

For trust-fund interest due Kaskaskias, Peorias, Weas, and Piankeshaws, four thousand eight hundred and one dollars;

For trust-fund interest due Kaskaskia, Wea, Peoria, and Piankeshaw school-fund, one thousand four hundred and forty-nine dollars;

For trust-fund interest due Menomonees, nine hundred and fifty dollars;

For trust-fund interest due Ottawas and Chippewas, two hundred and thirty dollars; in all, ninety-nine thousand two hundred and eighty-two dollars.

Purchase of supplies after advertisement.

SEC. 3. No purchase of supplies for which appropriations are herein made exceeding in the aggregate five hundred dollars in value at any one time shall be made without first giving at least three weeks' public notice by advertisement, except in cases of exigency, when, in the discretion of the Secretary of the Interior, who shall make official record of the facts constituting the contingency, he may direct that purchases may be made in open market in amount not exceeding three thousand dollars.

Supplies, and their transportation, appropriation for, to be immediately available.

SEC. 4. That so much of the appropriations herein made as may be required to pay for goods and supplies, and for transportation of the same, for the year ending June thirtieth, eighteen hundred and eighty-two, shall be immediately available; but no such goods or supplies shall be distributed or delivered to any of said Indians prior to July first, eighteen hundred and eighty-one; and the Secretary of the Interior, under the direction of the President, may use any surplus that may remain in any of the said appropriations herein made for the purchase of subsistence for the several Indian tribes, to an amount not exceeding fifty thousand dollars in the aggregate, to supply any subsistence deficiency that may occur: *Provided, however,* That funds appropriated to fulfill treaty obligations shall not be so used: *And provided further,* That any diversions which shall be made under authority of this section shall be reported in detail, and the reasons therefor, to Congress, at the session of Congress next succeeding such diversion.

Surplus used for deficiency in subsistence.

*Proviso.*

*Proviso.*

Secretary of Interior may use funds for special employees.

SEC. 5. That when not required for the purpose for which appropriated, the funds herein provided for the pay of specified employees at any agency may be used by the Secretary of the Interior for the pay of other employees at such agency, but no deficiency shall be thereby created, and, when necessary, specified employees may be detailed for other service when not required for the duty for which they were engaged; and that the several appropriations herein made for millers, blacksmiths, engineers, carpenters, physicians, and other persons, and for various articles provided for by treaty stipulation for the several Indian tribes, may be diverted to other uses for the benefit of the said tribes respectively, within the discretion of the President, and with the consent of said tribes, expressed in the usual manner; and that he cause report to be made to Congress, at its next session thereafter, of his action under this provision.

President may divert and use moneys appropriated in his discretion; report to Congress.

Approved, March 3, 1881.

March 3, 1881.

CHAP. 138.—An act to authorize the registration of trade-marks and protect the same.

Registration of trade-marks authorized.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That owners of trade-marks used in commerce with foreign nations, or with the Indian tribes, provided such owners shall be domiciled in the United States, or located in any foreign country or tribes which by treaty, convention or law, affords similar privileges to citizens of the United States, may obtain registration of such trade-marks by complying with the following requirements:

Requirements to be complied with.

First. By causing to be recorded in the Patent Office a statement specifying name, domicile, location, and citizenship of the party apply-

ing; the class of merchandise and the particular description of goods comprised in such class to which the particular trade-mark has been appropriated; a description of the trade-mark itself, with fac-similes thereof, and a statement of the mode in which the same is applied and affixed to goods, and the length of time during which the trade-mark has been used.

Second. By paying into the Treasury of the United States the sum of twenty-five dollars, and complying with such regulations as may be prescribed by the Commissioner of Patents.

SEC. 2. That the application prescribed in the foregoing section must, in order to create any right whatever in favor of the party filing it, be accompanied by a written declaration verified by the person, or by a member of a firm, or by an officer of a corporation applying, to the effect that such party has at the time a right to the use of the trade-mark sought to be registered, and that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce with foreign nations or Indian tribes, as above indicated; and that the description and fac-similes presented for registry truly represent the trade-mark sought to be registered.

Accompanying declaration under oath.

SEC. 3. That the time of the receipt of any such application shall be noted and recorded. But no alleged trade-mark shall be registered unless the same appear to be lawfully used as such by the applicant in foreign commerce or commerce with Indian tribes as above mentioned or is within the provision of a treaty, convention, or declaration with a foreign power; nor which is merely the name of the applicant; nor which is identical with a registered or known trade-mark owned by another and appropriate to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers. In an application for registration the Commissioner of Patents shall decide the presumptive lawfulness of claim to the alleged trade-mark; and in any dispute between an applicant and a previous registrant, or between applicants, he shall follow, so far as the same may be applicable, the practice of courts of equity of the United States in analogous cases.

Time of receipt of application for registration to be recorded.  
Conditions of registry.

