

TITLE VIII.

THE DEPARTMENT OF JUSTICE.

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Establishment of
Department of Justice.

24 Sept., 1789, c.

Solicitor-General.

22 June, 1870, c.
150, s. 2, v. 16, p.
162.

Assistant Attor-
neys-General.

22 June, 1870, c.
150, s. 2, v. 16, p.
162.

25 Feb., 1871, c.
72, v. 16, p. 432.

Solicitor of Treas-
ury, &c., in Depart-
ment of Justice.

22 June, 1870, c.
150, ss. 3, 9, 10, v.
16, pp. 162, 3.

SEC. 346. There shall be at the seat of Government an Executive Department to be known as the Department of Justice, and an Attorney-General, who shall be the head thereof.

SEC. 347. There shall be in the Department of Justice an officer, learned in the law, to assist the Attorney-General in the performance of his duties, called the Solicitor-General, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of seven thousand five hundred dollars a year. In case of a vacancy in the office of Attorney-General, or of his absence or disability, the Solicitor-General shall have power to exercise all the duties of that office.

SEC. 348. There shall be in the Department of Justice three officers, learned in the law, called the Assistant Attorneys-General, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall assist the Attorney-General and Solicitor-General in the performance of their duties. Each of them is entitled to a salary of five thousand dollars a year.

SEC. 349. There shall be in the Department of Justice a Solicitor of the Treasury, an Assistant Solicitor of the Treasury, a Solicitor of Internal Revenue, a Naval Solicitor, and an Examiner of Claims for the Department of State, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to the

following salaries: The Solicitor of the Treasury to four thousand dollars a year, the Assistant Solicitor of the Treasury to three thousand dollars a year, the Solicitor of Internal Revenue to five thousand dollars a year, the Naval Solicitor to three thousand five hundred dollars a year, and the Examiner of Claims for the Department of State four thousand dollars a year.

184, s. 64, v. 14, p. 170. 23 July, 1866, c. 208, s. 5, v. 14, p. 207. 27 May, 1870, Res. 66, s. 1, v. 16, p. 378. 3 March, 1873, c. 226, s. 3, v. 17, p. 508.

SEC. 350. The officers named in the preceding section shall exercise their functions under the supervision and control of the head of the Department of Justice.

What officers under control of Attorney-General.

22 June, 1870, c. 150, s. 3, v. 16, p. 162. 2 Aug., 1861, c. 37, s. 1, v. 12, p. 285. 6 Aug., 1861, c. 65, v. 12, p. 327.

SEC. 351. There shall be in the Department of Justice,

One chief clerk, at a salary of two thousand two hundred dollars a year.

One law clerk, acting as examiner of titles, at a salary of three thousand dollars a year.

One stenographic clerk, at a salary of two thousand dollars a year.

One clerk, at a salary of two thousand dollars a year.

One disbursing clerk.

In the office of the Solicitor of the Treasury:

One chief clerk, at a salary of two thousand dollars a year, and such temporary clerks as may from time to time be needed, but the allowances for such temporary clerks shall in no one year exceed one thousand dollars. [See §§ 169, 173, 174, 176.]

Subordinate officers.

3 March, 1853, c.

97, s. 3, v. 10, p. 211.

3 March, 1865, c.

98, s. 1, v. 13, p. 516.

23 July, 1866, c.

208, s. 5, v. 14, p.

207.

22 June, 1870, c.

150, s. 10, v. 16, p.

163.

25 June, 1868, c.

71, s. 5, v. 15, p. 75.

22 June, 1870, c. 150, s. 3, v. 16, p. 162.

SEC. 352. The superintendent of the Treasury building shall from time to time provide such rooms as may be suitable and necessary for the accommodation of the Department of Justice, in some building in the vicinity of the Treasury building.

Rooms to be provided.

22 June, 1870, c.

150, s. 13, v. 16, p.

164.

Seal.

