

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

the year one thousand eight hundred and sixty-three, shall be deemed and taken to be the day on which the said brig "Bainbridge" foundered at sea.

SEC. 2. *And be it further enacted,* That the widow or child or children, and in case there shall be no widow, or child or children, as aforesaid, then the parent or parents, and if there be no parents, the brothers and sisters of the officers, seamen, marines, and others in service, who were lost in said brig "Bainbridge," shall be entitled to and receive, out of any money in the treasury not otherwise appropriated, a sum equal to twelve months' pay of their respective deceased relations, aforesaid, in addition to the pay due to the said deceased at the date of the loss of said vessel.

Widow, child, or parents, &c., to receive a sum equal to twelve months' pay.

SEC. 3. *And be it further enacted,* That the proper accounting officers of the treasury department be, and are hereby, authorized and directed to settle the accounts of Charles C. Walden, late acting assistant paymaster, in the navy, who was lost in the brig "Bainbridge," with all his accounts and vouchers for expenditures and payment made by him, and with all the money, stores, and supplies procured for the use of said vessel, and to allow him a credit for whatever sum appears to be due from him on the books of the department.

Accounts of Charles C. Walden, acting assistant paymaster, to be settled.

APPROVED, April 19, 1864.

CHAP. LXIII. — *An Act to amend an Act entitled "An Act to establish and equalize the Grade of Line Officers of the United States Navy," approved July sixteenth, eighteen hundred and sixty-two.*

April 21, 1864.

1862, ch. 183.
Vol. xii. p. 583.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no line officer of the navy, upon the active list, below the grade of commodore, nor any other naval officer, shall be promoted to a higher grade, until his mental, moral, and professional fitness to perform all his duties at sea shall be established to the satisfaction of a board of examining officers to be appointed by the President of the United States. And such board shall have power to take testimony, the witnesses when present to be sworn by the president of the board, and to examine all matter on the files and records of the department in relation to any officer whose case shall be considered by them.

No line officer upon active list, nor other naval officer, to be promoted, unless after examination, &c.

Board of examiners; appointment, power, &c.;

SEC. 2. *And be it further enacted,* That such examining board shall consist of not less than three officers, senior in rank to the officer to be examined.

of whom to consist.

SEC. 3. *And be it further enacted,* That any officer to be acted upon by said board shall have the right to be present, if he desires it; and his statement of his case, on oath, and the testimony of witnesses, and his examination, shall be recorded. And any matter on the files and records of the department touching each case, as may in the opinion of the board be necessary to assist them in making up their opinion, shall, together with the whole record and finding, be presented to the President for his approval or disapproval of the finding. And no officer shall be rejected until after such public examination of himself and the records of the department in his case, unless he fails to appear before said board after having been duly notified.

Officers interested may be present at examination.

Record of case to be presented to the President.

SEC. 4. *And be it further enacted,* That no officer in the naval service shall be promoted to a higher grade therein, upon the active list, until he has been examined by a board of naval surgeons, and pronounced physically qualified to perform all his duties at sea. And all officers whose cases shall have been acted upon by the aforesaid boards, and who shall not have been recommended for promotion by both of them, shall be placed upon the retired list.

No officer to be promoted unless shown by examination to be physically qualified.

SEC. 5. *And be it further enacted,* That all officers not recommended for promotion under the fourth section of an act entitled "An act to

Certain officers, not recommended for promotion,