

H. R. 1328.

IN THE HOUSE OF REPRESENTATIVES.

FEBRUARY 25, 1870.

Read twice, ordered to be printed, and recommitted to the Committee on Retrenchment.

Mr. JENCKES, from the Committee on Retrenchment, reported the following bill:

A BILL

To establish a Department of Justice.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That there shall be, and is hereby, established an executive
4 department of the government of the United States, to be
5 called the Department of Justice, of which the Attorney
6 General shall be the head. His duties, salary, and tenure of
7 office shall remain as now fixed by law, except so far as they
8 may be modified by this act.

1 SEC. 2. *And be it further enacted,* That there shall be
2 in said department an officer learned in the law, to assist the
3 Attorney General in the performance of his duties, to be
4 called the Solicitor General, and who, in case of a vacancy in

5 the office of Attorney General, or in his absence or disability,
6 shall have power to exercise all the duties of that office.
7 There shall also be continued in said department the two other
8 officers, learned in the law, called the assistants of the At-
9 torney General, whose duty it shall be to assist the Attorney
10 General and Solicitor General in the performance of their
11 duties, as now required by law.

1 SEC. 3. *And be it further enacted,* That from and after
2 the time when this act takes effect, the Solicitor of the Treas-
3 ury and his assistants, the Solicitor of Internal Revenue, the
4 Naval Solicitor and Judge Advocate General, and the clerks,
5 messengers, and laborers employed in the office of the Attor-
6 ney General, and in the offices of the Solicitor of the Treasury,
7 Naval Solicitor, and Solicitor of Internal Revenue, and the law
8 office in the Department of State, now designated as the
9 examiner of claims, in said department, shall be transferred
10 from the departments with which they are now associated to
11 the Department of Justice; and said officers shall exercise their
12 functions under the supervision and control of the head of the
13 department of justice.

1 SEC. 4. *And be it further enacted,* That questions of
2 law submitted to the Attorney General for his opinion, except
3 questions involving a construction of the Constitution of the
4 United States, may be by him referred to such of his subor-
5 dinates as he may deem appropriate, and he may require the

6 written opinion thereon of the officer to whom the same may
7 be referred; and if the opinion given by such officer shall be
8 approved by the Attorney General, such approval so indorsed
9 thereon shall give the opinion the same force and effect as
10 belong to the opinions of the Attorney General.

1 SEC. 5. *And be it further enacted,* That whenever the
2 Attorney General deems it necessary, he may require the Solic-
3 itor General to argue any case in which the government is inter-
4 ested before the Court of Claims ; and as to cases coming by ap-
5 peal from the Court of Claims to the Supreme Court of the Uni-
6 ted States, it shall be the duty of the Attorney General and Solic-
7 itor General to conduct and argue them before that court as
8 in other cases in which the United States is interested. And
9 the Attorney General may, whenever he deems it for the
10 interest of the United States, conduct and argue any case in
11 any court of the United States, or may require the Solicitor
12 General or any officer of his department to do so. And the
13 Solicitor General, or any officer of the Department of Justice,
14 may be sent by the Attorney General to any State or district
15 in the United States to attend to the interests of the United
16 States in any suit pending in any of the courts of the United
17 States, or in the courts of any State, or to attend to any other
18 interest of the United States ; for which service they shall re-
19 ceive, in addition to their salaries, their actual and necessary

20 expenses while so absent from the seat of government, the
21 account thereof to be verified by affidavit.

1 SEC. 6. *And be it further enacted,* That whenever a
2 question of law arises in the administration, either of the War
3 or Navy Department, the cognizance of which is not given
4 by statute to some other officer from whom the head of either
5 of these departments may require advice, the same shall be
6 sent to the Attorney General, to be by him referred to the
7 proper officer in his department provided for in this act, or
8 otherwise disposed of as he may deem proper. And each
9 head of any department of the government may require the
10 opinion of the Attorney General on all questions of law arising
11 in the administration of their respective departments.

1 SEC. 7. *And be it further enacted,* That the duties
2 enjoined upon the Auditor of the Post Office Department by
3 the fourteenth section of the act entitled "An act to change
4 the organization of the Post Office Department, and to provide
5 more effectually for the settlement of the accounts thereof,"
6 passed July two, eighteen hundred and thirty-six, shall
7 hereafter be performed by some officer of the Department of
8 of Justice, to be specially designated, under the direction of
9 the Attorney General, who shall also have the care of prosecutions
10 for mail depredations and penal offenses against the
11 postal laws.

1 SEC. 8. *And be it further enacted,* That the Attorney

2 General is hereby empowered to make all necessary rules and
3 regulations for the government of said Department of Justice,
4 and for the management and distribution of its business.

1 SEC. 9. *And be it further enacted,* That the several
2 officers hereinbefore transferred from the other departments
3 to the Department of Justice shall hold their respective offices
4 until their successors are duly qualified; and the Solicitor
5 General, and, whenever vacancies occur, the assistants of the
6 Attorney General and all the solicitors and assistant solici-
7 tors mentioned in this act, shall be appointed by the Presi-
8 dent, by and with the advice and consent of the Senate. All
9 the other officers, clerks, and employees in the said depart-
10 ment shall be appointed and be removable by the Attorney
11 General.

