

CHAPTER 161.

An act to increase and regulate the pay of the surgeons and assistant surgeons of the army.

Appointment of surgeons and assistants.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That from and after the passing of this act, no person shall receive the appointment of assistant surgeon in the army of the United States, unless he shall have been examined and approved by an army medical board, to consist of not less than three surgeons or assistant surgeons, who shall be designated for that purpose by the Secretary of War; and no person shall receive the appointment of surgeon in the army of the United States, unless he shall have served at least five years as an assistant surgeon, and unless, also, he shall have been examined by an army medical board constituted as aforesaid.

Pay and emoluments.

SEC. 2. *And be it further enacted,* That the surgeons in the army of the United States shall be entitled to receive the pay and emoluments of a major; and the assistant surgeons, who shall have served five years, shall be entitled to receive the pay and emoluments of a captain; and those who shall have served less than five years, the pay and emoluments of a first lieutenant; and that said assistant surgeons shall be entitled to receive the same allowance for forage as they are at present entitled to.

Increase of rations after ten years' service.

SEC. 3. *And be it further enacted,* That every surgeon and assistant surgeon, who shall have served faithfully ten years in these grades, respectively, shall be entitled to receive an increase of rations, per day, equal to the number of rations to which he may be entitled under this act.

[Approved June 30, 1834.]

CHAPTER 162.

An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.*

Certain United States Territory to be deemed Indian country.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That all that part of the United States west of the Mississippi, and not within the states of Missouri and Louisiana, or the Territory of Arkansas, and, also, that part of the United States east of the Mississippi river, and not within any state to which

*This act relates chiefly to Indian affairs; but as the execution of some of its provisions devolves upon the commanders of the posts on the frontiers, its insertion, at large, in this place, was deemed advisable, the more especially as military officers may be required to execute the duties of Indian agents.—See chapter 163, section 4.

the Indian title has not been extinguished, for the purposes of this act, be taken and deemed to be the Indian country.

SEC. 2. *And be it further enacted,* That no person shall be permitted to trade with any of the Indians (in the Indian country) without a license therefor from a superintendent of Indian affairs, or Indian agent, or sub-agent, which license shall be issued for a term not exceeding two years for the tribes east of the Mississippi, and not exceeding three years for the tribes west of that river. And the person applying for such license shall give bond in a penal sum not exceeding five thousand dollars, with one or more sureties, to be approved by the person issuing the same, conditioned that such person will faithfully observe all the laws and regulations made for the government of trade and intercourse with the Indian tribes, and in no respect violate the same. And the superintendent of the district, shall have power to revoke and cancel the same, whenever the person licensed, shall, in his opinion, have transgressed any of the laws or regulations provided for the government of trade and intercourse with the Indian tribes, or that it would be improper to permit him to remain in the Indian country. And no trade with the said tribes shall be carried on within their boundary, except at certain suitable and convenient places, to be designated from time to time by the superintendents, agents, and sub-agents, and to be inserted in the license. And it shall be the duty of the persons granting or revoking such licenses, forthwith to report the same to the commissioner of Indian affairs, for his approval or disapproval.

Persons trading with Indians to be licensed.

SEC. 3. *And be it further enacted,* That any superintendent, or agent may refuse an application for a license to trade, if he is satisfied that the applicant is a person of bad character, or that it would be improper to permit him to reside in the Indian country, or if a license, previously granted to such applicant has been revoked, or a forfeiture of his bond decreed.—But an appeal may be had from the agent or the superintendent to the commissioner of Indian affairs; and the President of the United States shall be authorized, whenever in his opinion the public interest may require the same, to prohibit the introduction of goods, or of any particular article, into the country belonging to any Indian tribe, and to direct all licenses to trade with such tribe to be revoked, and all applications therefor to be rejected; and no trader to any other tribe shall, so long as such prohibition may continue, trade with any Indians of or for the tribe against which such prohibition is issued.

