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TITLE IV.

PROVISIONS APPLICABLE TO ALL THE EXECUTIVE DEPARTMENTS.

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Application of provisions of this title.

SEC. 158. The provisions of this Title shall apply to the following Executive Departments:

First. The Department of State.

Second. The Department of War.

Third. The Department of the Treasury.

Fourth. The Department of Justice.

Fifth. The Post-Office Department.

Sixth. The Department of the Navy.

Seventh. The Department of the Interior.

Wilcox vs. Jackson, 13 Pet., 512, 13.

Word "Department."

SEC. 159. The word "Department" when used alone in this Title, and Titles five, six, seven, eight, nine, ten, and eleven, means one of the Executive Departments enumerated in the preceding section.

Salaries of heads of Departments.

SEC. 160. Each head of a Department is entitled to a salary of ten thousand dollars a year, to be paid monthly.

3 March, 1873, c. 226, s. 1, v. 17, p. 486.

Departmental regulations.

SEC. 161. The head of each Department is authorized to prescribe regulations, not inconsistent with law, for the government of his Department, the conduct of its officers and clerks, the distribution and performance of its business, and the custody, use, and preservation of the records, papers, and property appertaining to it.

27 July, 1789, c. 4, v. 1, p. 28.
15 Sept., 1789, c. 14, v. 1, p. 68.
7 Aug., 1849, c. 7, v. 1, p. 49. 2 Sept., 1789, c. 12, v. 1, p. 65. 8 June, 1872, c. 335, v. 17, p. 283. 30 April, 1798, c. 35, v 1, p. 553. 22 June, 1870, c. 150, s. 8, v. 16, p. 163. 3 March, 1849, c. 108, v. 9, p. 395.

Hours of business.

SEC. 162. From the first day of October until the first day of April, in each year, all the Bureaus and offices in the State, War, Treasury, Navy, and Post-Office Departments, and in the General Land-Office,

4 July, 1836, c. 352, s. 12, v. 5, p. 112.

shall be open for the transaction of the public business at least eight hours in each day; and from the first day of April until the first day of October, in each year, at least ten hours in each day; except Sundays and days declared public holidays by law.

Classification of Department clerks.

SEC. 163. The clerks in the Departments shall be arranged in four classes, distinguished as the first, second, third, and fourth classes.

3 Mar., 1853, c. 97, s. 3, v. 10, p. 209. 3 Mar., 1855, c. 175, s. 4, v. 10, p. 669.

Examinations.

3 Mar., 1853, c. 97, s. 3, v. 10, p. 209. 3 Mar., 1855, c. 175, s. 4, v. 10, p. 669.

SEC. 164. No clerk shall be appointed in any Department in either of the four classes above designated, until he has been examined and found qualified by a board of three examiners, to consist of the chief of the Bureau or office into which such clerk is to be appointed and two other clerks to be selected by the head of the Department.

Clerkships open to women.

12 July, 1870, c. 251, s. 2, v. 16, pp. 230, 250.

SEC. 165. Women may, in the discretion of the head of any Department, be appointed to any of the clerkships therein, authorized by law, upon the same requisites and conditions, and with the same compensations, as are prescribed for men.

Distribution of clerks.

3 Mar., 1853, c. 97, s. 3, v. 10, p. 211.

SEC. 166. Each head of a Department may from time to time alter the distribution among the various Bureaus and offices of his Department, of the clerks allowed by law, as he may find it necessary and proper to do.

Salaries of persons employed in the Departments.

3 Mar., 1853, c. 97, s. 3, v. 10, pp. 209, 211. 22 April, 1854, c. 52, s. 1, v. 10, p. 276. 18 Aug., 1856, Res. 18, v. 11, p. 145. 23 July, 1866, c. 208, s. 6, v. 14, p. 207. 12 July, 1870, c. 251, s. 3, v. 16, pp. 230, 250.

SEC. 167. The annual salaries of clerks and employés in the Departments, whose compensation is not otherwise prescribed, shall be as follows:

First. To clerks of the fourth class, eighteen hundred dollars.

Second. To clerks of the third class, sixteen hundred dollars.

Third. To clerks of the second class, fourteen hundred dollars.

Fourth. To clerks of the first class, twelve hundred dollars.

