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rendering the crossings dangerous to passengers on the said highways, either in conveyances or on foot: *Provided*, That such road so constructed and this grant shall not interfere with any grant within such reservation heretofore made.

Proviso.
Previous grants not affected.

Secretary of the Interior to approve plans, etc.

SEC. 2. That the said parties or their assigns shall cause to be made an accurate map and profile of the located line of said railway with the specifications for the construction thereof, and the same shall be approved by and filed with the Secretary of the Interior before the construction of said railroad shall be commenced. The Secretary of the Interior shall have the supervision and control over the location and construction of said railroad, which must be built and put in running order to the top of said mountain within two years from and after the passage of this Act. Each of the conditions in this section shall be construed as a condition precedent to the grant herein made, and a failure to comply with any of them shall of itself work a forfeiture of the rights hereby granted.

Supervision.

Completion.

Forfeiture.

Right to erect hotels, etc.

SEC. 3. That the said parties or their assigns shall have the privilege of erecting on said West Mountain observatories, hotels, and such other buildings as may be considered by the Secretary of the Interior desirable for the accommodation of the public, and for such purposes, and for laying off and beautifying a park surrounding or adjacent to such buildings the said parties or their assigns are hereby privileged to use five acres of ground upon said mountain, they agreeing to build upon and beautify the same at their own expense. A survey and plat of the grounds to be used for the purposes herein mentioned shall be first submitted to the Secretary of the Interior, and approved by him before any improvements shall be begun upon said land. Plans for all buildings shall be submitted to and approved by the Secretary of the Interior.

Lands granted.

Approval by Secretary of the Interior.

Yearly payment.

SEC. 4. That the said parties are to pay semiannually to the Interior Department, on account of the fund for the improvement of the permanent Hot Springs Reservation, the sum of two per centum of the gross annual earnings of said railroad and buildings and grounds.

Charges, etc.

SEC. 5. That all tolls, charges, or income received under or by reason of this grant shall be subject to the approval of the Secretary of the Interior, who shall from time to time prescribe rules and regulations for the management of said property.

Amendments, etc.

SEC. 6. That Congress reserves the right to at any time alter, amend, change, or repeal the rights and privileges hereby conferred.

Approved, December 21, 1893.

December 21, 1893.

CHAP. 9.—An Act To grant the right of way to the Kansas, Oklahoma Central and Southwestern Railway Company through the Indian Territory and Oklahoma Territory, and for other purposes.

Kansas, Oklahoma Central and Southwestern Railway Company, may build railway, etc., line through Indian and Oklahoma Territories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Kansas, Oklahoma Central and Southwestern Railway Company, a corporation created under and by virtue of the laws of the Territory of Oklahoma, be, and the same is hereby, invested and empowered with the right of locating, constructing, equipping, operating, using, and maintaining a railway, telegraph, and telephone line through the Indian Territory and Oklahoma Territory, including lands that have been allotted to Indians in severalty or reserved for Indian purposes, beginning at any point to be selected by said railway company on the south line of the State of Kansas, in the county of Montgomery, on the south line of section numbered thirteen or section numbered fourteen, township numbered thirty-five, range numbered thirteen east of the sixth principal meridian, or on the south line of section numbered thirteen or section numbered fourteen, township numbered thirty-five, range sixteen east of

Location.

Indian Territory.

the sixth principal meridian, and running thence by the most practicable route through the Indian Territory to the west line thereof; thence in a south or southwesterly direction by the most practicable route into and through Oklahoma Territory to a point on the Texas State line and on Red River between said State of Texas and the Comanche and Apache Indian Reservation, in said Oklahoma Territory, by way of, at, or near Stillwater, Guthrie, and Elreno, in Oklahoma Territory, and passing through the Osage, Pawnee, Wichita, Comanche, and Apache Indian reservations, and through the organized counties of Payne, Logan, Oklahoma, and Canadian, in said Oklahoma Territory, with the right to construct, use, and maintain such tracks, turn-outs, sidings, and extensions as said company may deem to their interest to construct along and upon the right of way and depot grounds herein provided for.

Oklahoma Territory.