Application for license may be refused, and license revoked.

SEC. 4. *And be it further enacted,* That any person other than an Indian who shall attempt to reside in the Indian country as a trader, or to introduce goods, or to trade therein without such license, shall forfeit all merchandise offered for sale to the Indians, or found in his possession, and shall moreover forfeit and pay the sum of five hundred dollars.

Forfeiture of goods and fine for trading without a license.

SEC. 5. *And be it further enacted,* That no license to trade with the Indians shall be granted to any persons except citizens

Citizens only to be licensed.

Proviso.

of the United States: *Provided*, That the President shall be authorized to allow the employment of foreign boatmen and interpreters, under such regulations as he may prescribe.

Foreigners must obtain passports to go into the Indian country.

SEC. 6. *And be it further enacted*, That if a foreigner shall go into the Indian country without a passport from the war department, the superintendent, agent, or sub-agent of Indian affairs, or from the officer of the United States commanding the nearest military post on the frontiers, or shall remain intentionally therein after the expiration of such passport, he shall forfeit and pay the sum of one thousand dollars; and such passport shall express the object of such person, the time he is allowed to remain, and the route he is to travel.

Indians only to barter with Indians.

SEC. 7. *And be it further enacted*, That if any person other than an Indian shall, within the Indian country, purchase or receive of any Indian, in the way of barter, trade, or pledge, a gun, trap, or other article commonly used in hunting, any instrument of husbandry or cooking utensils of the kind commonly obtained by the Indians in their intercourse with the white people, or any other article of clothing, except skins or furs, he shall forfeit and pay the sum of fifty dollars.

Other persons not to trap within their limits.

SEC. 8. *And be it further enacted*, That if any person, other than an Indian, shall, within the limits of any tribe with whom the United States shall have existing treaties, hunt, or trap, or take and destroy, any peltries or game, except for subsistence in the Indian country, such person shall forfeit the sum of five hundred dollars, and forfeit all the traps, guns, and ammunition in his possession, used or procured to be used for that purpose, and peltries so taken.

Cattle not to be driven for forage on Indian lands.

SEC. 9. *And be it further enacted*, That if any person shall drive, or otherwise convey any stock of horses, mules, or cattle, to range and feed on any land belonging to any Indian or Indian tribe, without the consent of such tribe, such person shall forfeit the sum of one dollar for each animal of such stock.

Intruders may be removed.

SEC. 10. *And be it further enacted*, That the superintendent of Indian affairs, and Indian agents and sub-agents, shall have authority to remove from the Indian country all persons found therein contrary to law; and the President of the United States is authorized to direct the military force to be employed in such removal.

Settlers may be driven off by military force.

SEC. 11. *And be it further enacted*, That if any person shall make a settlement on any lands belonging, secured, or granted by treaty with the United States to any Indian tribe, or shall survey or shall attempt to survey such lands, or designate any of the boundaries by marking trees, or otherwise, such offender shall forfeit and pay the sum of one thousand dollars. And it shall, moreover, be lawful for the President of the United States to take such measures, and to employ such military force, as he may judge necessary to remove from the lands as aforesaid any such person as aforesaid.

Purchases or grants from Indians.

SEC. 12. *And be it further enacted*, That no purchase, grant, lease, or other conveyance of lands, or of any title or

claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the constitution. And if any person, not employed under the authority of the United States, shall attempt to negotiate such treaty or convention, directly or indirectly, to treat with any such nation or tribe of Indians, for the title or purchase of any lands by them held or claimed, such person shall forfeit and pay one thousand dollars: *Provided, nevertheless*, That it shall be lawful for the agent or agents of any state who may be present at any treaty held with Indians under the authority of the United States, in the presence and with the approbation of the commissioner or commissioners of the United States appointed to hold the same, to propose to, and adjust with the Indians, the compensation to be made for their claim to lands within such state which shall be extinguished by treaty.