Fifth. To the women employed in duties of a clerical character, subordinate to those assigned to clerks of the first class, including copyists and counters, or temporarily employed to perform the duties of a clerk, nine hundred dollars.

Sixth. To messengers, eight hundred and forty dollars.

Seventh. To assistant messengers, seven hundred and twenty dollars.

Eighth. To laborers, seven hundred and twenty dollars.

Ninth. To watchmen, seven hundred and twenty dollars.

Temporary clerks.

22 April, 1854, c. 52, s. 1, v. 10, p. 276.

SEC. 168. Except when a different compensation is expressly prescribed by law, any clerk temporarily employed to perform the same or similar duties with those belonging to clerks of either class, is entitled to the same salary as is allowed to clerks of that class. [See § 242.]

Authority to employ clerks and other employés.

See appropriation acts since 1856.

Ex parte Hennen, 13 Pet., 230.

SEC. 169. Each head of a Department is authorized to employ in his Department such number of clerks of the several classes recognized by law, and such messengers, assistant messengers, copyists, watchmen, laborers, and other employés, and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

[See §§ 201, 214, 235, 328, 351, 393, 416, 440, 476.]

Extra compensation to clerks prohibited.

3 Mar., 1863, c. 97, s. 3, v. 10, pp. 209, 211. 17 June, 1844, c. 105, s. 1, v. 5, pp. 681, 687. 28 Feb., 1867, Res. 30, s. 2, v. 14, p. 569.

SEC. 170. No money shall be paid to any clerk employed in either Department at an annual salary, as compensation for extra services, unless expressly authorized by law.

Restriction on employing extra clerks.

26 Aug., 1842, c. 202, s. 15, v. 5, p. 526.

SEC. 171. No extra clerk shall be employed in any Department, Bureau, or office, at the seat of Government, except during the session of Congress, or when indispensably necessary in answering some call made by either House of Congress at one session to be answered at another; nor then, except by order of the head of the Department in which, or in some Bureau or office of which, such extra clerk shall be employed. And no extra clerk employed in either of the Departments shall receive compensation except for time actually and necessarily employed, nor any greater compensation than three dollars a day for copying, or four dollars a day for any other service.

Restriction on employment of subordinate assistants.

SEC. 172. No messenger, assistant messenger, laborer, nor other subordinate assistant shall be employed in any Department, Bureau, or office at the seat of Government, or paid out of the contingent fund appropriated to such Department, Bureau, or office, unless such employment is authorized by law, or is necessary to carry into effect some object for which an appropriation has been specifically made.

26 Aug., 1842, c. 202, s. 15, v. 5, p. 526.

Chief clerks to supervise subordinate clerks.

SEC. 173. Each chief clerk in the several Departments, and Bureaus, and other offices connected with the Departments, shall supervise, under the direction of his immediate superior, the duties of the other clerks therein, and see that they are faithfully performed.

26 Aug., 1842, c. 202, s. 13, v. 5, p. 525.

Chief clerks to distribute duties, &c.

SEC. 174. Each chief clerk shall take care, from time to time, that the duties of the other clerks are distributed with equality and uniformity, according to the nature of the case. He shall revise such distribution from time to time, for the purpose of correcting any tendency to undue accumulation or reduction of duties, whether arising from individual negligence or incapacity, or from increase or diminution of particular kinds of business. And he shall report monthly to his superior officer any existing defect that he may be aware of in the arrangement or dispatch of business.

26 Aug., 1842, c. 202, s. 13, v. 5, p. 525.

Duty of chief on receipt of report.

SEC. 175. Each head of a Department, chief of a Bureau, or other superior officer, shall, upon receiving each monthly report of his chief clerk, rendered pursuant to the preceding section, examine the facts stated therein, and take such measures, in the exercise of the powers conferred upon him by law, as may be necessary and proper to amend any existing defects in the arrangement or dispatch of business disclosed by such report.

26 Aug., 1842, c. 202, s. 13, v. 5, p. 525.

Disbursing clerks.