SEC. 2. That said company is authorized to take and use, for all purposes of a railway and for no other purpose, a right of way one hundred feet in width through said Territories, and to take and use a strip of land two hundred feet in width with a length of three thousand feet in addition to right of way, for stations, for every ten miles of the road, with the right to use additional ground where there are heavy cuts or fills as may be necessary for the construction and maintenance of the roadbed, not exceeding one hundred feet in width on each side of said right of way, or as much thereof as may be included in said cut or fill: *Provided*, That no more than said addition of lands shall be taken for any one station: *And provided further*, That no part of the lands herein authorized to be taken shall be leased or sold by the company; and they shall not be used except in such manner and for such purposes only as shall be necessary for the construction and convenient operation of said railway, telegraph, and telephone lines, and when any portion thereof shall cease to be used, such portion shall revert to the nation or tribe of Indians from which, or to the persons from whom, the same shall have been taken.

Right of way.

Stations, etc.

Provisos.
Limit for stations.
Sale, etc., prohibited.

Reversion.

SEC. 3. That before said railway shall be constructed through any lands held by individual occupants by allotment under any law of the United States or agreement with the Indians or according to the laws, customs, and usages of any tribe of the Indians, nations, or tribes through which it may be constructed, full and complete compensation shall be made to such occupant for all property to be taken or damage done by reason of the construction of said railway. In case of failure to make amicable settlement with any occupant, such compensation shall be determined by the appraisement of three disinterested referees, to be appointed, one (who shall act as chairman) by the President of the United States, one by the chief of the nation to which such occupant belongs, or in the case of an allottee or by his duly authorized guardian or representative, and one by said railway company, who, before entering upon the duties of their appointment, shall take and subscribe, before a district judge, clerk of a court, or United States commissioner, an oath that they will faithfully and impartially discharge the duties of their appointment, which oaths duly certified shall be returned with their award to, and filed with, the Secretary of the Interior within sixty days from the completion thereof, and a majority of said referees shall be competent to act in case of the absence of a member, after due notice, and upon the failure of either party to make such appointment within thirty days after the appointment made by the President, the vacancy shall be filled by the judge of the United States court for the first judicial division at Muscogee, Indian Territory, or by the judge of the United States court which has jurisdiction over said Indian reservations; upon the application of the other party the chairman of said board shall appoint the time and place for all hearings within the nation to which said occupant belongs. Each of said referees shall receive for his services the sum of four dollars per day for each day they are engaged in the trial of any case submitted to them under this act, with mileage at five cents per mile. Witnesses

Damages.

Appraisement.

Referees.

Substitution on failure to appoint.

Hearings.

Compensation.

Witness' fees.

Costs.

shall receive the usual fees allowed by the courts of said nation; costs, including compensation of the referees, shall be made a part of the award and be paid by said railway company. In case the referees can not agree, then any two of them are authorized to make the award; either party being dissatisfied with the finding of the referees shall have the right within ninety days after making of the award, and

Appeal.

notice of the same, to appeal by original petition to the courts of the Indian Territory at Muscogee, or to the courts which have jurisdiction over the respective Indian reservations which courts shall have jurisdiction to hear and determine the subject-matter of said petition according to the laws of the State of Kansas providing for determining the damage when property is taken for railroad purposes. If upon the hearing of said appeal the judgment of the court shall be for a

Costs on appeal.

larger sum than the award of the referees, the costs of said appeal shall be adjudged against the railway company. If the judgment of the court shall be for the same sum or less than the award of the referees, then the cost shall be adjudged against the appellant unless the judgment of the court shall be for the railroad company, in which case the

Work may proceed on deposit of double award.

cost shall be against the claimant; when proceedings have been commenced in court the railway company shall pay double the amount of the award into court to abide the judgment thereof, and then have the right to enter upon the property sought to be condemned and proceed with the construction of the railroad.

Freight charges.

SEC. 4. That said railway company shall not charge the inhabitants of said Territories a greater rate of freight than the rates authorized by laws of Kansas for services or transportation of the same kind:

Provisos.
Passenger rates, etc.