SEC. 13. *And be it further enacted*, That if any citizen or other person residing within the United States or the territory thereof, shall send any talk, speech, message, or letter, to any Indian nation, tribe, chief, or individual, with an intent to produce a contravention or infraction of any treaty or other law of the United States, or to disturb the peace and tranquillity of the United States, he shall forfeit and pay the sum of two thousand dollars.

SEC. 14. *And be it further enacted*, That if any citizen, or other person, shall carry or deliver any such talk, message, speech, or letter, to or from any Indian nation, tribe, chief, or individual, from or to any person or persons whatsoever, residing within the United States, or from or to any subject, citizen, or agent of any foreign power or state, knowing the contents thereof, he shall forfeit and pay the sum of one thousand dollars.

SEC. 15. *And be it further enacted*, That if any citizen or other person, residing or living among the Indians, or elsewhere within the territory of the United States, shall carry on a correspondence, by letter or otherwise, with any foreign nation or power, with an intent to induce such foreign nation or power to excite any Indian nation, tribe, chief, or individual, to war against the United States, or to the violation of any existing treaty; or in case any citizen or other person shall alienate, or attempt to alienate, the confidence of any Indian or Indians from the government of the United States, he shall forfeit the sum of one thousand dollars.

SEC. 16. *And be it further enacted*, That where, in the commission, by a white person, of any crime, offence, or misdemeanor, within the Indian country, the property of any friendly Indian is taken, injured or destroyed, and a conviction is had for such crime, offence, or misdemeanor, the person so convicted shall be sentenced to pay to such friendly Indian to whom the property may belong, or whose person may be injured, a sum equal to twice the just value of the property so taken, injured,

dians invalid.

Proviso.

Penalty for sending any talk, etc. to disturb the peace.

Persons carrying such, fined.

Persons corresponding with foreign powers with similar views, fined.

Property of friendly Indians injured or destroyed, to be paid for in twice its value.

Proviso.

Further proviso.

Indemnification to be made for property taken or destroyed in certain cases.

Provisoes.

Superintendents, &c. may take depositions.

ed, or destroyed. And if such offender shall be unable to pay a sum at least equal to the just value or amount, whatever such payment shall fall short of the same shall be paid out of the Treasury of the United States: *Provided*, That no such Indian shall be entitled to any payment, out of the Treasury of the United States, for any such property, if he, or any of the nation to which he belongs, shall have sought private revenge, or attempted to obtain satisfaction by any force or violence: *And provided also*, That if such offender cannot be apprehended and brought to trial, the amount of such property shall be paid out of the Treasury, as aforesaid.

SEC. 17. *And be it further enacted*, That if any Indian or Indians, belonging to any tribe in amity with the United States, shall, within the Indian country take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any State or Territory inhabited by citizens of the United States, and there take, steal, or destroy, any horse, horses, or other property, belonging to any citizen or inhabitant of the United States, such citizen or inhabitant, his representative, attorney, or agent, may make application to the proper superintendent, agent, or sub-agent, who upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which said Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction, in a reasonable time, not exceeding twelve months, it shall be the duty of such superintendent, agent, or sub-agent, to make return of his doings to the commissioner of Indian affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction for the injury; and, in the mean time, in respect to the property so taken, stolen, or destroyed, the United States guaranty, to the party so injured, an eventual indemnification: *Provided*, That, if such injured party, his representative, attorney, or agent, shall, in any way, violate any of the provisions of this act, by seeking or attempting to obtain private satisfaction or revenge, he shall forfeit all claim upon the United States for such indemnification: *And provided also*, That, unless such claim shall be presented within three years after the commission of the injury, the same shall be barred. And if the nation or tribe to which such Indian may belong, receive an annuity from the United States, such claim shall, at the next payment of the annuity, be deducted therefrom, and paid to the party injured; and, if no annuity is payable to such nation or tribe, then the amount of the claim shall be paid from the Treasury of the United States: *Provided*, That nothing herein contained shall prevent the legal apprehension and punishment of any Indians having so offended.

