

CHAP. 415.—An Act To repeal certain provisions of law relating to the Federal building at Des Moines, Iowa.

March 1, 1929.

[H. R. 13957.]

[Public, No. 866.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last three paragraphs of section 20 of the Act entitled "An Act to increase the limit of cost of certain public buildings; to authorize the enlargement, extension, remodeling, or improvement of certain public buildings; to authorize the erection and completion of public buildings; to authorize the purchase of sites for public buildings; and for other purposes," approved March 4, 1913, as amended, are hereby repealed.

Des Moines, Iowa.
Sale of present Federal building at, repealed.
Vol. 37, p. 884, amended.

Approved, March 1, 1929.

CHAP. 416.—An Act To provide for the acquisition of land in the District of Columbia for the use of the United States.

March 1, 1929.

[H. R. 13461.]

[Public, No. 867.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the head of any executive department or independent bureau, or other officer of the United States, or any board or commission of the United States, hereinafter referred to as the acquiring authority, has been, or hereafter shall be, authorized by law to acquire real property in the District of Columbia for the construction of any public building or work, or for parks, parkways, public playgrounds, or any other public purpose, such acquiring authority shall be, and hereby is, authorized to acquire the same in the name of the United States by condemnation under judicial process whenever in the opinion of such acquiring authority it is necessary or advantageous so to do; and in every such case the Attorney General of the United States, upon the request of such acquiring authority, shall cause a proceeding in rem for such condemnation to be instituted in the Supreme Court of the District of Columbia, holding a special term as a district court of the United States, which court is hereby vested with jurisdiction of all such cases of condemnation with full power to hear and determine all issues of law and fact that may arise in the same.

District of Columbia.
Heads of executive departments, etc., authorized to acquire real estate in, for public purpose, may acquire the same by condemnation in the name of the United States.

Proceeding in rem to be instituted in District Supreme Court holding special term as a district court.

INSTITUTION OF PROCEEDINGS

SEC. 2. Every such condemnation proceeding shall be instituted by filing in said court a verified petition which shall contain or have annexed thereto the following:

Institution of proceedings.

Verified petition to be filed.
Contents.

(1) A statement of the authority under which and the public use for which the lands are to be acquired.

Authority for.

(2) A description of the lands to be acquired sufficient for the identification thereof. Where such lands, taken together, constitute all privately owned land in any square in the city of Washington it shall be sufficient to designate the same by the number of the square as the same appears on the records of squares in the office of the surveyor of the District of Columbia.

Description of lands.

(3) A plan showing the lands to be acquired.

Plan.

(4) The names of the owners of the lands to be acquired, so far as ascertainable by reasonable inquiry, and of the persons in actual and open possession of the same. If it shall appear from the land records of the District of Columbia that a right, title, interest, or estate in said lands was formerly vested in any person who is known, or may be presumed, to be deceased, which right, title, interest, or estate, if valid and subsisting, would be adverse to the person in present possession claiming to be owner of said lands, and the names

Names of owners, etc.

of the heirs or devisees of such deceased person are not known, it shall be sufficient to describe them in the petition and in any order of citation or publication or other process thereon as "the unknown heirs or devisees" of such deceased person. And such designation shall be valid and effective to all intents and purposes as if all persons claiming by, through, or under said deceased person had been specifically named.

Interest to be acquired.

(5) A statement of the estate or interest in said lands which petitioner intends to acquire for the public use stated.

Prayer for condemnation and vesting title in United States.

(6) A prayer that said lands be condemned and taken for the use of the United States and that the title to the same in fee simple, or such estate or interest as may be specified, be vested in the United States.

Citation and notice.

CITATION AND NOTICE

Public notice, and order of parties of interest to appear.

SEC. 3. The court shall cause public notice of the institution of such proceeding to be given by an order of citation requiring all persons claiming to have any right, title, interest, or estate in the lands to be acquired, or to be entitled to compensation in respect of the taking of the same, and all persons occupying the same, to appear in said court on a day to be named in said order of citation to answer the petition and make claim for the compensation to which they deem themselves entitled.

