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Message from the President of the United States, returning Senate bill no. 2729 with his objections thereto.

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M E S S A G E

FROM THE

PRESIDENT OF THE UNITED STATES,

RETURNING

Senate bill No. 2729 with his objections thereto.

JULY 19, 1892.—Read and referred to the Committee on Judiciary, and ordered to be printed.

To the Senate:

I return herewith, without my approval, the bill (Senate 2729) entitled "An act to amend an act entitled 'An act to establish circuit courts of appeals, and to define and regulate in certain cases the jurisdiction of the courts of the United States and for other purposes.'"

The original act to which this amendment is proposed, constituting an intermediate court of appeals, had for its object the relief of the Supreme Court by limiting the cases which might be brought up for hearing in that court. The first section of the bill under consideration allows appeals in criminal cases where the sentence imposes no imprisonment and the fine is as much as one thousand dollars. The effect of this provision will be to bring to the Supreme Court many cases that, in my opinion, should be finally determined in the intermediate appellate court; and so, in part, to defeat the general purpose of Congress in constituting the intermediate court. But this objection would not alone have sufficient weight in my mind to induce me to return the bill. Section 3 of the bill is as follows:

That no appeal shall hereafter be allowed from judgments of the Court of Claims in cases under the act of March 3, 1891, entitled "An act to provide for the adjudication and payment of claims arising from Indian depredations," except where the adjudication involves the construction or application of the Constitution or the validity or construction of a treaty or the constitutionality of a law of the United States: *Provided, however,* That upon such appeal it shall be competent for the Supreme Court to require, by certiorari or otherwise, the whole case to be certified for its review and determination upon the facts as well as the law.

I am advised by the Attorney-General that under the Indian depredations act, eight thousand cases, involving an aggregate of damages claimed of about thirty millions of dollars, have already been filed. A number of these cases involve as much as one hundred thousand dollars each, while a few involve as much as a half million dollars each, and one something over a million of dollars. The damages which may be awarded in these cases by the Court of Claims are to be paid out of the trust funds of the Indians held by the United States, or, if there are no such funds, out of the Treasury of the United States. The law referring these cases to the Court of Claims has had no judicial inter-

pretation and many novel and difficult questions are likely to arise. It is quite a startling proposition and a very novel one, I think, that there shall be absolutely no opportunity for the review in an appellate court, in cases involving such large amounts, of questions involving the construction of the statute under which the court is proceeding, or those various questions of law, many of them new, which necessarily arise in such cases.

Neither the claimants, the Indians, nor the Government of the United States should be absolutely denied opportunity to bring their exceptions to review by some appellate tribunal. I would not suggest that an appeal should be allowed in all cases. Some limitation as to amount would be reasonable and perhaps, some discretion might be lodged in the Supreme Court as to granting appeals. The limitations, however, imposed by the section I have quoted are so severe and unreasonable in my judgment that I have felt compelled to return the bill to the Senate with a view to its reconsideration.

BENJ. HARRISON.

EXECUTIVE MANSION,
July 19, 1892.

[Fifty-second Congress of the United States of America, at the first session, begun and held at the city of Washington, on Monday, the 7th day of December, 1891.]

AN ACT to amend an act entitled "An act to establish circuit courts of appeals, and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the fifth section of the act of March third, eighteen hundred and ninety-one, entitled "An act to establish circuit courts of appeals, and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," as provides that appeals or writs of error may be taken from the district or circuit courts direct to the Supreme Court in cases of conviction of a capital or other infamous crime, is hereby repealed, so far as affects cases other than capital and excepting cases where the defendant shall be sentenced to a fine of one thousand dollars or upwards, or to imprisonment for more than one year, saving and excepting writs of error already sued out; and in such cases the circuit courts of appeals shall exercise appellate jurisdiction, in the manner and within the time prescribed in the sixth section of said act, and their judgments shall be final, except as provided in said section.

SEC. 2. That the Supreme Court of the United States may, by orders duly entered of record, certify and transfer to the several circuit courts of appeals any cases pending on the general docket of the Supreme Court of which, by the provisions of said act, the circuit courts of appeals would have appellate jurisdiction; and the cases so transferred shall proceed to final hearing, determination, and judgment in the same manner as if they had been taken by appeal or writ of error to said circuit courts of appeals under the provisions of said act: *Provided, however,* That no case shall be so transferred, except upon the stipulation in writing of the parties or their counsel to that effect.

SEC. 3. That no appeal shall hereafter be allowed from judgments of the Court of Claims in cases under the act of March third, eighteen hundred and ninety-one, entitled "An act to provide for the adjudication and payment of claims arising from Indian depredations," except where the adjudication involves the construction or application of the Constitution, or the validity or construction of a treaty, or the constitutionality of a law of the United States: *Provided, however,* That upon such appeal it shall be competent for the Supreme Court to require, by certiorari or otherwise, the whole case to be certified for its review and determination upon the facts as well as the law.

SEC. 4. That appeals from decisions of the Court of Private Land Claims, under the act of March third, eighteen hundred and ninety-one, establishing that court, the review by the Supreme Court shall be limited to a determination of the questions of law arising upon the pleadings and judgment, or upon facts specially found by the Court of Private Land Claims: *Provided, however,* That upon such appeal it shall be

competent for the Supreme Court to require, by certiorari or otherwise, the whole case to be certified for its review and determination upon the facts as well as the law.

SEC. 5. All appeals and writs of error shall be heard and determined on the record sent up by the court of the first instance; and the printing of such record, when required by any rule of court, shall be let to the lowest and best bidder under the supervision of the appellate court.

CHARLES F. CRISP,

Speaker of the House of Representatives.

LEVI P. MORTON,

Vice-President of the United States and President of the Senate.

I certify that this act originated in the Senate.

ANSON G. MCCOOK,

Secretary.

By CHAS. W. JOHNSON,
Chief Clerk.

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