

TITLE XXXVI

DEBTS DUE BY OR TO THE UNITED STATES.

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SEC. 3466. Whenever any person indebted to the United States is insolvent, or whenever the estate of any deceased debtor, in the hands of the executors or administrators, is insufficient to pay all the debts due from the deceased, the debts due to the United States shall be first satisfied; and the priority hereby established shall extend as well to cases in which a debtor, not having sufficient property to pay all his debts, makes a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed, or absent debtor are attached by process of law, as to cases in which an act of bankruptcy is committed.

Priority established.

3 March, 1797, c. 20, s. 5, v. 1, p. 515.
2 March, 1799, c. 22, s. 65, v. 1, p. 676.

U. S. *vs.* Fisher, 2 Cr., 358; U. S. *vs.* Hooe, 3 Cr., 73; Harrison *vs.* Slerry, 5 Cr., 289; Prince *vs.* Bartlett, 8 Cr., 431; U. S. *vs.* Bryan, 9 Cr., 374; Thelusson *vs.* Smith, 2 Wh., 396; U. S. *vs.* Howland, 4 Wh., 108; Conard *vs.* Insurance Co., 1 Pet., 386; Hunter *vs.* U. S., 5 Pet., 173; U. S. *vs.* State Bank, 6 Pet., 29; U. S. *vs.* Hack, 8 Pet., 271; Brent *vs.* Bank of Washington, 10 Pet., 596; Beaton *vs.* Farmers' Bank, 12 Pet., 102.

SEC. 3467. Every executor, administrator, or assignee, or other person, who pays any debt due by the person or estate from whom or for which he acts, before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate for the debts so due to the United States, or for so much thereof as may remain due and unpaid. [See § 5101.]

Liability of executors, &c.

2 March, 1799, c. 22, s. 65, v. 1, p. 676.

Field *vs.* U. S., 9 Pet., 182; Brent *vs.* Bank of Washington, 10 Pet., 596.

SEC. 3468. Whenever the principal in any bond given to the United States is insolvent, or whenever, such principal being deceased, his estate and effects which come to the hands of his executor, administrator, or assignee, are insufficient for the payment of his debts, and, in either of such cases, any surety on the bond, or the executor, administrator, or assignee of such surety pays to the United States the money due upon such bond, such surety, his executor, administrator, or assignee, shall have the like priority for the recovery and receipt of the moneys out of the estate and effects of such insolvent or deceased principal as is secured to the United States; and may bring and maintain a suit upon the bond, in law or equity, in his own name, for the recovery of all moneys paid thereon.

Priority of sureties.

2 March, 1799, c. 22, s. 65, v. 1, p. 676.

U. S. *vs.* Fisher, 2 Cr., 358; U. S. *vs.* Hooe, 3 Cr., 73; Prince *vs.* Bartlett, 8 Cr., 431; U. S. *vs.* Bryan, 9 Cr., 374; Thelusson *vs.* Smith, 2 Wh., 396; U. S. *vs.* Howland, 4 Wh., 108; Conard *vs.* Ins. Co., 1 Pet., 386; Hunter *vs.* U. S., 5 Pet., 173; Child *vs.* Shoemaker, 1 Wash., 494; U. S. *vs.* King, Wall. C. C., 12; Johns *vs.* Brodhag, 1 Cr. C. C., 235.

Compromise.

3 March, 1863, c. 76, s. 10, v. 12, p. 740.

U. S. vs. George, 6 Blatch., 406.

Purchase on execution.

26 May, 1824, c. 172, s. 2, v. 4, p. 51.

Discharge of poor debtor by Secretary of the Treasury.

6 June, 1793, c. 49, ss. 1, 3, v. 1, pp. 561, 562.

U. S. vs. Stansbury, 1 Pet., 573; *U. S. vs. Ringgold*, 5 Pet., 150; *Hunter vs. U. S.*, 5 Pet., 173; *U. S. vs. Sturges*, 1 Paine, 525.

Discharge by the President.

3 March, 1817, c. 114, v. 3, p. 399.

U. S. vs. Ringgold, 8 Pet., 150.

Duties and other debts to United States, in what currency to be paid.