Description of lands in order of citation.

SEC. 4. Such order of citation shall contain a description of the lands to be acquired sufficient for the identification thereof and the names of the persons given in the petition as claiming to have any right, title, interest, or estate in said lands or to be entitled to compensation in respect of the taking of the same and as occupying the same. If any such person is alleged in said petition to be a non-resident of the District of Columbia, the order of citation shall also state the last place of residence of such person, if known.

Newspaper publication.

SEC. 5. Said order of citation shall be published at least once a week for three consecutive weeks in some newspaper of general circulation published in the District of Columbia.

Personal service of copy of order.

SEC. 6. The court shall also direct service of a copy of said order of citation before the return date of the said order upon each of the persons named therein who is, so far as ascertainable by reasonable inquiry, residing or sojourning at the time within the District of Columbia. The court shall also require a copy of said order of citation to be mailed, postpaid, to such of the persons named therein as may be shown by said petition or affidavit to be nonresidents of the District of Columbia, such copy to be addressed to such persons at their last known places of residence.

By mail to nonresident.

Default in appearance.

DEFAULT IN APPEARANCE

Deemed a consent to taking, etc., of lands.

SEC. 7. In default of appearance on or before the return day specified in said order of citation (or on or before such further day as the court for cause shown may allow for the purpose) every person having any right, title, interest, or estate in the lands described in said order, or entitled to compensation in respect of the taking of the same or entitled to the possession of, or occupying the same, shall be deemed to have consented to the taking and condemnation of said lands for the public purpose stated at and for such compensation as may be finally awarded therefor in the proceeding and shall be bound by all orders, judgments, and decrees that may be entered in said proceeding.

Person claiming any right, etc., to the land may be permitted to appear in the proceedings.

SEC. 8. The court may, by order, upon application and for cause shown, at any time prior to final judgment permit any person claiming any right, title, interest, or estate in the lands to be acquired or to be entitled to compensation in respect of the taking of the same to

appear in said proceeding upon such terms and conditions as the court may direct.

GUARDIANS AD LITEM

Guardians ad litem.

SEC. 9. If any person having, or claiming to have, any right, title, interest, or estate in the lands to be acquired, or entitled, or claiming to be entitled, to compensation in respect of the taking of the same, or entitled or claiming to be entitled, to the possession of the same, appears to be under legal disability by reason of infancy, insanity, idiocy, or other like cause, the court, after the return day specified in the order of citation, upon the application of any person interested, shall appoint some suitable person as guardian ad litem to appear for such person under disability. Failure to apply for the appointment of a guardian ad litem for any such person under disability shall not affect the validity of the proceedings.

Appointment of, authorized for persons under legal disability, upon application.

Validity not affected on failure to apply.

VESTING OF TITLE AND RIGHT TO COMPENSATION

Vesting of title and right to compensation.

SEC. 10. The petitioner may file in the cause, with the petition or at any time before judgment, a declaration of taking signed by the authority empowered by law to acquire the lands described in the petition, declaring that said lands are thereby taken for the use of the United States. Said declaration of taking shall contain or have annexed thereto—

Declaration by petitioner that lands are taken for use of United States.

Contents.

(1) A statement of the authority under which and the public use for which said lands are taken.

Authority for taking.

(2) A description of the lands taken sufficient for the identification thereof.

Description.

(3) A statement of the estate or interest in said lands taken for said public use.

Interest in lands.

(4) A plan showing the lands taken.

Plans.

(5) A statement of the sum of money estimated by said acquiring authority to be just compensation for the land taken.

Estimated amount of just compensation.

