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CHAP. 87.—An Act To grant the right of way through the Indian Territory to the Denison, Bonham and New Orleans Railway Company for the purpose of constructing a railway, and for other purposes. March 23, 1898.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Denison, Bonham and New Orleans Railway Company, a corporation created under and by virtue of the laws of the State of Texas, be, and the same is hereby, invested and empowered with the right of locating, constructing, owning, equipping, operating, using, and maintaining a railway and telegraph and telephone line through the Indian Territory, beginning at a point to be selected by said railway company on Red River, near Denison, in Grayson County, in the State of Texas, and running thence by the most practicable route through the Indian Territory in a northerly direction to the southern boundary of the State of Kansas, at some point in the south line of Chautauqua County, in said State, with the right to construct, own and maintain, and operate a branch line of railway, beginning at a point not exceeding thirty-five miles north of Red River, on the main line, thence in a northwesterly direction to Fort Sill, in Oklahoma Territory, with the right to construct, use, and maintain such tracks, turn-outs, branches, sidings, and extensions as said company may deem it to their interest to construct.

Denison, Bonham and New Orleans Railway Company granted right of way through Indian Territory.

—location.

Branch line.

—location.

SEC. 2. That said corporation is authorized to take and use for all purposes of a railway, telegraph, and telephone, and for no other purpose, a right of way one hundred feet in width through said Indian Territory, and to take and use a strip of land one hundred feet in width, with a length of two thousand feet, in addition to right of way, for stations for every ten miles of road, with the right to use such additional ground, where there are heavy cuts or fills as may be necessary for the construction and maintenance of the roadbed, not exceeding fifty feet in width on each side of the right of way, or as much thereof as may be included in said cut or fill: *Provided*, That no more than said addition of land shall be taken for any one station: *Provided further*, That no part of the lands herein authorized to be taken shall be 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 so used such portion shall revert to the nation or tribe of Indians from which the same shall have been taken.

Right of way.
Post, p. 914.

—width.

Stations.

Provisos.
Limit.
Restricted use, etc.

Reversion.

SEC. 3. That before said railway, telegraph, or telephone line shall be constructed through any lands held by individual occupants according to the laws, customs, and usages of any of the Indian nations or tribes through which it may be constructed, or by allotments under any law of the United States or agreement with the Indians, full compensation shall be made to such occupants for all property to be taken or damage done by reason of the construction of such railway, telegraph, or telephone line. 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 said occupant belongs, or in case of an allottee, by said 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 district court, or United States commissioner, an oath that they will faithfully and impartially discharge the duties of their appointment, which oath, 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.

Damages.

Referees, appraisal by.

—appointment of.

—oath, etc.

—majority may act.

And upon the failure of either party to make such appointment within thirty days after the appointment made by the President of the United States the vacancy shall be filled by the district judge of any United

—filling vacancies.

States court in the Indian Territory, 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 such occupant belongs. Each of said referees shall receive for his services the sum of four dollars 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 actually traveled. Witnesses shall receive the usual fees allowed by the United States courts in the Indian Territory. 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 findings of the referees shall have the right, within ninety days after making of the award and notice of the same, to appeal by original petition to any district court in said Territory, which court shall have jurisdiction to hear and determine the subject-matter of said petition. If upon hearing said appeal the judgment of the court shall be for a larger sum than the award of the referees, the cost of said appeal shall be adjudged against the railway company. If the judgment of the court shall be for the same sum as the award of the referees, then the cost shall be adjudged against the appellant. If the judgment of the court shall be for a smaller sum than the award of the referees, then the costs shall be adjudged against the party claiming damages. 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 to proceed with the construction of the railway.

Hearings, etc.

Compensation of referees.

Witness fees.

Costs.

Appeal.

Costs of appeal.

Work may begin on depositing double award.

SEC. 4. That said railway company shall not charge the inhabitants of said Territory a greater rate for freight than the rate authorized by the laws of the State of Texas for services or transportation of the same kind: *Provided*, That passenger rates on said railway shall not exceed three cents per mile. Congress hereby reserves the right to regulate the charges for freight and passengers on said railway, and messages on said telegraph and telephones lines, until a State government or governments shall exist in said Territory within the limits of which said railway, or part thereof, shall be located, and then such State government or governments shall be authorized to fix and regulate the cost of transportation of persons and freights, within their respective limits, by said railway; but Congress expressly reserves the right to fix and regulate, at all times, the cost of such transportation by said railway or said company whenever such transportation shall extend from one State to another, or shall extend into more than one State or Territory: *Provided, however*, That the rate of such transportation of passengers, local or interstate, shall not exceed the rate above expressed: *And further provided*, 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.

Freight charges.

Provisos.
Passenger rates.
Regulation.

Interstate, etc., transportation, limit.

Mails.

SEC. 5. That said railway company shall pay to the Secretary of the Interior, for the benefit of the particular nations or tribes through whose lands said line may be located, the sum of fifty dollars, in addition to the 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 Territory, said payments to be made in installments of five hundred dollars, as each ten miles of road is graded: *Provided*, That if the general council of either of the nations or tribes through whose land said railway may be located shall, within four months after the filing of 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 in section three for the determination of the compensation to be paid to the individual occupant of lands, with the right to appeal to the courts upon the same terms, conditions, and

Additional compensation to tribes.