SEC. 176. The disbursing clerks authorized by law in the several Departments shall be appointed by the heads of the respective Departments, from clerks of the fourth class; and shall each give a bond to the United States for the faithful discharge of the duties of his office according to law in such amount as shall be directed by the Secretary of the Treasury, and with sureties to the satisfaction of the Solicitor of the Treasury; and shall from time to time renew, strengthen, and increase his official bond, as the Secretary of the Treasury may direct. Each disbursing clerk, except the disbursing clerk of the Treasury Department, must, when directed so to do by the head of the Department, superintend the building occupied by his Department. Each disbursing clerk is entitled to receive, in compensation for his services in disbursing, such sum in addition to his salary as a clerk of the fourth class as shall make his whole annual compensation two thousand dollars a year.

3 Mar., 1853, c. 97, s. 3, v. 10, pp. 209, 211.
3 Mar., 1855, c. 175, s. 4, v. 10, p. 669.
3 Mar., 1873, c. 226, s. 1, v. 17, p. 485, (492.)

[See §§ 201, 215, 235, 351, 393, 416, 440.]

Vacancies; how temporarily filled.

SEC. 177. In case of the death, resignation, absence, or sickness of the head of any Department, the first or sole assistant thereof shall, unless otherwise directed by the President, as provided by section one hundred and seventy-nine, perform the duties of such head until a successor is appointed, or such absence or sickness shall cease.

23 July, 1868, c. 227, s. 1, v. 15, p. 168.

Vacancies in subordinate offices.

SEC. 178. In case of the death, resignation, absence, or sickness of the chief of any Bureau, or of any officer thereof, whose appointment is not vested in the head of the Department, the assistant or deputy of such chief or of such officer, or if there be none, then the chief clerk of such Bureau, shall, unless otherwise directed by the President, as provided by section one hundred and seventy-nine, perform the duties of such chief or of such officer until a successor is appointed or such absence or sickness shall cease.

23 July, 1868, c. 227, s. 2, v. 15, p. 168.

Discretionary authority of the President.

SEC. 179. In any of the cases mentioned in the two preceding sections, except the death, resignation, absence, or sickness of the Attorney-General, the President may, in his discretion, authorize and direct the head of any other Department or any other officer in either Department whose appointment is vested in the President, by and with the advice and consent of the Senate, to perform the duties of the vacant office until a successor is appointed, or the sickness or absence of the incumbent shall cease.

23 July, 1868, c. 227, s. 3, v. 15, p. 168.
22 June, 1870, c. 150, s. 2, v. 16, p. 162.

Temporary appointments limited to ten days.

23 July, 1868, c. 227, s. 3, v. 15, p. 168.

SEC. 180. A vacancy occasioned by death or resignation must not be temporarily filled under the three preceding sections for a longer period than ten days.

Restriction on temporary appointments.

23 July, 1868, c. 227, s. 2, v. 15, p. 168.

SEC. 181. No temporary appointment, designation, or assignment of one officer to perform the duties of another, in the cases covered by sections one hundred and seventy-seven and one hundred and seventy-eight, shall be made otherwise than as provided by those sections, except to fill a vacancy happening during a recess of the Senate.

Extra compensation disallowed.

23 July, 1868, c. 227, s. 3, v. 15, p. 168.

SEC. 182. An officer performing the duties of another office, during a vacancy, as authorized by sections one hundred and seventy-seven, one hundred and seventy-eight, and one hundred and seventy-nine, is not by reason thereof entitled to any other compensation than that attached to his proper office.

Oaths, when administered by officers, &c.

10 April, 1869, Res. No. 15, s. 2, v. 16, p. 55. 7 March, 1870, c. 23, v. 16, p. 75.

SEC. 183. Any officer or clerk of any of the Departments lawfully detailed to investigate frauds or attempts to defraud on the Government, or any irregularity or misconduct of any officer or agent of the United States, shall have authority to administer an oath to any witness attending to testify or depose in the course of such investigation.

Subpœnas to witnesses.

14 Feb., 1871, c. 51, s. 1, v. 16, p. 412.

SEC. 184. Any head of a Department or Bureau in which a claim against the United States is properly pending may apply to any judge or clerk of any court of the United States, in any State, District, or Territory, to issue a subpœna for any witness being within the jurisdiction of such court, to appear at a time and place in the subpœna stated, before any officer authorized to take depositions to be used in the courts of the United States, there to give full and true answers to such written interrogatories and cross-interrogatories as may be submitted with the application, or to be orally examined and cross-examined upon the subject of such claim.

Witnesses' fees.