Upon the filing of said declaration of taking and of the deposit in the registry of the court, to the use of the persons entitled thereto, of the amount of the estimated compensation stated in said declaration, title to the said lands in fee simple absolute, or such less estate or interest therein as is specified in said declaration, shall vest in the United States of America, and said lands shall be deemed to be condemned and taken for the use of the United States, and the right to just compensation for the same shall vest in the persons entitled thereto; and said compensation shall be ascertained and awarded in said proceeding and established by judgment therein, and the said judgment shall include, as part of the just compensation awarded, interest at the rate of 6 per centum per annum on the amount finally awarded as the value of the property as of the date of taking, from said date to the date of payment; but interest shall not be allowed on so much thereof as shall have been paid into the registry. No sum so paid into the registry shall be charged with commissions or poundage.

Title to vest in United States upon filing declaration, and deposit in registry of the court amount of estimated compensation.

Compensation to be ascertained and awarded.

Upon the application of the parties in interest, the court may order that the money deposited in the registry of the court, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in said proceeding. If the compensation finally awarded in respect of said lands or any parcel thereof shall exceed the amount of the money so received by any person entitled, the court shall enter judgment against the United States for the amount of the deficiency.

Upon application, money in registry of court may be paid forthwith.

Judgment against United States for deficiency, if award exceeds deposit.

Upon the filing of a declaration of taking, the court shall have power to fix the time within which and the terms upon which the parties in possession shall be required to surrender possession to the

Provisions for surrender of possession.

petitioner. The court shall have power to make such orders in respect of encumbrances, liens, rents, taxes, assessments, insurance, and other charges, if any, as shall be just and equitable.

Setting date for trial and selection of jury.

SETTING DATE FOR TRIAL AND SELECTION OF JURY

Court to set date upon appearance of persons summoned, etc.

SEC. 11. When all the persons who have been summoned or published against in said case, as hereinbefore provided, have either answered or are in default as aforesaid, and all persons under legal disability have answered by their guardians ad litem, or in the judgment of the court ample opportunity has been given for the same, the case shall be regarded as ready for trial, and, upon the application of any party to said suit, the court shall forthwith set an early date to be especially fixed by it, not less than ten nor more than twenty days from the date of such application, for the trial of the issues of law and fact raised in said case, and the ascertainment of the compensation or damages to be awarded for the taking of the lands to be condemned. The court shall thereupon order the jury commission to draw from the special box provided for by law the names of as many persons, not less than twenty, as the court may direct, and to certify said names to the clerk of the Supreme Court of the District of Columbia as a panel of prospective jurors. The persons so certified shall be thereupon summoned by the United States marshal for the District of Columbia to appear in said court on the day specially fixed for the trial of said cause. Before selecting or impaneling said jury, the court may, in its discretion, cause a second, third, or other further list of prospective jurors to be drawn, certified, and summoned in like manner. From the persons so certified and summoned, the court, after examination on oath and in open court as to their qualifications, shall select and impanel a jury of five capable and disinterested persons who shall have the qualifications of jurors as prescribed by law for the courts of the District of Columbia, and in addition thereto shall be freeholders of said district and shall not be in the service or employment of the United States or of the District of Columbia.

Drawing of jury.

Jury to be impaneled.

Oath of jurors.

OATH OF JUROR

Qualification requirement.

SEC. 12. To the jurors so selected and impaneled the court shall administer an oath or affirmation that they are not interested in any manner in the lands to be condemned and that they are not to their knowledge related to any person interested therein, and that they will impartially and to the best of their judgment ascertain, appraise, and award just compensation for the lands to be condemned and taken in said proceeding.

View.

VIEW

Jury to view lands before hearing evidence.

SEC. 13. After being selected, impaneled, and sworn, and before hearing the evidence, the jury shall be taken by the marshal upon the lands to be acquired at a time to be fixed by the court in order to view the said lands; and all parties in interest, their attorneys, and representatives shall have the right to be present at such view.

Trial.

TRIAL

Procedure.