5 Mar., 1872, c. 30,

s. 2, v. 17, p. 35.

Duties of Attorney-General.

SEC. 353. The seal heretofore provided for the office of the Attorney-General shall be, with such change as the President shall approve, the seal of the Department of Justice.

SEC. 354. The Attorney-General shall give his advice and opinion upon questions law, whenever required by the President.

24 Sept., 1789, c. 20, s. 35, v. 1, p. 92.

SEC. 355. No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy-yard, custom-house, light-house, or other public building, of any kind whatever, until the written opinion of the Attorney-General shall be had in favor of the validity of the title, nor until the consent of the legislature of the State in which the land or site may be, to such purchase, has been given. The district attorneys of the United States, upon the application of the Attorney-General, shall furnish any assistance or information in their power in relation to the titles of the public property lying within their respective districts. And the Secretaries of the Departments, upon the application of the Attorney-General, shall procure any additional evidence of title which he may deem necessary, and which may not be in the possession of the officers of the Government, and the expense of procuring it shall be paid out of the appropriations made for the contingencies of the Departments respectively.

Title to land to be purchased by the United States.

11 Sept., 1841,

Res. No. 6, v. 5, p.

468.

SEC. 356. The head of any Executive Department may require the opinion of the Attorney-General on any questions of law arising in the administration of his Department.

Opinion of Attorney-General upon questions of law.

22 June, 1870, c. 150, s. 6, v. 16, p. 163.

SEC. 357. Whenever a question of law arises in the administration of the Department of War or the Department of the Navy, the cognizance of which is not given by statute to some other officer from whom the head of the Department may require advice, it shall be sent to the

Legal advice to Departments of War and Navy.

22 June, 1870, c.

150, s. 6, v. 16, p. 163.

Attorney-General, to be by him referred to the proper officer in his Department, or otherwise disposed of as he may deem proper.

Reference of questions by Attorney-General to subordinates.

22 June, 1870, c. 170, s. 4, v. 16, p. 162.

SEC. 358. Any question of law submitted to the Attorney-General for his opinion, except questions involving a construction of the Constitution of the United States, may be by him referred to such of his subordinates as he may deem appropriate, and he may require the written opinion thereon of the officer to whom the same may be referred. If the opinion given by such officer is approved by the Attorney-General, such approval indorsed thereon shall give the opinion the same force and effect as belong to the opinions of the Attorney-General.

Conduct and argument of cases.

24 Sept., 1789, c. 20, s. 35, v. 1, p. 92.

25 June, 1868, c. 71, s. 5, v. 15, p. 75.

22 June, 1870, c. 150, s. 5, v. 16, p. 162.

SEC. 359. Except when the Attorney-General in particular cases otherwise directs, the Attorney-General and Solicitor-General shall conduct and argue suits and writs of error and appeals in the Supreme Court and suits in the Court of Claims in which the United States is interested, and the Attorney-General may, whenever he deems it for the interest of the United States, either in person conduct and argue any case in any court of the United States in which the United States is interested, or may direct the Solicitor-General or any officer of the Department of Justice to do so.

Performance of duty by officers of Department of Justice.

SEC. 360. The Attorney-General may require any solicitor or officer of the Department of Justice to perform any duty required of the Department or any officer thereof.

22 June, 1870, c. 150, s. 14, v. 16, p. 164.

Officers of the Department to perform all legal services required for other Departments.

22 June, 1870, c. 150, s. 14, v. 16, p. 164.

SEC. 361. The officers of the Department of Justice, under the direction of the Attorney-General, shall give all opinions and render all services requiring the skill of persons learned in the law necessary to enable the President and heads of Departments, and the heads of Bureaus and other officers in the Departments, to discharge their respective duties; and shall, on behalf of the United States, procure the proper evidence for, and conduct, prosecute, or defend all suits and proceedings in the Supreme Court and in the Court of Claims, in which the United States, or any officer thereof, as such officer, is a party or may be interested; and no fees shall be allowed or paid to any other attorney or counselor at law for any service herein required of the officers of the Department of Justice, except in the cases provided by section three hundred and sixty-three.