Commissioner of Patents to decide on claims to trade-marks.

Practice of United States courts of equity to govern in cases of dispute.

SEC. 4. That certificates of registry of trade-marks shall be issued in the name of the United States of America, under the seal of the Department of the Interior, and shall be signed by the Commissioner of Patents, and a record thereof, together with printed copies of the specifications, shall be kept in books for that purpose. Copies of trade-marks and of statements and declarations filed therewith and certificates of registry so signed and sealed shall be evidence in any suit in which such trade-marks shall be brought in controversy.

Certificates of registry of trade-marks, how issued.

Evidence in suits regarding trade-marks.

SEC. 5. That a certificate of registry shall remain in force for thirty years from its date; except in cases where the trade-mark is claimed for and applied to articles not manufactured in this country, and in which it receives protection under the laws of a foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the time that such trade-mark ceases to be exclusive property elsewhere. At any time during the six months prior to the expiration of the term of thirty years such registration may be renewed on the same terms, and for a like period.

Duration of protection of registered trade-mark and renewal.  
Exceptions.

SEC. 6. That applicants for registration under this act shall be credited for any fee, or part of a fee, heretofore paid into the Treasury of the United States with intent to procure protection for the same trade-mark.

Credit for fee previously paid.

SEC. 7. That registration of a trade-mark shall be prima facie evidence of ownership. Any person who shall reproduce, counterfeit, copy or colorably imitate any trade-mark registered under this act and affix the

Registration prima facie evidence of ownership.

- Counterfeiting, etc., registered trade-marks. same to merchandise of substantially the same descriptive properties as those described in the registration, shall be liable to an action on the case for damages for the wrongful use of said trade-mark, at the suit of the owner thereof; and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of such trade-mark used in foreign commerce or commerce with Indian tribes, as aforesaid, and to recover compensation therefor in any court having jurisdiction over the person guilty of such wrongful act; and courts of the United States shall have original and appellate jurisdiction in such cases without regard to the amount in controversy.
- United States courts to have jurisdiction. Restriction upon actions for infringement. SEC. 8. That no action or suit shall be maintained under the provisions of this act in any case when the trade-mark is used in any unlawful business, or upon any article injurious in itself, or which mark has been used with the design of deceiving the public in the purchase of merchandise, or under any certificate of registry fraudulently obtained.
- Fraudulent trade-marks. SEC. 9. That any person who shall procure the registry of a trade-mark, or of himself as the owner of a trade-mark or an entry respecting a trade-mark, in the office of the Commissioner of Patents, by a false or fraudulent representation or declaration, orally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence thereof to the injured party, to be recovered in an action on the case.
- Former rights and remedies preserved. SEC. 10. That nothing in this act shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any party aggrieved by any wrongful use of any trade-mark might have had if the provisions of this act had not been passed.
- Saving as to rights after expiration of term for which a trade-mark has been registered. SEC. 11. That nothing in this act shall be construed as unfavorably affecting a claim to a trade-mark after the term of registration shall have expired; nor to give cognizance to any court of the United States in an action or suit between citizens of the same State, unless the trade-mark in controversy is used on goods intended to be transported to a foreign country, or in lawful commercial intercourse with an Indian tribe.
- Regulations for transfer of rights to trade-marks. SEC. 12. That the Commissioner of Patents is authorized to make rules and regulations and prescribe forms for the transfer of the right to use trade-marks and for recording such transfers in his office.
- Foreign trade-marks. SEC. 13. That citizens and residents of this country wishing the protection of trade-marks in any foreign country, the laws of which require registration here as a condition precedent to getting such protection there, may register their trade-marks for that purpose as is above allowed to foreigners, and have certificate thereof from the Patent Office.

Approved, March 3, 1881.

March 3, 1881. **CHAP. 139.**—An act for the ascertainment of the amount due the Choctaw Nation.

Preamble.  
Choctaw Nation,  
claim of, ascertain-  
ment of amount  
due.

Whereas, the Choctaw Nation, for itself and in behalf of individual members thereof, makes claim against the United States on account of various treaty provisions which it is alleged have not been complied with: Therefore,

Court of Claims  
to have jurisdic-  
tion.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Court of Claims is hereby authorized to take jurisdiction of and try all questions of difference arising out of treaty stipulations with the Choctaw Nation, and to render judgment thereon; power is hereby granted the said court to review the entire question of differences de novo, and it shall not be estopped by any action had or award made by the Senate of the United States in pursuance of the treaty of eighteen hundred and fifty-five; and the Attorney-General is hereby directed to appear in behalf of the government; and if said court shall decide against the United States the Attorney-General shall, within thirty days from the rendition of judgment, appeal the cause to the Supreme Court of the United States; and from any judgment that may be rendered, the said Choctaw Nation may also appeal to said Supreme Court: *Provided,* The appeal

Claim reviewed  
de novo.

*Proviso.*