SEC. 18. *And be it further enacted*, That the superintendents, agents, and sub-agents, within their respective districts, be, and are hereby, authorized and empowered to take depositions of

witnesses touching any depredations within the purview of the two preceding sections of this act, and to administer an oath to the deponents.

SEC. 19. *And be it further enacted*, That it shall be the duty of the superintendents, agents, and sub-agents to endeavor to procure the arrest and trial of all Indians accused of committing any crime, offence, or misdemeanor, and all other persons who may have committed crimes or offences within any State or Territory, and have fled into the Indian country, either by demanding the same of the chiefs of the proper tribe, or by such other means as the President may authorize; and the President may direct the military force of the United States to be employed in the apprehension of such Indians, and also in preventing or terminating hostilities between any of the Indian tribes.

SEC. 20. *And be it further enacted*, That if any person shall sell, exchange, or give, barter, or dispose of, any spirituous liquor or wine to an Indian, (in the Indian country,) such person shall forfeit and pay the sum of five hundred dollars; and if any person shall introduce, or attempt to introduce, any spirituous liquor or wine into the Indian country, except such supplies as shall be necessary for the officers of the United States and troops of the service, under the direction of the war department, such person shall forfeit and pay a sum not exceeding three hundred dollars; and if any superintendent of Indian affairs, Indian agent, or sub-agent, or commanding officer of a military post, has reason to suspect, or is informed, that any white person or Indian is about to introduce, or has introduced, any spirituous liquor or wine into the Indian country, in violation of the provisions of this section, it shall be lawful for such superintendent, Indian agent, or sub-agent, or military officer, agreeably to such regulations as may be established by the President of the United States, to cause the boats, stores, packages, and places of deposit of such person to be searched, and if any such spirituous liquor or wine is found, the goods, boats, packages, and peltries of such persons shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one-half to the use of the informer, and the other half to the use of the United States; and if such person is a trader, his license shall be revoked and his bond put in suit. And it shall moreover be lawful for any person in the service of the United States, or for any Indian, to take and destroy any ardent spirits or wine found in the Indian country, excepting military supplies as mentioned in this section.

SEC. 21. *And be it further enacted*, That if any person whatever shall, within the limits of the Indian country, set up or continue any distillery for manufacturing ardent spirits, he shall forfeit and pay a penalty of one thousand dollars; and it shall be the duty of the superintendent of Indian Affairs, Indian agent, or sub-agent, within the limits of whose agency

the same shall be set up or continued, forthwith to destroy and break up the same; and it shall be lawful to employ the military force of the United States in executing that duty.

In trials about property, the burden of proof to rest on the white person.

SEC. 22. *And be it further enacted*, That in all trials about the right of property in which an Indian may be a party on one side, and a white person on the other, the burden of proof shall rest upon the white person, whenever the Indian shall make out a presumption of title in himself from the fact of previous possession or ownership.

Apprehension of persons violating the provisions of this act.

SEC. 23. *And be it further enacted*, That it shall be lawful for the military force of the United States to be employed in such manner and under such regulations as the President may direct, in the apprehension of every person who shall or may be found in the Indian country, in violation of any of the provisions of this act, and him immediately to convey from said Indian country, in the nearest convenient and safe route, to the civil authority of the territory or judicial district in which said person shall be found, to be proceeded against in due course of law; and also, in the examination and seizure of stores, packages, and boats, authorized by the twentieth section of this act, and in preventing the introduction of persons and property into the Indian country contrary to law; which persons and property shall be proceeded against according to law: *Provided*, That no person apprehended by military force as aforesaid, shall be detained longer than five days after the arrest and before removal. And all officers and soldiers who may have any such person or persons in custody shall treat them with all the humanity which the circumstances will possibly permit; and every officer or soldier who shall be guilty of maltreating any such person while in custody, shall suffer such punishment as a court martial shall direct.