Provisos.
Appeal by general councils.

Ante, p. 341.

requirements as therein provided: *Provided further*, That the amount awarded or adjudged to be paid by the said railway company to said dissenting nation or tribe shall be in lieu of the compensation that said nation or tribe would be entitled to receive under the foregoing provisions. Said company shall also pay, so long as said Territory is owned and occupied by Indians, to the Secretary of the Interior the sum of fifteen dollars per annum for each mile of railway it shall construct in 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, so long as said lands are occupied and possessed by said nations and 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 power as to such part of said railway as may lie within its limits. Said railway company shall have the right to survey and locate its railway immediately after the passage of this Act.

Award to be in lieu of compensation.

Annual rental.

Additional taxes.

Survey, etc.

SEC. 6. That said company shall cause maps showing the route of its located lines in the Territory and through the Territory to be filed in the office of the Secretary of the Interior, and also to be filed in the office of the principal chiefs of each of the nations or tribes through whose lands said railway may be located; and after the filing of said maps no claim for a subsequent settlement and improvement 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's located line is filed as herein provided for, said company shall commence grading said located line within six months 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 the construction of any such section shall be begun.

Maps to be filed.

Proviso.
Grading to begin on filing maps.

SEC. 7. That the officers, servants, and employees of said company necessary to the construction and management of said railway shall be allowed to reside, when so engaged, upon such 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 said intercourse laws.

Employees may reside on right of way.

SEC. 8. That said railway company shall build at least fifty miles of its railway in said Territory within three years after the passage of this Act and complete the remainder thereof within three years thereafter, or the rights herein granted shall be forfeited as to that portion not built; that said railway company shall construct and maintain continually all fences, road and highway crossings, and necessary bridges over its railway wherever said roads do now or may hereafter cross said railway's right of way, or may be by the proper authorities laid out across the same.

Construction.

—completion.

—forfeiture.

Crossings, etc.

SEC. 9. That the said Denison, Bonham and New Orleans Railway Company shall accept this right of way upon the express condition, binding upon itself, its successors and assigns, that it 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 Nation any further grant of land, or its occupancy, than is hereinbefore provided: *Provided*, That any violation of the condition mentioned in this section shall operate as a forfeiture of all the rights and privileges of said railway company under this Act.

Condition of acceptance.

Proviso.
Violation to forfeit.

SEC. 10. That all mortgages executed by such company, conveying any portion of its corporate property, railway, and franchises in said Indian Territory, shall be recorded in the Department of the Interior, and the record thereof shall be notice and evidence of their execution,

Record of mortgages.

and shall convey all the rights, properties, and franchises of such company as therein expressed.

Amendment.
Assignment, etc., of right of way.

SEC. 11. That Congress may at any time amend, add to, or alter this Act; and the right of way herein and hereby granted shall not be assigned or transferred in any form whatever prior to the construction and completion of the railway, except as to mortgages or other liens that may be given or secured thereon to aid in the construction thereof.

Approved, March 23, 1898.

March 23, 1898.

CHAP. 88.—An Act Granting a right of way through the naval station, New London, in the State of Connecticut, to the Norwich and Worcester Railroad Company.

Norwich and Worcester Railroad Company granted right of way, etc., New London, Conn.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby granted to the Norwich and Worcester Railroad Company a right of way for an extension of its railroad, on such route and of such width and on such terms as the Secretary of the Navy may designate, through the naval station at New London, in the State of Connecticut. If said railroad shall not be built across said naval station within three years next after the passage of this Act this grant shall absolutely cease and determine.

Approved, March 23, 1898.

March 23, 1898.

CHAP. 89.—An Act To require certain writs to be directed to and executed by the marshal of the District of Columbia.

District of Columbia.
Writs of execution on police court judgments to be directed, etc., to marshal.
R. S. D. C., sec. 1079, p. 124, amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the police courts of the District of Columbia shall have power to issue executions on all forfeited recognizances, upon motion of the proper prosecuting officer; and hereafter all writs of fieri facias, or other writs of execution on judgments, issued by the police court of the District of Columbia, shall be directed to and executed by the marshal of the District of Columbia; and all laws and parts of laws inconsistent herewith are hereby repealed.

Approved, March 23, 1898.

March 26, 1898.

CHAP. 100.—An Act Granting the right to the Omaha Northern Railway Company to construct a railway across, and establish stations on, the Omaha and Winnebago reservations, in the State of Nebraska, and for other purposes.

Omaha Northern Railway granted right of way across Omaha and Winnebago Indian reservations, Nebr.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby granted to the Omaha Northern Railway Company, a corporation organized and existing under and by virtue of the laws of the State of Nebraska, and its successors and assigns, the right of way for the construction of its proposed railroad through the Omaha and Winnebago Indian reservations in said State. Such right of way shall be fifty feet in width on each side of the center line of said railroad, except where such width shall be insufficient for the construction of said line of railroad, or the materials thereon shall be insufficient or objectionable for use in the construction of said railroad, the said company shall have the right to occupy, or to take from, any lands adjacent to the line of said railroad, any material, stones and earth necessary for the construction, maintenance or operation of said railroad; also grounds adjacent to such right of way, for station buildings, depots, machine shops, side tracks, turn-outs and water stations, not to exceed in amount one hun-

—width.

Materials for construction.

Grounds for buildings.