6 Aug., 1846, c. 90, s. 18, v. 9, p. 64.

SEC. 3469. Upon a report by a district attorney, or any special attorney or agent having charge of any claim in favor of the United States, showing in detail the condition of such claim, and the terms upon which the same may be compromised, and recommending that it be compromised upon the terms so offered, and upon the recommendation of the Solicitor of the Treasury, the Secretary of the Treasury is authorized to compromise such claim accordingly. But the provisions of this section shall not apply to any claim arising under the postal laws.

SEC. 3470. At every sale, on execution, at the suit of the United States, of lands or tenements of a debtor, the United States may, by such agent as the Solicitor of the Treasury shall appoint, become the purchaser thereof; but in no case shall the agent bid in behalf of the United States a greater amount than that of the judgment for which such estate may be exposed to sale, and the costs. Whenever such purchase is made, the marshal of the district in which the sale is held shall make all needful conveyances, assignments, or transfers to the United States.

SEC. 3471. Any person imprisoned upon execution issuing from any court of the United States, for a debt due to the United States, which he is unable to pay, may, at any time after commitment, make application, in writing, to the Secretary of the Treasury, stating the circumstances of his case, and his inability to discharge the debt; and thereupon the Secretary may make, or require to be made, an examination and inquiry into the circumstances of the debtor, by the oath of the debtor, which the Secretary, or any other person by him specially appointed, is authorized to administer, or otherwise, as the Secretary shall deem necessary and expedient, to ascertain the truth; and upon proof made to his satisfaction, that the debtor is unable to pay the debt for which he is imprisoned, and that he has not concealed or made any conveyance of his estate, in trust, for himself, or with an intent to defraud the United States, or to deprive them of their legal priority, the Secretary is authorized to receive from such debtor any deed, assignment, or conveyance of his real or personal estate, or any collateral security, to the use of the United States. Upon a compliance by the debtor with such terms and conditions as the Secretary may judge reasonable and proper, the Secretary must issue his order, under his hand, to the keeper of the prison, directing him to discharge the debtor from his imprisonment under such execution. The debtor shall not be liable to be imprisoned again for the debt; but the judgment shall remain in force, and may be satisfied out of any estate which may then, or at any time afterward, belong to the debtor. The benefit of this section shall not be extended to any person imprisoned for any fine, forfeiture, or penalty, incurred by a breach of any law of the United States, or for moneys had and received by any officer, agent, or other person, for their use; nor shall its provisions extend to any claim arising under the postal laws.

SEC. 3472. Whenever any person is imprisoned upon execution for a debt due to the United States, which he is unable to pay, and his case is such as does not authorize his discharge by the Secretary of the Treasury, under the preceding section, he may make application to the President, who, upon proof made to his satisfaction that the debtor is unable to pay the debt, and upon a compliance by the debtor with such terms and conditions as the President shall deem proper, may order the discharge of such debtor from his imprisonment. The debtor shall not be liable to be imprisoned again for the same debt; but the judgment shall remain in force, and may be satisfied out of any estate which may then, or at any time afterward, belong to the debtor.

SEC. 3473. All duties on imports shall be paid in gold and silver coin only, or in demand Treasury notes, issued under the authority of the acts of July seventeen, eighteen hundred and sixty-one, chapter five; and February twelve, eighteen hundred and sixty-two, chapter twenty; and all taxes and all other debts and demands than duties on imports, accruing or becoming due to the United States, shall be paid in gold

and silver coin, Treasury notes, United States notes, or notes of national banks; and upon every such payment credit shall be given for the amount of principal and interest due on any Treasury note not received in payment on the day when the same are received. [See §§ 254 and 3000.]

23 Dec., 1857, c. 1, s. 6, v. 11, p. 258.
17 July, 1861, c. 5, s. 1, v. 12, p. 259.
5 Aug., 1861, c. 46, s. 5, v. 12, p. 313.
12 Feb., 1862, c. 20, v. 12, p. 338. 25 Feb., 1862, c. 33, ss. 1, 5, v. 12, pp. 345, 346. 11 July, 1862, c. 142, s. 1, v. 12, p. 532. 3 March, 1863, c. 73, ss. 3, 5, v. 12, pp. 710, 711. 3 June, 1864, c. 106, s. 23, v. 13, p. 106. 30 June, 1864, c. 172, s. 2, v. 13, p. 218.