1 SEC. 10. *And be it further enacted,* That the following
2 annual salaries shall be paid to the officers hereinbefore
3 mentioned: to the solicitor general, seven thousand five hun-
4 dred dollars; to each of the assistants of the Attorney General,
5 five thousand dollars each; to the solicitor of the internal rev-
6 enue, five thousand dollars; and to the other officers the
7 salaries and fees now allowed by law; and the Attorney
8 General shall be allowed a stenographic clerk, with an annual
9 salary of two thousand dollars, and he may appoint three
10 additional clerks of the fourth class.

1 SEC. 11. *And be it further enacted,* That all moneys

2 hereafter drawn out of the treasury, upon the requisition of
3 the Attorney General, shall be disbursed by such one of the
4 clerks herein provided for the Attorney General as he may
5 designate; and so much of the first section of the act making
6 appropriations, passed March three, eighteen hundred and
7 fifty-nine, as provides that moneys drawn out of the treasury
8 upon the requisition of the Attorney General shall be dis-
9 bursed by such disbursing officer as the Secretary of the
10 Treasury may designate, is hereby repealed.

1 SEC. 12. *And be it further enacted*, That it shall be the
2 duty of the Attorney General to make an annual report to
3 Congress, in January each year, of the business of the said
4 Department of Justice, and any other matters appertaining
5 thereto that he may deem proper, including the statistics of
6 crime under the laws of the United States, and, as far as prac-
7 ticable, under the laws of the several States.

1 SEC. 13. *And be it further enacted*, That the superin-
2 tendent of the treasury building shall provide such suitable
3 rooms in the treasury building as may be necessary to accom-
4 modate the officers and clerks of the said department, or, to
5 the extent that that may be found impracticable, to provide
6 such rooms in some other building in the vicinity of said
7 treasury building.

1 SEC. 14. *And be it further enacted*, That the Attorney
2 General may require any solicitor or officers of the Department

3 of Justice to perform any duty required of said department or
4 any officer thereof; and the officers of the law department, un-
5 der the direction of the Attorney General, shall give all opinions
6 and render all services requiring the skill of persons learned
7 in the law, necessary to enable the President and heads of
8 the executive departments to discharge their respective duties;
9 and shall, for and on behalf of the United States, procure the
10 proper evidence for, and conduct, prosecute, or defend all suits
11 and proceedings in the Supreme Court of the United States,
12 and in the Court of Claims, in which the United States, or
13 any officer thereof, is a party or may be interested. And no
14 fees shall be allowed or paid to any other attorney or coun-
15 selor at law for any service herein required of the officers of
16 the Department of Justice.

1 SEC. 15. *And be it further enacted,* That the super-
2 visory powers now exercised by the Secretary of the Interior
3 over the accounts of the district attorneys, marshals,
4 clerks, and other officers of the courts of the United
5 States, shall be exercised by the Attorney General, who
6 shall sign all requisitions for the advance or payment of
7 moneys out of the treasury, on estimates or accounts, subject
8 to the same control now exercised on like estimates or accounts
9 by the First Auditor or First Comptroller of the Treasury.

1 SEC. 16. *And be it further enacted,* That the Attorney
2 General shall have supervision of the conduct and proceed-

3 ings of the various attorneys for the United States in the
4 respective judicial districts, who shall make report to him of
5 their proceedings, and also of all other attorneys and counsel-
6 ors employed in any cases or business in which the United
7 States may be concerned.

1 SEC. 17. *And be it further enacted,* That it shall not be
2 lawful for the secretary of either of the executive departments
3 to employ attorneys or counsel at the expense of the United
4 States; but such departments, when in need of counsel or
5 advice, shall call upon the Department of Justice, the officers
6 of which shall attend to the same; and no counsel or attorney
7 fees shall hereafter be allowed to any person or persons,
8 besides the respective district attorneys and assistant district
9 attorneys, for services in such capacity to the United States,
10 or any branch or department of the government thereof, unless
11 authorized by law, and then only on the certificate of the
12 Attorney General, that such services were actually rendered,
13 and that the same could not be performed by the Attorney
14 General or Solicitor General, or the officers of the Department
15 of Justice or by the district attorney. And every attorney
16 and counselor who shall be specially retained, under the
17 authority of the Department of Justice, to assist in the trial
18 of any case in which the government is interested, shall
19 receive a commission from the head of said department, as a
20 special assistant to the Attorney General, or to some one of

21 the district attorneys, as the nature of the appointment may
22 require, and shall take the oath required by law to be taken
23 by the district attorney, and shall be subject to all the
24 liabilities imposed upon such officers by law.

1 SEC. 18. *And be it further enacted,* That the Attorney
2 General shall from time to time cause to be edited and printed
3 an edition of one thousand copies, at the Government Print-
4 ing Office, of such of the opinions of the law officers herein
5 authorized to be given, as he may deem valuable for preser-
6 vation, in volumes which shall be as to the size, quality of
7 paper, printing, and binding, of uniform style and appearance,
8 as nearly as practicable, with the eighth volume of said
9 opinions, published by Robert Farnham in the year eighteen
10 hundred and sixty-eight, which volumes shall contain proper
11 head-notes, a complete and full index, and such foot-notes as
12 the Attorney General may approve. Such volumes shall be
13 distributed in such manner as the Attorney General may from
14 time to time prescribe.

1 SEC. 19. *And be it further enacted,* That this act shall
2 take effect and be in force from and after the first day of
3 July, eighteen hundred and seventy.