Superintendence of district attorneys and marshals.

2 Aug., 1861, c. 37, s. 1, v. 12, p. 285.

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

SEC. 362. The Attorney-General shall exercise general superintendence and direction over the attorneys and marshals of all the districts in the United States and the Territories as to the manner of discharging their respective duties; and the several district attorneys and marshals are required to report to the Attorney-General an account of their official proceedings, and of the state and condition of their respective offices, in such time and manner as the Attorney-General may direct.

Retaining counsel to aid district attorneys.

2 Aug., 1861, c. 37, s. 2, v. 12, p. 285.

3 March, 1869, c. 121, s. 1, v. 15, pp. 283, 294.

SEC. 363. The Attorney-General shall, whenever in his opinion the public interest requires it, employ and retain, in the name of the United States, such attorneys and counselors at law as he may think necessary to assist the district attorneys in the discharge of their duties, and shall stipulate with such assistant attorneys and counsel the amount of compensation, and shall have supervision of their conduct and proceedings.

Attendance of counsel.

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

SEC. 364. Whenever the head of a Department or Bureau gives the Attorney-General due notice that the interests of the United States require the service of counsel upon the examination of witnesses touching any claim, or upon the legal investigation of any claim, pending in such Department or Bureau, the Attorney-General shall provide for such service.

Counsel fees restricted.

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

SEC. 365. No compensation shall hereafter be allowed to any person, besides the respective district attorneys and assistant district attorneys for services as an attorney or counselor to the United States, or to any branch or Department of the Government thereof, except in cases specially authorized by law, and then only on the certificate of the

Attorney-General that such services were actually rendered, and that the same could not be performed by the Attorney-General, or Solicitor-General, or the officers of the Department of Justice, or by the district attorneys.

SEC. 366. Every attorney or counselor who is specially retained, under the authority of the Department of Justice, to assist in the trial of any case in which the Government is interested, shall receive a commission from the head of such Department, as a special assistant to the Attorney-General, or to some one of the district attorneys, as the nature of the appointment may require; and shall take the oath required by law to be taken by the district attorneys, and shall be subject to all the liabilities imposed upon them by law.

SEC. 367. The Solicitor-General, or any officer of the Department of Justice, may be sent by the Attorney-General to any State or District in the United States to attend to the interests of the United States in any suit pending in any of the courts of the United States, or in the courts of any State, or to attend to any other interest of the United States.

SEC. 368. The Attorney-General shall exercise general supervisory powers over the accounts of district attorneys, marshals, clerks, and other officers of the courts of the United States.

SEC. 369. The Attorney-General shall sign all requisitions for the advance or payment of moneys appropriated for the Department of Justice, out of the Treasury, subject to the same control as is exercised on like estimates or accounts by the First Auditor or First Comptroller of the Treasury. [See §§ 3660-3665, 3669.]

SEC. 370. Whenever the Solicitor-General, or any officer of the Department of Justice, is sent by the Attorney-General to any State, District, or Territory, to attend to any interest of the United States, the person so sent shall receive, in addition to his salary, his actual and necessary expenses while absent from the seat of Government; the account thereof to be verified by affidavit.

SEC. 371. All moneys drawn out of the Treasury upon the requisition of the Attorney-General shall be disbursed by such one of the clerks in the Department of Justice as the Attorney-General may designate.

SEC. 372. The Solicitor of the Treasury shall have charge, within the Department of Justice, of the books, papers, and records formerly appertaining to the office of agent of the Treasury, or to the superintendence of the collection of outstanding direct taxes and internal duties which have been transferred to him by the act of May twenty-nine, eighteen hundred and thirty, and remain in his charge; and of the seal adopted for the office of the Solicitor of the Treasury.