SEC. 3474. No gold or silver other than coin of standard fineness of the United States, shall be receivable in payment of dues to the United States, except as provided in section twenty-three hundred and sixty-six, Title "PUBLIC LANDS," and in section thirty-five hundred and sixty-seven, Title "COINAGE, WEIGHTS, AND MEASURES."

What coin receivable.

31 Aug., 1852, c. 108, s. 2, v. 10, pp. 97, 98.

21 Feb., 1857, c. 56, ss. 2, 3, v. 11, p. 163.

SEC. 3475. The notes of national banks shall be received at par for all debts and demands owing by the United States to any person within the United States, except interest on the public debt, or in redemption of the national currency. [See § 5182.]

National bank notes receivable for debts of United States, except.

3 June, 1864, c. 106, s. 23, v. 13, p. 106.

SEC. 3476. Treasury notes bearing interest may be paid to any creditor of the United States at their face value, excluding interest, or to any creditor willing to receive them at par, including interest.

Treasury notes payable for debts of United States.

3 March, 1863, c. 73, s. 2, v. 12, p. 710. 30 June, 1864, c. 172, s. 2, v. 13, p. 218.

SEC. 3477. All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. Such transfers, assignments, and powers of attorney, must recite the warrant for payment, and must be acknowledged by the person making them, before an officer having authority to take acknowledgments of deeds, and shall be certified by the officer; and it must appear by the certificate that the officer, at the time of the acknowledgment, read and fully explained the transfer, assignment, or warrant of attorney to the person acknowledging the same.

Assignments of claims void, unless, &c.

26 Feb., 1853, c. 81, s. 1, v. 10, p. 170.
29 July, 1846, c. 66, v. 9, p. 41.

Sines vs. U. S., 1 Cr. Clms., 12;
Cooper vs. U. S., 1 Cr. Clms., 85; *Coté vs. U. S.*, 3 Cr. Clms., 64.

SEC. 3478. Any person prosecuting claims, either as attorney or on his own account, before any of the Departments or Bureaus of the United States, shall be required to take the oath of allegiance, and to support the Constitution of the United States, as required of persons in the civil service. [See §§ 1756, 1757.]

Oath by persons prosecuting claims.

17 July, 1862, c. 205, s. 1, v. 12, p. 610.

SEC. 3479. The oath provided for in the preceding section may be taken before any justice of the peace, notary public, or other person who is legally authorized to administer an oath in the State or district where the same may be administered.

Who may administer the oath.

17 July, 1862, c. 205, s. 2, v. 12, p. 610.

SEC. 3480. It shall be unlawful for any officer to pay any account, claim, or demand against the United States which accrued or existed prior to the thirteenth day of April, eighteen hundred and sixty-one, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion, or in favor of any person who during such rebellion was not known to be opposed thereto, and distinctly in favor of its suppression; and no pardon heretofore granted, or hereafter to be granted, shall authorize the payment of such account, claim, or demand, until this section is modified or repealed. But this section shall not be construed to prohibit the payment of claims founded upon contracts made by any of the Departments, where such claims were assigned or contracted to be assigned prior to the first day of April, eighteen hundred and sixty-one, to the creditors of such contractors, loyal citizens of loyal States, in payment of debts incurred prior to the first day of March, eighteen hundred and sixty-one.

Claims of disloyalists.

2 March, 1867, Res. 46, v. 14, p. 571.

Retention of money due States in default.

25 March, 1870, c. 30, v. 16, p. 77.

Payment to officers for horses lost in battle, &c.

3 March, 1849, c. 129, s. 1, v. 9, p. 414.

Payment for property lost while in military service.

3 March, 1849, c. 129, s. 2, v. 9, p. 415.

3 March, 1863, c. 78, s. 5, v. 12, p. 743.

Stuart vs. U. S., 18 Wall., 84.

Payment for horses lost by capture.

