fifteen per cent of the judgment recovered, except in case of claims of less amount than five hundred dollars, or where unusual services have been rendered or expenses incurred by the claimant's attorney, in which case not to exceed twenty per cent of such judgment shall be allowed by the court.

Warrants payable to claimant, etc.

Allowance to attorneys.

Maximum.

Appeal.

SEC. 10. That the claimant, or the United States, or the tribe of Indians, or other party thereto interested in any proceeding brought under the provisions of this act, shall have the same rights of appeal as are or may be reserved in the Statutes of the United States in other cases, and upon the conditions and limitations therein contained. The mode of procedure in claiming and perfecting an appeal shall conform, in all respects, as near as may be, to the statutes and rules of court governing appeals in other cases.

All papers, etc., to be furnished the court.

SEC. 11. That all papers, reports, evidence, records and proceedings now on file or of record in any of the departments, or the office of the Secretary of the Senate, or the office of the Clerk of the House of Representatives, or certified copies of the same, relating to any claims authorized to be prosecuted under this act, shall be furnished to the court upon its order, or at the request of the Attorney-General.

Additional assistant Attorney-General to be appointed.

SEC. 12. To facilitate the speedy disposition of the cases herein provided for, in said Court of Claims, there shall be appointed, in the manner prescribed by law for the appointment of Assistant Attorney-Generals, one additional Assistant Attorney-General of the United States, who shall receive a salary of twenty-five hundred dollars per annum.

Investigation under present laws to cease.

Balances to be covered in.

SEC. 13. That the investigation and examinations, under the provisions of the acts of Congress heretofore in force, of Indian depreciation claims, shall cease upon the taking effect of this act, and the unexpended balance of the appropriation therefor shall be covered into the Treasury, except so much thereof as may be necessary for disposing of the unfinished business pertaining to the claims now under investigation in the Interior Department, pending the transfer of said claims and business to the Court or courts herein provided for, and for making such transfers and a record of the same, and for the proper care and custody of the papers and records relating thereto.

Approved, March 3, 1891.

March 3, 1891.

CHAP. 539.—An act to establish a court of private land claims, and to provide for the settlement of private land claims in certain States and Territories.

Court of private land claims established.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be, and hereby is, established a court to be called the court of private