Provided, That passenger rates on said railway shall not exceed three cents per mile, Congress reserving the right to regulate the charges for freight and passengers on said railway and messages on said telegraph and telephone lines until a State government shall be authorized to fix and regulate the cost of transportation of persons and freight within its respective limits by said railway company, but Congress expressly reserves the right to fix and regulate at all times the cost of such transportation by said railway company whenever such transportation shall extend from one State into another, or shall extend into more than one

Maximum.

State: *Provided, however*, That the rate of such transportation of passengers, local or interstate, shall not exceed the rates above expressed:

Mails.

And provided further, That said railway company shall carry the mail at such prices as Congress may by law provide, and until such rate is fixed by law the Postmaster-General may fix the rate of compensation.

Additional compensation to tribes.

SEC. 5. That said railway company shall pay to the Secretary of the Interior, for the benefit of the particular nation or tribe through whose lands said line may be located, the sum of fifty dollars, in addition to compensation provided for in this act, for property taken and damages done to individual occupants by the construction of the railway for each mile of railway that it may construct in said Territories through Indian lands; said payment to be made in installments of one thousand two hundred and fifty dollars as each working section of twenty-five

Provisos.
Appeal by general council.

miles is graded: *Provided*, That if the general council of either of the nations or tribes through whose lands said railway may be located shall within four months after filing of the maps of definite location, as set forth in section six of this act, dissent from the allowance provided for in this section, and shall certify the same to the Secretary of the Interior, then all compensation to be paid to such dissenting nation or tribe under the provisions of this act shall be determined as provided for in section three for the determination of the compensation to be paid to the individual occupants of lands, with the right of appeal to the courts upon the same conditions, terms, and requirements as therein

Award to be in lieu of compensation.

provided: *Provided further*, That the amount of the award adjudged to be paid by said railway company for such dissenting nation or tribe shall be in lieu of the compensation that said nation or tribe would be

Annual rental.

entitled to receive under the foregoing provisions; said company shall also pay, so long as said Territory is owned or occupied by the Indians,

to the Secretary of the Interior the sum of fifteen dollars per annum for each mile of railway it shall construct in the said Territory. The money paid to the Secretary of the Interior under the provisions of this act shall be apportioned by him in accordance with the laws and treaties now in force among the different nations and tribes, according to the number of miles of railway that may be constructed by said railway company through their lands: *Provided*, That Congress shall have the right, as long as said lands are occupied and possessed by said nations or tribes, to impose such additional taxes upon said railway as it may deem just and proper for their benefit, and any Territory or State hereafter formed through which said railway shall have been established may exercise the like powers as to such part of said railway as may be within its limits. Said railway company shall have the right to survey and locate its railway immediately after the passage of this act.

Apportionment.

Taxation.

Survey and location.

SEC. 6. That said company shall cause maps, showing the route of its located line through said Territory, to be filed in the office of the Secretary of the Interior, and also to be filed in the office of the principal chief of the nations or tribes through whose lands said railway may be located, and after filing said maps no claim for a subsequent settlement and improvements upon the right of way shown by said maps shall be valid as against said company: *Provided*, That when a map showing any portion of said railway company's located line is filed, as herein provided for, said company shall commence grading said located line within two years thereafter or said location shall be void; and said location shall be approved by the Secretary of the Interior in sections of twenty-five miles before construction of any such section shall be begun.

Maps to be filed.

Improvements.

Provisos.

Grading.

Approval of location.

SEC. 7. That the officers, servants, and employees of said company necessary to the construction and management of said road shall be allowed to reside, while so engaged, upon said right of way, but subject to the provisions of the Indian intercourse laws and such rules and regulations as may be established by the Secretary of the Interior in accordance with such intercourse laws.

Employees may reside on right of way.

SEC. 8. That the United States court having jurisdiction in respect of the Indian Territory and Oklahoma Territory and such other courts as may be authorized by Congress, shall have, without reference to the amount in controversy, concurrent jurisdiction over all controversies arising between said Kansas, Oklahoma Central and Southwestern Railway Company and the nations or tribes through whose territory said railway company shall construct its lines; said court shall have like jurisdiction, without reference to the amount in controversy, over all controversies arising between the inhabitants of said nation or tribe and said railway company, and the civil jurisdiction of said courts is hereby extended within the limits of said Indian Territory and Oklahoma Territory, without distinction as to citizenship of the parties, so far as may be necessary to carry out the provisions of this act.