25 June, 1864, c. 150, v. 13, p. 182.

SEC. 3481. Whenever any State is in default in the payment of interest or principal on investments in stocks or bonds issued or guaranteed by such State and held by the United States in trust, the Secretary of the Treasury shall retain the whole, or so much thereof as may be necessary, of any moneys due on any account from the United States to such State, and apply the same to the payment of such principal and interest, or either, or to the re-imbusement, with interest thereon, of moneys advanced by the United States on account of interest due on such stocks or bonds.

SEC. 3482. Any field, or staff, or other officer, mounted militiaman, volunteer, ranger, or cavalryman, engaged in the military service of the United States, who sustains damage without any fault or negligence on his part, while in the service, by the loss of a horse in battle, or by the loss of a horse wounded in battle, which dies of the wound, or which, being so wounded, is abandoned by order of his officer and lost, or who sustains damage by the loss of any horse by death or abandonment because of the unavoidable dangers of the sea, when on board a United States transport vessel, or because the United States fails to supply transportation for the horse, and the owner is compelled by the order of his commanding officer to embark and leave him, or in consequence of the United States failing to supply sufficient forage, or because the rider is dismounted and separated from his horse and ordered to do duty on foot at a station detached from his horse, or when the officer in the immediate command orders the horse turned out to graze in the woods, prairies, or commons, because the United States fails to supply sufficient forage, and the loss is consequent thereon, or for the loss of necessary equipage, in consequence of the loss of his horse, shall be allowed and paid the value thereof, not to exceed two hundred dollars. But any payment which is made to any one for the use and risk, or for forage, after the death, loss, or abandonment of his horse, shall be deducted from the value thereof, unless he satisfies the paymaster at the time he makes the payment, or thereafter shows, by proof, that he was remounted, in which case the deduction shall only extend to the time he was on foot. And any payment made to any person above mentioned, on account of clothing to which he is not entitled by law, shall be deducted from the value of his horse or accouterments. [See § 277.]

SEC. 3483. Every person who sustains damage by the capture or destruction by an enemy, or by the abandonment or destruction by the order of the commanding general, the commanding officer, or quartermaster, of any horse, mule, ox, wagon, cart, sleigh, harness, steamboat or other vessel, railroad-engine or railroad-car, while such property is in the military service, either by impressment or contract; or who sustains damage by the death or abandonment and loss of any horse, mule, or ox, while in the service, in consequence of the failure on the part of the United States to furnish the same with sufficient forage, or whose horse, mule, ox, wagon, cart, boat, sleigh, harness, vessel, railroad-engine, or railroad-car is lost or destroyed by unavoidable accident while such property is in the service, shall be allowed and paid the value thereof at the time when such property was taken into the service, except in cases where the risk to which the property would be exposed was agreed to be incurred by the owner: *Provided*, It appears that such loss, capture, abandonment, destruction, or death was without any fault or negligence on the part of the owner of the property, and while the property was actually employed in the service of the United States.

SEC. 3484. The two preceding sections shall extend to all cases of the loss of horses by any officer, non-commissioned officer, or private in the military service of the United States, while in the line of his duty in such service, by capture by the enemy, whenever it shall appear that such officer, non-commissioned officer, or private was ordered by his superior officer to surrender to the enemy, and such capture was made in pursuance of such surrender.

SEC. 3485. Whenever any horse is condemned by a board of officers, on account of his unfitness for service, in consequence of the Government failing to supply forage, such horse and his equipage shall be allowed and paid for: *Provided*, It shall be proven, by satisfactory evidence, whether oral or written, that the condemned horse and the equipage were turned over to a quartermaster of the Army, whether any receipt therefor was given and produced, or not.

Payment for condemned horses and equipage.

3 March, 1849, c. 129, s. 7, v. 9, p. 416.

SEC. 3486. When any minor, engaged in the military service of the United States, and provided with a horse or equipments, or with military accouterments, by his parent or guardian, dies, without paying for the property, and the same is lost, captured, destroyed, or abandoned in the manner before mentioned, such parent or guardian shall be allowed pay therefor, on making satisfactory proof, as in other cases, and the further proof that he is entitled thereto by having furnished the same.

Payment to guardian for horse lost by minor in military service.