SEC. 14. After such view and the jury shall have returned to the court, the trial of said cause shall be proceeded with before the court and jury. Any person who has appeared in the cause claiming any right, title, interest, or estate in the land to be taken, or compensation on account of the taking of the same, shall have the right to submit evidence concerning the value of such land, parcel by parcel, the nature and extent of his right, interest, or estate therein,

Evidence by party claiming interest may be submitted as to value, etc.

and the compensation justly due for the taking of the same. No new structure or substantial alteration of a permanent nature, the purpose or natural effect of which is to enhance the value of the land to be taken, erected, or made thereon after the institution of the condemnation proceedings shall be taken into consideration in assessing and awarding compensation for said land. If the land to be valued shall have been taken by virtue of a declaration of taking, as provided in this Act, said land shall be valued for the purposes of compensation as of the date of such taking; and if, by act of the owner or other party claiming to be entitled to compensation, the value of the land for the use for which it is to be taken has been diminished, as by cutting trees, excavating, grading, or otherwise altering its physical condition, allowance, if petitioner so elects, shall be made in assessing compensation for such diminution in value. Every party, whether petitioner or respondent, may except to any ruling of the court admitting or excluding evidence, granting, rejecting, or modifying prayers for instruction, or other ruling made in the cause in like manner as in other civil trials.

No alteration to enhance value after proceedings instituted, to be taken into consideration.

Proceeding if it shall have been taken.

Exceptions to rulings.

VERDICT

SEC. 15. At the close of the evidence the court shall charge the jury as in other trials at law and furnish them with a written form to be used in returning their verdict. The members of the jury may separate when not engaged in the consideration of their verdict. When the jury, or a majority thereof, shall have agreed upon their verdict they shall, through their foreman, so notify the court, which shall thereupon pass an order setting a day for the return of the verdict in open court. The verdict shall be in writing subscribed by the jurors concurring therein, and shall set forth, parcel by parcel, the compensation to be paid for the taking of the lands to be condemned.

Verdict.

To be returned in open court.

Contents.

SETTING ASIDE VERDICT

SEC. 16. The court shall have power to set aside or vacate the verdict of the jury, or any award contained therein, and to grant a new trial upon the same grounds as in other trials at law and upon the ground that said verdict, or any award contained therein is, in the judgment of the court, grossly excessive, or inadequate, or otherwise unreasonable or unjust. In case the verdict or any award contained therein is set aside or vacated, the court shall award a new trial with respect to the lands as to which said verdict or such award is set aside or vacated; and the court shall fix a date for a new trial and order a new panel of prospective jurors to be drawn, certified, and summoned as hereinbefore provided; and the cause shall be proceeded with as if no such verdict or award had been rendered.

Setting aside verdict.

Power of court to grant new trial, etc.

New panel to be drawn and case proceeded with.

PROCEEDINGS AFTER VERDICT

SEC. 17. No motion for a new trial or to set aside or vacate the verdict, in whole or in part, or any award contained therein, shall be made after the expiration of twenty days, Sundays and legal holidays excluded, from the rendition thereof; and if no such motion be filed within such time, the verdict and the award or awards contained therein shall become final and conclusive, and judgment shall be entered thereon.

Proceedings after verdict.

Time limit for motion for new trial, etc.

Judgment.

Judgment entered against United States for sum awarded as just compensation, when verdict becomes final.

JUDGMENT

SEC. 18. In the event that any verdict or any award contained therein shall become final by lapse of time or that any motion filed to set aside or vacate the same or to grant a new trial in respect thereof shall have been denied or overruled, the court shall enter judgment against the United States in favor of the parties entitled for the sum or sums awarded as just compensation, respectively, for the lands condemned for the use of the United States.

Payment of judgment.

Force and effect of, as a money judgment against United States.

PAYMENT OF JUDGMENT

SEC. 19. Any final judgment rendered against the United States under any provision of this Act shall have like force and effect as a money judgment rendered against the United States by the Court of Claims in a suit in respect of which the United States has expressly consented to be sued; and the amount of any such final judgment shall be paid out of any specific appropriation applicable to the case, if any such there be; and when no such appropriation exists, said judgment shall be paid in the same manner (except with respect to interest) as judgments rendered by the Court of Claims in cases under its general jurisdiction.