Proviso.

Certain Indian country annexed, for legal purposes, to the district of Missouri, &c.

SEC. 24. *And be it further enacted*, That, for the sole purpose of carrying this act into effect, all that part of the Indian country west of the Mississippi river, that is bounded north by the north line of lands assigned to the Osage tribe of Indians, produced east of the State of Missouri: west, by the Mexican possessions; south, by Red river; and east, by the west line of the Territory of Arkansas and the State of Missouri, shall be, and hereby is, annexed to the Territory of Arkansas; and that for the purpose aforesaid, the residue of the Indian country west of the Mississippi river shall be, and hereby is, annexed to the judicial district of Missouri; and for the purpose aforesaid, the several portions of Indian country east of the said Mississippi river, shall be, and are hereby, severally annexed to the Territory in which they are situate.

Laws of the United States in force in certain cases.

Proviso.

SEC. 25. *And be it further enacted*, That so much of the laws of United States as provides for the punishment of crimes committed within any place within the sole and exclusive jurisdiction of the United States, shall be in force in the Indian country; *Provided*, The same shall not extend to crimes com-

mitted by one Indian against the person or property of another Indian.

SEC. 26. *And be it further enacted*, That if any person who shall be charged with a violation of any of the provisions or regulations of this act, shall be found within any of the United States, or either of the territories, such offenders may be there apprehended, and transported to the territory or judicial district having jurisdiction of the same.

Offenders against this act may be arrested in any state or territory.

SEC. 27. *And be it further enacted*, That all penalties which shall accrue under this act, shall be sued for and recovered in an action of debt, in the name of the United States, before any court having jurisdiction of the same, (in any state or territory in which the defendant shall be arrested or found,) the one half to the use of the informer, and the other half to the use of the United States, except when the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be to their use.

Penalties, how to be sued for.

SEC. 28. *And be it further enacted*, That when goods or other property shall be seized for any violation of this act, it shall be lawful for the person prosecuting on behalf of the United States to proceed against such goods, or other property, in the manner directed to be observed in the case of goods, wares, or merchandise brought into the United States in violation of the revenue laws.

Proceedings against goods or other property.

SEC. 29. *And be it further enacted*, That the following acts and parts of acts shall be, and the same are hereby, repealed, namely: An act to make provision relative to rations for Indians, and to their visits to the seat of Government, approved May thirteen, eighteen hundred; an act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, approved March thirty, eighteen hundred and two; an act supplementary to the act passed thirtieth March, eighteen hundred and two, to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, approved April twenty-nine, eighteen hundred and sixteen; an act for the punishment of crimes and offences committed within the Indian boundaries, approved March three, eighteen hundred and seventeen; the first and second sections of the act directing the manner of appointing Indian agents, and continuing the "Act establishing trading houses with the Indian tribes," approved April sixteen, eighteen hundred and eighteen; an act fixing the compensation of Indian agents and factors, approved April twenty, eighteen hundred and eighteen; an act supplementary to the act entitled "An act to provide for the prompt settlement of public accounts," approved February twenty-four, eighteen hundred and nineteen; the eighth section of the act making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned, approved March three, eighteen hundred and nineteen; the second section of the act to continue in force for a further time the act entitled "An act for establishing

Certain acts and parts of acts repealed.