14 Feb., 1871, c. 51, s. 1, v. 16, p. 412.

SEC. 185. Witnesses subpœnaed pursuant to the preceding section shall be allowed the same compensation as is allowed witnesses in the courts of the United States.

Compelling testimony.

14 Feb., 1871, c. 51, s. 1, v. 16, p. 412.

SEC. 186. If any witness, after being duly served with such subpœna, neglects or refuses to appear, or, appearing, refuses to testify, the judge of the district in which the subpœna issued may proceed, upon proper process, to enforce obedience to the subpœna, or to punish the disobedience, in like manner as any court of the United States may do in case of process of subpœna ad testificandum issued by such court.

Professional assistance; how obtained.

14 Feb., 1871, c. 51, s. 3, v. 16, p. 412.

SEC. 187. Whenever any head of a Department or Bureau having made application pursuant to section one hundred and eighty-four, for a subpœna to procure the attendance of a witness to be examined, is of opinion that the interests of the United States require the attendance of counsel at the examination, or require legal investigation of any claim pending in his Department or Bureau, he shall give notice thereof to the Attorney General, and of all facts necessary to enable the Attorney-General to furnish proper professional service in attending such examination, or making such investigation, and it shall be the duty of the Attorney-General to provide for such service.

Evidence to be furnished by the Departments in suits pending in the Court of Claims.

25 June, 1868, c. 71, s. 6, v. 15, p. 76.

SEC. 188. In all suits brought against the United States in the Court of Claims founded upon any contract, agreement, or transaction with any Department, or any Bureau, officer, or agent of a Department, or where the matter or thing on which the claim is based has been passed upon and decided by any Department, Bureau, or officer authorized to adjust it, the Attorney-General shall transmit to such Department, Bureau, or officer, a printed copy of the petition filed by the claimant, with a request that the Department, Bureau, or officer, shall furnish to the Attorney-General all facts, circumstances, and evidence touching the claim in the possession or knowledge of the Department, Bureau, or officer. Such Department, Bureau, or officer shall, without delay, and within a reasonable time, furnish the Attorney-General with a full statement, in writing, of all such facts, information, and proofs. The state-

ment shall contain a reference to or description of all such official documents or papers, if any, as may furnish proof of facts referred to in it, or may be necessary and proper for the defense of the United States against the claim, mentioning the Department, office, or place where the same is kept or may be procured. If the claim has been passed upon and decided by the Department, Bureau, or officer, the statement shall succinctly state the reasons and principles upon which such decision was based. In all cases where such decision was founded upon any act of Congress, or upon any section or clause of such act, the same shall be cited specifically; and if any previous interpretation or construction has been given to such act, section, or clause by the Department, Bureau, or officer, the same shall be set forth succinctly in the statement, and a copy of the opinion filed, if any, shall be annexed to it. Where any decision in the case has been based upon any regulation of a Department, or where such regulation has, in the opinion of the Department, Bureau, or officer transmitting such statement, any bearing upon the claim in suit, the same shall be distinctly quoted at length in the statement. But where more than one case, or a class of cases, is pending, the defense to which rests upon the same facts, circumstances, and proofs, the Department, Bureau, or officer shall only be required to certify and transmit one statement of the same, and such statement shall be held to apply to all such cases, as if made out, certified, and transmitted in each case respectively.

Employment of attorneys or counsel.

22 June, 1870, c. 150, s. 17, v. 16, p. 164.

SEC. 189. No head of a Department shall employ attorneys or counsel at the expense of the United States; but when in need of counsel or advice, shall call upon the Department of Justice, the officers of which shall attend to the same.

Persons formerly in the Departments not to prosecute claims in them.

1 June, 1872, c. 256, s. 5, v. 17, p. 202.

SEC. 190. It shall not be lawful for any person appointed after the first day of June, one thousand eight hundred and seventy-two, as an officer, clerk, or employé in any of the Departments, to act as counsel, attorney, or agent for prosecuting any claim against the United States which was pending in either of said Departments while he was such officer, clerk, or employé, nor in any manner, nor by any means, to aid in the prosecution of any such claim, within two years next after he shall have ceased to be such officer, clerk, or employé.

Certified balances.