Litigation.

SEC. 9. That the said railway company shall build at least one hundred miles of its railway in said Territories within three years after the passage of this act, and complete the main line of the same within two years thereafter, or the right herein granted shall be forfeited as to that portion not built. That said railway company shall construct and maintain continually all fences, roads, and highway crossings, and necessary bridges over said railway wherever said roads and highways do now or may hereafter cross said railway's right of way, or may be by the proper authorities laid out across the same.

Commencement and completion.

Crossings, etc.

SEC. 10. That the said Kansas, Oklahoma Central and Southwestern Railway Company shall accept this right of way upon the expressed condition, binding upon itself, its successors, and assigns, that they will neither aid, advise, nor assist in any effort looking toward the changing or extinguishing the present tenure of the Indians in their lands, and will not attempt to secure from the Indian nations any further grant of lands or their occupancy than is hereinbefore provided:

Conditions of acceptance.

Proviso. Forfeiture

Provided, That any violation of the conditions mentioned in this section shall operate as a forfeiture of all rights and privileges of said railway company under this act.

Record of mortgages.

SEC. 11. That all mortgages executed by said company conveying any portion of its railway with the franchises, that may be constructed in said Indian Territory and Oklahoma Territory, shall be recorded in the Department of the Interior, and the record thereof shall be evidence and notice of their execution, and shall convey all rights and properties of said company as therein expressed subject to the provisions of this act.

Amendment, etc.

SEC. 12. That Congress may at any time amend, alter, or repeal this act, and the rights herein granted shall not be assigned or transferred in any way or form whatever except as to mortgages or other liens that may be given or secured thereon to aid in the construction thereof.

Approved, December 21, 1893.

January 11, 1894.

CHAP. 10.—An Act Relating to the disqualification of registers and receivers of the United States land offices, and making provision in case of such disqualification.

Public lands. Registers and receivers not to proceed in cases where personally interested, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no register or receiver shall receive evidence in, hear or determine any cause pending in any district land office in which cause he is interested directly or indirectly, or has been of counsel, or where he is related to any of the parties in interest by consanguinity or affinity within the fourth degree, computing by the rules adopted by the common law.

Substitution of other officer.

SEC. 2. That it shall be the duty of every register or receiver so disqualified to report the fact of his disqualification to the Commissioner of the General Land Office, as soon as he shall ascertain it, and before the hearing of such cause, who thereupon, with the approval of the Secretary of the Interior, shall designate some other register, receiver, or special agent of the Land Department to act in the place of the disqualified officer, and the same authority is conferred on the officer so designated which such register or receiver would otherwise have possessed to act in such case.

Approved, January 11, 1894.

January 22, 1894.

CHAP. 12.—An Act To amend an Act of Congress approved May twelfth, eighteen hundred and ninety, granting to the Aransas Pass Harbor Company the right to improve Aransas Pass.

Aransas Pass Harbor. Time for constructing work extended. Vol. 26, p. 106.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Aransas Pass Harbor Company, which is engaged in the improvement of Aransas Pass under the provisions contained in an Act of Congress entitled "An Act for the improvement of Aransas Pass," approved May twelfth, eighteen hundred and ninety, is hereby relieved from the conditions of said Act which require the construction of said work to be commenced within one year from the date of its approval and to be diligently prosecuted by the expenditure of at least three hundred thousand dollars per annum thereafter, and to secure a navigable depth over the outer bar of fifteen feet of water within three years after the date of approval of said Act, and of twenty feet within five years from said date; and the said company is hereby authorized to continue and complete its work of improvement as set forth in said Act: *Provided*, That work shall be resumed by the said Aransas Pass Harbor Company within six months from the date of approval of this act, and shall be diligently prosecuted to completion, and said company shall secure a navigable depth over the outer bar of at least twenty feet of water within two years from the date of approval of this act. And in the event of said company failing to resume said

Proviso. Resumption of work.

Revocation on failure.