trading houses with the Indian tribes, and for other purposes," approved March three, eighteen hundred and nineteen; an act to amend an act entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved thirtieth of March, eighteen hundred and two, approved May six, eighteen hundred and twenty-two; an act providing for the appointment of an agent for the Osage Indians west of the state of Missouri and territory of Arkansas, and for other purposes, approved May eighteen, eighteen hundred and twenty-four; the third, fourth, and fifth sections of "An act to enable the President to hold treaties with certain Indian tribes, and for other purposes," approved May twenty-five, eighteen hundred and twenty-four; the second section of the "Act to aid certain Indians of the Creek nation in their removal to the west of the Mississippi," approved May twenty, eighteen hundred and twenty-six; and an act to authorize the appointment of a sub-agent to the Winnebago Indians on Rock river, approved February twenty-five eighteen hundred and thirty-one: *Provided, however,* That such repeal shall not effect [affect] any rights acquired, or punishments, penalties, or forfeitures incurred, under either of the acts or parts of acts, nor impair or affect the intercourse act of eighteen hundred and two so far as the same relates to or concerns Indian tribes residing east of the Mississippi: *And provided also,* That such repeal shall not be construed to revive any acts or parts of acts repealed by either of the acts or sections herein described.

Provisoes.

The agents for the western territory to execute the duties, etc.

SEC. 30. *And be it further enacted,* That until a Western Territory shall be established, the two agents for the Western Territory, as provided in the act for the organization of the Indian department, this day approved by the President, shall execute the duties of agents for such tribes as may be directed by the President of the United States. And it shall be competent for the President to assign to one of the said agents, in addition to his proper duties, the duties of superintendent for such district of country or for such tribes, as the President may think fit. And the powers of the superintendent at St. Louis over such district or tribes as may be assigned to such acting superintendent shall cease: *Provided,* That no additional compensation shall be allowed for such services.

[Approved, June 30, 1834.]

CHAPTER 163.

An act to provide for the organization of the Department on Indian Affairs.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the duties of the governors of the territories of Florida and

The duties of Governors of Florida and Arkansas, as super-

* This act, like the preceding one, is inserted at large here, from its connexion with the military service.—See section 4.

Arkansas, as superintendents of Indian affairs, shall hereafter cease, and the duties of the governor of the territory of Michigan, as superintendent of Indian affairs, shall cease from and after the establishment of a new territory, embracing the country west of Lake Michigan, should such a territory be established. And while the governor of the said territory of Michigan continues to act as superintendent of Indian affairs, he shall receive therefor the annual sum of one thousand dollars, in full of all allowances, emoluments, or compensation for services in said capacity.

intendents, to cease.

Those of the Governor of Michigan to cease, &c.

Until when, to receive for his services \$1,000 per annum.

SEC. 2. *And be it further enacted,* That there shall be a superintendency of Indian affairs for all the Indian country not within the bounds of any state or territory west of the Mississippi river, the superintendent of which shall reside at St. Louis, and shall annually receive a salary of fifteen hundred dollars.

A superintendent to reside at St. Louis.

SEC. 3. *And be it further enacted,* That superintendents of Indian affairs shall, within their several superintendencies, exercise a general supervision and control over the official conduct and accounts of all officers and persons employed by the government in the Indian department, under such regulations as shall be established by the President of the United States; and may suspend such officers and persons from their office or employments, for reasons forthwith to be communicated to the secretary of war.

Duties of superintendents.

SEC. 4. *And be it further enacted,* That the following Indian agents shall be appointed by the President of the United States, by and with the advice and consent of the Senate, who shall hold their offices for the term of four years, and who shall give bond, with two or more securities, in the penal sum of two thousand dollars, for the faithful execution of the same, and shall receive the annual compensation of fifteen hundred dollars.

Indian agents to be appointed.

Two agents for the Western Territory.

An agent for the Chickasaws.

An agent for the Eastern Cherokees.

An agent for the Florida Indians.

An agent for the Indians in the state of Indiana.

An agent at Chicago.

An agent at Rock Island.

An agent at Prairie du Chien.

An agent for Michilimackinac and the Sault Sainte Marie.

An agent for the St. Peter's.

An agent for the Upper Missouri.

And the following agencies shall be discontinued at the periods herein mentioned, that is to say:

Agencies discontinued.

The Florida agency, from and after the thirty-first day of December next.

The Cherokee agency, from and after the thirty-first day of December next.

The Indiana agency, from and after the thirty-first day of December, eighteen hundred and thirty-six.