

1-6-1896

## Suits Against the United States

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IN THE SENATE OF THE UNITED STATES.

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JANUARY 24, 1896.—Referred to the Committee on Indian Depredations and ordered to be printed.

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The VICE-PRESIDENT presented the following

**LETTER FROM THE ATTORNEY-GENERAL IN RESPONSE TO A RESOLUTION OF THE SENATE DATED DECEMBER, 3, 1895, DIRECTING THE ATTORNEY-GENERAL TO REPORT TO THE SENATE THE NUMBER OF SUITS AGAINST THE UNITED STATES FILED IN THE COURT OF CLAIMS AND NOT ADJUDICATED AT THE COMMENCEMENT OF THE PRESENT TERM THEREOF, WITH CERTAIN SPECIFIED DETAILS.**

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DEPARTMENT OF JUSTICE,  
*Washington, D. C., January 6, 1896.*

The SENATE OF THE UNITED STATES:

In response to a resolution of December 3, 1895, directing me to report to the Senate the number of suits against the United States filed in the Court of Claims and not adjudicated at the commencement of the present term thereof, with certain specified details, I have the honor to report that the suits against the Government in that court are separated into two distinct classes. The first class includes all except suits for Indian depredations, and the second includes those for Indian depredations.

(1) The information called for, as to the first class, is all given, up to the 1st of November, 1895, in Exhibit 2, pages 39 to 43, inclusive, of my annual report made to the Congress at the commencement of its present session, except the number of letter-carrier claims, to wit: Approximately 500, representing the claims of about 4,000 individuals, which is not given, and the number of French spoliation cases, to wit, 4,552, which is not therein repeated. Between November 1, 1895, and the commencement of the present term, December 2, 1895, 93 new suits were commenced under the general jurisdiction of the court, and no others. During the same period there were decided by the court and finally disposed of, 47 cases under the Bowman Act, 9 under the general jurisdiction, and 11 District of Columbia cases. Numerous other cases had been tried and submitted which are not included in the foregoing numbers.

General information as to the arrears of business and the treatment thereof is specially given in my annual report at pages 14 and 15. From this it will appear how hard it to form an opinion, as you request, about the time which will probably be required under existing legislation, and without any increase of force in this Department, to dispose

of this litigation. If it may be presumed that the cases pending correspond in average of difficulty and labor with those heretofore tried, the present accumulation, exclusive of new suits, could not be disposed of in less than fifteen years.

It may be fairly supposed, however, that the suits already brought to trial by claimants average higher in merit than those which remain untried, and that if the force of this Department were sufficient to press cases to trial in the order of their commencement, instead of in the order in which they are prepared for trial by the claimants' attorneys, a considerably larger percentage may be found dismissable without full trial, so that a less period would suffice. But, allowing for all such possibilities, my opinion is that the amount of force now provided could not, with the best diligence, dispose of the present accumulation in less than eight years, even if wholly relieved from new suits, which are being commenced faster than old cases are disposed of.

(2) As to that part of the resolution relating to claims on account of Indian depredations, I submit herewith the information called for, with other information beyond the literal scope of the inquiry, touching the condition of the said claims upon the dockets:

Cases originally filed.....	10,841
Cases not determined at the commencement of the present term of the court.....	9,896
Cases adjudicated during the last term (not including cases finally disposed of on motions for new trial under the act of August 23, 1894).....	44
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Suits briefed and made ready for trial for defendants during the last term of the court.....	304
(Some few of the 304 cases above mentioned were finally disposed of during the last term, but the large proportion of them have not been considered by the court at all because of the unwillingness of claimants to have them heard, as will hereinafter more fully appear.)	
Cases prepared either by original brief or revised by supplemental brief before the last term of the court, and now ready for trial at any time on the part of the United States, about.....	50
Cases briefed since the beginning of the present term and now ready for trial on the part of the United States.....	34
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Total cases.....	388
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Cases in which depositions have been taken, according to my annual report for 1895.....	453
Number in which depositions have been taken since the date of that report to the 1st of January, 1896.....	62
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Total.....	515

An act of Congress, approved August 23, 1894 (Stat. L., Fifty-third Congress, third session, p. 869), having imposed upon me the duty of examining, or causing to be examined, the evidence presented in support of something over 200 judgments, and taking such other pertinent evidence as could be procured as to whether fraud, wrong, or injustice has been done to the United States, or whether exorbitant sums had been allowed in the rendition of said judgments, all on account of Indian depredations (most of which judgments were rendered at the December term, 1892, of the Court of Claims), it became necessary last year to comply with the directions of the statute, to the neglect of cases not in judgment in their regular order.

My last annual report, together with preceding reports, exhibits the nature and character of the work done with respect to those judgments. It was found necessary to examine the record in each, to take new evidence in the large number wherein new trials were sought, and to brief

and fully prepare them for hearing. All this operated to interrupt the progress of business with respect to cases not adjudicated. The failure of claimants to prepare their cases for hearing where motions for new trial have been made, and also their neglect to prepare for hearing a numerous class of cases which, under the act of March 3, 1891, are given priority of consideration and in which the Department had prepared its defenses, have prevented the adjudication of more cases than the tables would ordinarily show.

The specific causes for the failure of many claimants to prepare for the hearing of numerous preferred and judgment cases within the last year are believed by the Assistant Attorney-General charged with the defense of Indian depredation claims to be attributable to the policy of awaiting the decisions of the Supreme Court in certain cases involving the construction of the act of March 3, 1891. The test cases referred to were argued early in November, and in only one of them has a decision been handed down. The cases being illustrative of a class of cases, much depends upon the ultimate view that shall be taken of the questions involved. The decision mentioned as having been rendered recently involves the question of citizenship, and, it is estimated, disposes of perhaps as many as 500 cases for Indian depredations now on the dockets of the Court of Claims.

If the Supreme Court shall fully affirm the decisions of the Court of Claims, then in my opinion cases at the rate of seven or eight hundred for each year can be disposed of, with justice to the United States and the Indian defendants, without any increase of force. For this purpose, however, the claimants must cooperate with the representatives of the Government to facilitate the disposition of cases adversely affected by the decisions, and the rules of the court must be rigorously asserted for the hearing of all cases in which the Government is ready for trial.

Respectfully submitted.

JUDSON HARMON,  
*Attorney-General.*