Appeal.

Allowed to District Court of Appeals.

Title in United States not delayed thereby.

If final award exceed award appealed from, judgment against United States for deficiency to be entered.

APPEAL

SEC. 20. Any party aggrieved by any final judgment in a proceeding under this Act may appeal therefrom to the Court of Appeals of the District of Columbia, and upon such appeal said court shall have power to review said judgment and affirm, reverse, or modify the same as on appeals in other actions at law. No such appeal, nor any bond or undertaking given therein, shall operate to prevent or delay the vesting of title to said lands in the United States, but upon the filing of a declaration of taking or (if no declaration of taking is filed) upon payment to the party entitled or deposit in the registry of the court, of the amount awarded by any judgment, title shall vest in the United States, saving to all parties their right to just compensation. In the event that the compensation finally awarded and adjudged for such lands shall exceed the amount awarded and adjudged by the judgment appealed from, said court shall enter judgment for the deficiency with interest as hereinbefore provided.

Payment of compensation into court.
To constitute payment.

PAYMENT OF COMPENSATION INTO COURT

Order declaring title in United States.

Money deemed vested in persons owning the land.

Determination of parties entitled.

SEC. 21. Payment into the registry of the court for the use of all parties entitled of the sum of money adjudged to be just compensation for the lands to be condemned and taken, or for any parcel thereof, or any interest therein, shall constitute payment of such compensation. Upon such payment, the petitioner shall be entitled to an order declaring that the title to the lands in respect of which such compensation is so paid is vested in the United States of America. The money so paid into the registry of the court shall be deemed to be vested in the persons owning or interested in said lands, according to their respective estates and interests, and said money shall take the place and stand in lieu of the lands condemned. The court, upon the application of the petitioner or of any party in interest, shall have power to determine and direct who is entitled to receive payment of the money so paid into the registry, and may, in its discretion, order a reference to the auditor of the court or a special master to ascertain the facts on which such determination and direction are to be made.

DELIVERY OF POSSESSION

Delivery of possession.

Provisions for.

SEC. 22. In cases in which possession shall not have been awarded pursuant to a declaration of taking, when the adjudged compensation shall have been paid into the registry as directed in the judgment of the court and a certified copy of such judgment, with a certificate of the clerk of the court showing such payment, has been served upon the person in possession of said lands, such person shall, upon demand, deliver possession thereof to the petitioner. In case possession is not delivered when so demanded, the petitioner may apply to the court without notice (unless the court shall require notice to be given) for a writ of assistance, and the court, upon proof of the service of the copy of the final order or judgment and certificate of the clerk showing payment as aforesaid, shall thereupon cause such writ to be issued, which shall be executed in the same manner as when issued in other cases for the delivery of possession of real property.

Writ of assistance if possession not delivered.

AMENDMENTS

Amendments.

SEC. 23. In all proceedings under this Act the court shall have power at any stage of the proceeding to allow amendments in form or substance in any petition, citation, summons, process, answer, declaration of taking, order, verdict, or other proceeding, including amendment in the description of the lands sought to be condemned, whenever such amendment will not impair the substantial rights of any party in interest.

Power of court to allow.

GENERAL PROVISIONS

General provisions.

SEC. 24. In all proceedings under this Act, where the mode or manner of conducting the proceeding is not expressly provided for by law, the court shall have power to make all necessary orders and give all necessary directions to carry into effect the object and intent of this Act and of the several Acts of Congress heretofore or hereafter enacted conferring authority to acquire lands for the use of the United States.

Authority of court to make necessary orders, etc.

PROVISIONS FOR SAVING PENDING PROCEEDINGS

Provisions for saving pending proceedings.