SEC. 373. Whenever the Solicitor of the Treasury receives information from a collector of duties that such collector has delivered any bond for duties to a district attorney for suit, the Solicitor of the Treasury shall make such entry thereof as that the attorney may duly appear chargeable therewith, until the amount has been paid to the United States, or he has obtained judgment thereon and delivered execution to the marshal, or otherwise been duly discharged therefrom.

SEC. 374. The Solicitor of the Treasury shall make constant and strict examinations and comparisons of the reports made by collectors of bonds for duties delivered by them to district attorneys for suit, and of the returns made by district attorneys of such bonds so received by them.

SEC. 375. Whenever it appears that any collector has made return of any bond as in suit, or delivered for suit, which is not, at the time, in suit, or delivered for suit, or has returned any bond as in suit for the whole amount thereof, when part thereof has been paid to him, or as in

Appointment and oath of special attorneys or counsel.

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

Interest of United States in pending suits, who may attend to.

22 June, 1870, c. 150, s. 5, v. 16, p. 162.

Accounts of district attorneys, marshals, &c.

s. 15, v. 16, p. 164.

Requisitions.

22 June, 1870, c. 150, s. 15, v. 16, p. 164.

Traveling expenses of officers of the Department.

22 June, 1870, c. 150, s. 5, v. 16, p. 162.

Disbursement of moneys.

22 June, 1870, c. 150, s. 11, v. 16, p. 163.

Records formerly appertaining to the office of agent of the Treasury.

29 May, 1830, c. 153, s. 2, v. 4, p. 414.

22 Feb., 1849, c. 61, s. 2, v. 9, p. 347.

Liability of district attorney upon receiving a bond for suit.

29 May, 1830, c. 153, s. 3, v. 4, p. 414.

Examination of reports of district attorneys and collectors upon bonds delivered for suit.

29 May, 1830, c. 153, s. 3, v. 4, p. 414.

False reports of bonds delivered for suit.

29 May, 1830, c. 153, s. 3, v. 4, p. 414.

suit for more than is actually due thereon, the Solicitor of the Treasury shall, immediately upon discovery thereof, communicate the facts to the President of the United States.

Measures taken for the discovery of frauds.

3 Mar., 1863, c. 76, s. 2, v. 12, p. 739.

Rules established by Solicitor of Treasury respecting suits.

29 May, 1830, c. 153, s. 7, v. 4, p. 415.

Report by Solicitor of Treasury of moneys recovered.

29 May, 1830, c. 153, s. 6, v. 4, p. 415.

Instructions by Solicitor of Treasury to district attorneys and other officers.

29 May, 1830, c. 153, s. 5, v. 4, p. 415.

Conduct of suits involving national banks.

25 Feb., 1863, c. 58, s. 55, v. 12, p. 680. 3 June, 1864,

Duties of United States attorneys.

8 June, 1872, c. 335, s. 309, v. 17, p. 324.

Proceedings in equity in cases of Post-Office Department.

8 June, 1872, c. 335, s. 310, v. 17, p. 324.

Publication of opinions.

22 June, 1870, c. 150, s. 18, v. 16, p. 165.

Report of business and statistics.

22 June, 1870, c. 150, s. 12, v. 16, p. 164.

SEC. 376. The Solicitor of the Treasury, under direction of the Secretary of the Treasury, shall take cognizance of all frauds or attempted frauds upon the revenue, and shall exercise a general supervision over the measures for their prevention and detection, and for the prosecution of persons charged with the commission thereof.

SEC. 377. The Solicitor of the Treasury shall establish such regulations, not inconsistent with law, with the approbation of the Secretary of the Treasury, for the observance of collectors of the customs, and, with the approbation of the Attorney-General, for the observance of district attorneys and marshals respecting suits in which the United States are parties, as may be deemed necessary for the just responsibility of those officers, and the prompt collection of all revenues and debts due and accruing to the United States. But this section does not apply to suits for taxes, forfeitures, or penalties arising under the internal-revenue laws. [See § 3215.]