30 Mar., 1868, c. 36, s. 1, v. 15, p. 54.

SEC. 191. The balances which may from time to time be stated by the Auditor and certified to the heads of Departments by the Commissioner of Customs, or the Comptrollers of the Treasury, upon the settlement of public accounts, shall not be subject to be changed or modified by the heads of Departments, but shall be conclusive upon the executive branch of the Government, and be subject to revision only by Congress or the proper courts. The head of the proper Department, before signing a warrant for any balance certified to him by a Comptroller, may, however, submit to such Comptroller any facts in his judgment affecting the correctness of such balance, but the decision of the Comptroller thereon shall be final and conclusive, as hereinbefore provided.

Expenditure for newspapers.

26 Aug., 1842, c. 202, s. 16, v. 5, p. 526.

SEC. 192. The amount expended in any one year for newspapers, for any Department, except the Department of State, including all the Bureaus and offices connected therewith, shall not exceed one hundred dollars. And all newspapers purchased with the public money for the use of either of the Departments must be preserved as files for such Department.

Annual report of expenditure of contingent funds.

26 Aug., 1842, c. 202, s. 20, v. 5, p. 527.

SEC. 193. The head of each Department shall make an annual report to Congress, giving a detailed statement of the manner in which the contingent fund for his Department, and for the Bureaus and offices therein, has been expended, giving the names of every person to whom any portion thereof has been paid; and if for anything furnished, the quantity and price; and if for any service rendered, the nature of such service, and the time employed, and the particular occasion or cause, in brief, that rendered such service necessary; and the amount of all former appropriations in each case on hand, either in the Treasury or in the

hands of any disbursing officer or agent. And he shall require of the disbursing officers, acting under his direction and authority, the return of precise and analytical statements and receipts for all the moneys which may have been from time to time during the next preceding year expended by them, and shall communicate the results of such returns and the sums total, annually, to Congress.

Report of clerks employed.

26 Aug., 1842, c. 202, s. 11, v. 5, p. 525.

SEC. 194. The head of each Department shall make an annual report to Congress of the names of the clerks and other persons that have been employed in his Department and the offices thereof; stating the time that each clerk or other person was actually employed, and the sums paid to each; also, whether they have been usefully employed; whether the services of any of them can be dispensed with without detriment to the public service, and whether the removal of any individuals, and the appointment of others in their stead, is required for the better dispatch of business.

Time of making annual reports.

See all acts requiring reports.

SEC. 195. Except where a different time is expressly prescribed by law, the various annual reports required to be submitted to Congress by the heads of Departments shall be made at the commencement of each regular session, and shall embrace the transactions of the preceding year.

Department reports, when to be furnished to Printer.

25 June, 1864, c. 155, ss. 1, 3, v. 13, pp. 184, 5. 22 June, 1870, c. 150, s. 12, v. 16, p. 164.

SEC. 196. The head of each Department, except the Department of Justice, shall furnish to the Congressional Printer copies of the documents usually accompanying his annual report, on or before the first day of November in each year, and a copy of his annual report on or before the third Monday of November in each year.

Inventories of property.

15 July, 1870, c. 300, s. 1, v. 16, p. 364.

SEC. 197. The Secretary of State, the Secretary of the Treasury, the Secretary of the Interior, the Secretary of War, the Secretary of the Navy, the Postmaster-General, the Attorney-General, and Commissioner of Agriculture shall keep, in proper books, a complete inventory of all the property belonging to the United States in the buildings, rooms, offices, and grounds occupied by them, respectively, and under their charge, adding thereto, from time to time, an account of such property as may be procured subsequently to the taking of such inventory, as well as an account of the sale or other disposition of any of such property.

Biennial lists of employés to be filed in Interior Department.

27 April, 1816, Res. No. 6, s. 1, v. 3, p. 342.
3 Mar., 1851, c. 32, s. 1, v. 9, p. 600.
14 July, 1832, Res. No. 11, v. 4, p. 608.

SEC. 198. The head of each Department shall, as soon as practicable after the last day in September in each year in which a new Congress is to assemble, cause to be filed in the Department of the Interior a full and complete list of all officers, agents, clerks, and employés employed in his Department, or in any of the offices or Bureaus connected therewith. He shall include in such list all the statistics peculiar to his Department required to enable the Secretary of the Interior to prepare the Biennial Register.