3 March, 1849, c. 129, s. 5, v. 9, p. 415.

SEC. 3487. When any person other than a minor, engaged in the military service, is provided with a horse or equipments, or with military accouterments, by any person, being the owner thereof, who takes the risk of such horse, equipments, or military accouterments, on himself, and the same is lost, captured, destroyed, or abandoned, in the manner before mentioned, such owner shall be allowed pay therefor, on making satisfactory proof, as in other cases, and the further proof that he is entitled thereto, by having furnished the same, and having taken the risk on himself.

Payment to owner for horse furnished and lost in military service.

3 March, 1849, c. 129, s. 6, v. 9, p. 416.

SEC. 3488. In executing so much of the preceding sections as provides for payment for steamboats and other vessels, and railroad engines or cars, lost or destroyed while in the military service of the United States, the Third Auditor of the Treasury is authorized, in person, or in such manner as he may deem most compatible with the public interests, to take testimony, and make such investigations as he may deem necessary in adjudicating claims; and for such necessary expenses incurred therein, payment may be made upon proper vouchers, certified and approved by the Third Auditor.

Third Auditor may take testimony as to steamboats, &c.

25 June, 1864, c. 147, s. 6, v. 13, p. 160.

SEC. 3489. No claims against the United States, for collecting, drilling, or organizing volunteers for the war of the rebellion, shall be audited or paid unless presented before the thirtieth day of June, eighteen hundred and seventy-four. No claims for horses lost prior to the first day of January, eighteen hundred and seventy-two, shall be audited or paid unless presented before the thirtieth day of June, eighteen hundred and seventy-four.

Claims for collecting, &c., volunteers for the war of the rebellion, and for horses, to be presented prior to June 30, 1874.

3 March, 1873, c. 226, s. 1, v. 17, p. 500.

SEC. 3490. Any person not in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States, who shall do or commit any of the acts prohibited by any of the provisions of section fifty-four hundred and thirty-eight, Title "CRIMES," shall forfeit and pay to the United States the sum of two thousand dollars, and, in addition, double the amount of damages which the United States may have sustained by reason of the doing or committing such act, together with the costs of suit; and such forfeiture and damages shall be sued for in the same suit.

Liability of persons making false claims against United States.

2 March, 1863, c. 67, s. 3, v. 12, p. 698.

SEC. 3491. The several district courts of the United States, the supreme court of the District of Columbia, the several district courts of the Territories of the United States, within whose jurisdictional limits the person doing or committing such act shall be found, shall, wheresoever such act may have been done or committed, have full power and jurisdiction to hear, try, and determine such suit. Such suit may be brought and carried on by any person, as well for himself as for the United States; the same shall be at the sole cost and charge of such person, and shall be in the name of the United States, but shall not be withdrawn or discontinued without the consent, in writing, of the judge of the court and the district attorney, first filed in the case, setting forth their reasons for such consent.

Suits for same.

2 March, 1863, c. 67, s. 4, v. 12, p. 698.

Duty of district attorney as to such cases.

2 March, 1863, c. 67, s. 5, v. 12, p. 698.

SEC. 3492. It shall be the duty of the several district attorneys of the United States for the respective districts, for the District of Columbia, and for the several Territories, to be diligent in inquiring into any violation of the provisions of section thirty-four hundred and ninety by persons liable to such suit, and found within their respective districts or Territories, and to cause them to be proceeded against in due form of law for the recovery of such forfeiture and damages. And such person may be arrested and held to bail in such sum as the district judge may order, not exceeding the sum of two thousand dollars, and twice the amount of the damages sworn to in the affidavit of the person bringing the suit.

Rights of persons presenting such suits.

2 March, 1863, c. 67, s. 6, v. 12, p. 698.

SEC. 3493. The person bringing said suit and prosecuting it to final judgment shall be entitled to receive one-half the amount of such forfeiture, as well as one-half the amount of the damages he shall recover and collect; and the other half thereof shall belong to and be paid over to the United States; and such person shall be entitled to receive to his own use all costs the court may award against the defendant, to be allowed and taxed according to any provision of law or rule of court in force, or that shall be in force in suits between private parties in said court: *Provided*, That such person shall be liable for all costs incurred by himself in the case, and shall have no claim therefor on the United States.

Limitation of suit.

Ibid., s. 7.

SEC. 3494. Every such suit shall be commenced within six years from the commission of the act, and not afterward.