SEC. 378. The Solicitor of the Treasury shall report all moneys recovered or collected under his direction to the officer from whom the bond or other evidence of debt was received, who shall give proper credit therefor; and he shall report in like manner all credits allowed by due course of law on any suits under his direction.

SEC. 379. The Solicitor of the Treasury shall have power to instruct the district attorneys, marshals, and clerks of the circuit and district courts in all matters and proceedings appertaining to suits in which the United States is a party or interested, except suits for taxes, penalties, or forfeitures under the internal-revenue laws, and to cause them, or either of them, to report to him from time to time any information he may require in relation to the same.

SEC. 380. All suits and proceedings arising out of the provisions of law governing national banking associations, in which the United States or any of its officers or agents shall be parties, shall be conducted by the district attorneys of the several districts under the direction and supervision of the Solicitor of the Treasury.

Kennedy vs. Gibson, 8 Wall., 498.

SEC. 381. In the prosecution of any suit for money due the Post-Office Department, the United States attorney conducting the same shall obey the directions which may be given him by the Department of Justice.

SEC. 382. When proceedings at law for money due the Post-Office Department are fruitless, the Department of Justice may direct the institution of a suit in chancery, in any United States district or circuit court, to set aside fraudulent conveyances or trusts, or attach debts due the defendant, or obtain any other proper exercise of the powers of equity to have satisfaction of any judgment against such defendant.

SEC. 383. The Attorney-General shall from time to time cause to be edited, and printed at the Government Printing-Office, an edition of one thousand copies of such of the opinions of the law-officers herein authorized to be given as he may deem valuable for preservation in volumes, which shall be, as to size, quality of paper, printing, and binding, of uniform style and appearance, as nearly as practicable, with volume eight of such opinions, published, by Robert Farnham, in the year eighteen hundred and sixty-eight. Each volume shall contain proper head-notes, a complete and full index, and such foot-notes as the Attorney-General may approve. Such volumes shall be distributed in such manner as the Attorney-General may from time to time prescribe.

SEC. 384. It shall be the duty of the Attorney-General to make to Congress, at the commencement of each regular session, a report of the business of the Department of Justice for the last preceding fiscal year, and of any other matters appertaining thereto that he may deem proper,

including a statement of the several appropriations now or which may hereafter be placed under its control, the amount appropriated, and a detailed statement of the amounts used for defraying the expenses of the United States courts in each judicial district; also the statistics of crime under the laws of the United States, and a statement of the number of causes, civil and criminal, pending during the preceding year in each of the several courts of the United States. [See §§ 195, 196.]

3 March, 1873, c. 238, s. 1, v. 17, p. 578.

SEC. 385. The Attorney-General shall make an annual report to Congress of the names of all persons employed or retained as attorneys or counselors at law to assist any district attorneys in the performance of their duties, stating where and upon what business each was employed, and the compensation paid to each. [See §§ 195, 196.]

Report of additional attorneys and counsel employed.

10 April, 1869, c. 25, v. 16, p. 46.

Distribution of statutes and reports to judges.

SEC. 386. The Department of Justice shall be charged with the distribution to the various judges and courts of the statutes, reports, and other judicial documents provided for by law.

3 March, 1873, c. 238, s. 2, v. 17, p. 578.

SEC. 387. A register of the statutes of the United States and reports of the Supreme Court shall be kept, under the authority of the head of the Department of Justice, showing the quantity of each kind received by him from the Secretary of the Interior; and it shall be his duty to cause to be entered in such register, and at the proper time, when, where, and to whom the same, or any part of them, have been distributed and delivered, and to report the same to Congress in his annual report.

Register of statutes and reports distributed.

3 March, 1873, c. 238, s. 3, v. 17, p. 578.