SEC. 25. The repeal, express or implied, of any existing law or the alteration or amendment thereof by virtue of anything in this Act contained shall not affect (1) any act done or any right, including the right to appeal, accruing or accrued under the law so repealed, altered, or amended, or (2) any suit or proceeding pending in the Supreme Court of the District of Columbia, or in the Court of Appeals of the District of Columbia, or the Supreme Court of the United States upon writ of error, appeal, certificate, writ of certiorari, or upon application for writ of error, appeal, certificate, or writ of certiorari, at the time of the taking effect of this Act; but all suits and proceedings shall be proceeded with and disposed of in the same manner and with the same effect as if this Act had not been passed, save and except only that in any condemnation suit or proceeding for the condemnation of land for the use of the United States pending in the Supreme Court of the District of Columbia in which commissioners of appraisement shall not have been appointed by the court at the time of the taking effect of this Act, the trial of said condemnation suit or proceeding shall proceed and be conducted from that point forward in accordance with the provisions of this Act; and all evidence as to the value of the property to be condemned and taken shall be given before the court and jury as in this Act prescribed and the matter shall be proceeded with and disposed of in the same manner and with like effect as if the proceeding had been

Act not to affect pending proceedings.

In condemnation suits, if commissioners of appraisement have not been appointed, trial, etc., according to this Act.

originally begun and the petition filed and all prior proceedings had under and pursuant to the provisions of this Act and after the taking effect of the same.

District of Columbia suits, etc.

PROCEEDINGS ON BEHALF OF THE DISTRICT OF COLUMBIA NOT AFFECTED BY THIS ACT

Proceedings for condemnation of land for schoolhouses, etc., to follow provisions of District Code.

Post, p. 1437.

SEC. 26. This Act shall not affect any suit or proceeding begun, now pending, or hereafter to be instituted under chapter 15 of the Code of Law for the District of Columbia, by or on behalf of the Commissioners of the District of Columbia for the condemnation of land for sites of schoolhouses, fire or police stations, or for a right of way for sewers, or for any other municipal use; but as to all such suits and proceedings, and the right of said commissioners to institute the same, said chapter shall be and remain in full force and effect as if this Act had not been made.

Approved, March 1, 1929.

March 1, 1929.
[H. R. 15463.]
[Public, No. 868.]

CHAP. 417.—An Act To repeal the provisions of law authorizing the Secretary of the Treasury to acquire a site and building for the United States sub-treasury and other governmental offices at New Orleans, Louisiana.

New Orleans, La.
Authority for site,
etc., for subtreasury,
etc., at repealed.

Vol. 36, p. 694, re-
pealed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11 of the Act entitled "An Act to increase the limit of cost of certain public buildings; to authorize the enlargement, extension, remodeling, or improvement of certain public buildings; to authorize the erection and completion of public buildings; to authorize the purchase of sites for public buildings, and for other purposes," approved June 25, 1910, is hereby repealed.

Approved, March 1, 1929.

March 1, 1929.
[S. 1965.]
[Public, No. 869.]

CHAP. 418.—An Act To authorize the appointment of a district judge for the northern district of Mississippi.

United States courts.
Mississippi northern
judicial district.
Appointment of judge
for, authorized.

Vol. 36, p. 1087
amended.

Present judge for
northern and southern
districts, to be judge for
southern district.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized to appoint, by and with the advice and consent of the Senate, a judge of the District Court of the United States for the Northern District of Mississippi, who shall reside in such district and whose compensation, duties, and powers shall be the same as now provided by law for other district judges.

SEC. 2. Upon the appointment of such judge, the present judge of the District Courts of the United States for the Northern and Southern Districts of Mississippi shall be the judge of the District Court of the United States for the Southern District of Mississippi. Such judge for the southern district of Mississippi shall reside in such district.

Approved, March 1, 1929.

March 1, 1929.
[S. 2206.]
[Public, No. 870.]

CHAP. 419.—An Act To amend section 260 of the Judicial Code, as amended.

Judicial Code.
Vol. 40, p. 1157,
amended.

U. S. Code, p. 908.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 260 of the Judicial Code as amended by section 6 of the Act of February 25, 1919, chapter 29, be, and the same hereby is, amended so as to read as follows: