

SEC. 5. That no claims shall be allowed under the provisions of this Act which shall not be presented within two years after the date of its passage.

Time for presentation of claims.

SEC. 6. That the Secretary of the Navy be, and he is hereby, authorized, whenever in his discretion it may be deemed practicable and expedient, to cause the remains of all or any of those who perished in consequence of said disaster to be removed to the United States cemetery at Arlington: *Provided*, That the relatives of any of such deceased officers and others mentioned in this Act who prefer that the remains of such be taken to their homes within the United States shall have such privilege extended to them, and the expense thereof shall be borne by the United States; and the sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to carry out the provisions of this section.

Removal of remains to Arlington.

Proviso.
Interment elsewhere.

Approved, March 30, 1898.

CHAP. 104.—An Act Authorizing the Nebraska, Kansas and Gulf Railway Company to construct and operate a railway through the Indian Territory, and for other purposes.

March 30, 1898.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Nebraska, Kansas and Gulf Railway Company, a corporation created under and by virtue of the laws of the State of Kansas, be, and the same is hereby, invested and empowered with the right of locating, constructing, owning, equipping, operating, using, and maintaining a railway, telegraph, and telephone line through the Indian and Oklahoma Territories, beginning at a point to be selected by said railway company along the south line of the county of Harper, State of Kansas, and running thence in a south and southeasterly direction, by way of Kingfisher, over the most practicable route, through the Indian Territory and the Territory of Oklahoma, to a point at or near Denison, State of Texas, thence to the city of Galveston, said State, with the right to construct, use, and maintain such tracks, turn-outs, sidings, and extensions as said company may deem it to their interest to construct along and upon the right of way and depot grounds herein provided for.

Nebraska, Kansas and Gulf Railway may build, etc., railway line through Indian and Oklahoma Territories.

Location.

SEC. 2. That said corporation is authorized to take and use for all purposes of a railway and telegraph and telephone line, and for no other purpose, a right of way one hundred feet in width through the said Territories for the said Nebraska, Kansas and Gulf Railway Company, the same to be fifty feet on either side of the track of said railway from the center thereof, and, in addition to the above right of way, to take and use a strip of land one hundred feet in width, with a length of two thousand feet, for stations at such points as the said railway company may deem to their interest to erect, with the right to use such additional grounds, where there are heavy cuts or fills, as may be necessary for the construction and maintenance of the roadbed and track, not exceeding fifty feet in width on each side of the 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 land shall be taken for any one station: *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 railroad, 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, or individual Indians, from which the same shall have been taken.

Right of way.

—width.

Land for stations.

—additional.

Proviso.
Limit.

Lands not to be leased; restricted use, etc.

—reversion.

SEC. 3. That before said railway and telegraph and telephone line shall be constructed through any lands held by individual occupants,

Damages.

Referees.	•	according to the laws, usages, and customs of any of the Indian tribes or nations through which it may be constructed, 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 and telegraph and
—appointment.		telephone line. In case of failure to make amicable settlement with any occupant, such compensation shall be determined by the appraisement of disinterested referees, to be appointed, one (who shall act as chairman) by the President, one by the principal chief of the nation to which said occupant belongs, and one by said railway company, who, before entering upon the duties of their appointment, shall take and subscribe, before a judge or clerk of a United States 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 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 central district of the Indian Territory upon the application of the other party. A majority of said referees shall be competent to act in case of the absence of a member after due notice. The chairman of such board shall appoint the time and place for all hearings: <i>Provided</i> , That the hearings shall be within the county where the property is situated for which compensation is being assessed for the taking thereof or damages thereto, and at a place as convenient as may be for said occupant, unless the said occupant and said railway company agree to have the hearing at another place. Each of said referees shall receive for his services the sum of four dollars per day for each day he is engaged in assessing compensation, with mileage of five cents per mile for each mile necessarily traveled in the discharge of his duties. Said board of referees shall have power to call for and examine witnesses under oath, and said witnesses shall receive the usual fees allowed witnesses by the laws of the Territory or nation to which they belong. Costs, including compensation of the referees, shall be made a part of the award and be paid by the said railway company. In case the referees can not agree, then any two of them are authorized to make the award.
Hearings.		
<i>Proviso.</i>		
Place of hearings, etc.		
Compensation.		
Witnesses.		
—fees.		
Costs.		
Appeal.		
—to district court, Indian Territory.		SEC. 4. That either party being dissatisfied with the findings and award of the referees shall have the right, within sixty days after the filing of the award, as hereinbefore provided, and notice of the same, to appeal by original petition to the United States district court for the central district of the Indian Territory, sitting at the place nearest and most convenient to the land and property which is sought to be condemned, and said court shall then proceed, for determining the damage done to the property, in the same and like manner as other civil actions in the said court. The said court shall have jurisdiction to hear and determine the subject-matter of said petition, and the same shall be heard and determined by said court in accordance with the laws now in force or hereafter enacted for the government of said court; and the measure of damages in condemning property authorized by this Act shall be that prescribed by the laws of the State of Arkansas, in so far as the same are not inconsistent with the laws now in force or hereafter enacted for the government of the United States courts in said Territories in such cases. If the judgment of the court shall be for a larger sum than the award of the referees, the costs of the litigation shall be adjudged against the railway company; and if the judgment of the court shall be for the same as the award of the referees, then the costs 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 shall 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 shall have the right to enter upon the property sought to be condemned, and proceed with the construction of the railroad and telegraph and telephone line. If such appeal is not taken as
Measure of damages.		
—costs.		
Work may begin on depositing double award.		

hereinbefore set forth, the award shall be conclusive and final, and shall have the same force and effect as a judgment of a court of competent jurisdiction.

SEC. 5. That said railway company is authorized, and hereby given the right, to connect or cross with its tracks the tracks and railroad of any other company or person owning or operating a railway in the said Territories. In case of failure to make amicable settlement with any such corporation or person for such crossing, such compensation shall be determined in the same manner as hereinbefore provided for determining the compensation for land and other property taken and damaged.

Crossing the tracks of other roads.

SEC. 6. That said railway company shall not charge the inhabitants of said Territories a greater rate of freight than the rate authorized by the laws of the State of Arkansas 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 telephone lines until a State government or governments shall exist in said Territories within the limits of which said railway, or a 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 of 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 into another, or shall extend into more than one State: *Provided, however*, That the rate of such transportation of passengers, local or interstate, shall not exceed the rate above expressed: *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.

Freight charges.

Provisos.
Passenger rates.
—regulations.

—interstate transportation.

—maximum rates.

Mails.

SEC. 7. 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 Territories, 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 lands said railway may be located shall, within four months after the filing of maps of definite location, as hereinafter set forth, dissent from the allowance hereinbefore provided for, and shall certify the same to the Secretary of the Interior, then all compensation to be paid to said nations or tribes 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 of appeal to the courts upon the same terms, conditions, and requirements as therein provided: *Provided further*, That the amount awarded or adjudged to be paid by said railway company for said dissenting nation shall be in lieu of the compensation that said nation would be entitled to receive under the foregoing provision. Said company shall also pay, so long as said Territories are owned and 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 nation. The money paid to the Secretary of the Interior under the provisions of this Act shall be disbursed by him in accordance with the laws and treaties now in force with said nations or tribes: *Provided*, That Congress shall have the right, so 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 the benefit of said nations or tribes; 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 com-

Additional compensation.

Provisos.
Appeal by general councils of tribes, etc.

—ante, p. 347.

Award to be in lieu of compensation.

Annual rental.

Additional taxes.

Survey, etc.

pany shall have the right to survey and locate its railway immediately after the passage of this Act.

Maps to be filed.

SEC. 8. That said company shall cause maps showing the route of its located lines through said Territories 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 each of the nations or tribes through whose lands said railway may be located. 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 company's located line is filed as herein provided for said company shall commence grading said located line within six months thereafter or such 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.

Proviso.
Grading to begin on
filing maps.

Employees may re-
side on right of way.

SEC. 9. That the officers, servants, and employees of said company necessary to the construction and management of said railroad shall be allowed to reside, while 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.

Construction.

—forfeiture of rights.

Crossings, etc.

SEC. 10. That said railway company shall build at least seventy-five miles of its railway in said nation within three years after the passage of this Act, or the rights herein granted shall be forfeited as to that portion not built; that said railway company shall construct and maintain continually all 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.

Condition of accept-
ance.

SEC. 11. That the said Nebraska, Kansas and Gulf Railway Company shall accept this right of way upon the express condition, binding upon itself, its successors and assigns, that they will neither aid, advise, nor assist any effort looking toward the changing or extinguishing the present tenure of the Indians in their land, and will not attempt to secure from the nations or tribes 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.

Proviso.
—violation to forfeit.

Record of mortgages.

SEC. 12. That all mortgages, deeds of trust, and other conveyances executed by said railway company conveying any portion of its railroad, telegraph, and telephone lines, with its franchises, that may be constructed in said Territories 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 property of said company as therein expressed.

Amendment.

SEC. 13. That Congress may at any time amend, add to, alter, or repeal this Act.

Assignment of right
of way, etc.

SEC. 14. That 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 road, except as to mortgages or other liens that may be given or secured thereon to aid in the construction thereof.

Approved, March 30, 1898.

March 30, 1898.

CHAP. 105.—An Act To authorize the relocation and rebuilding of a pontoon bridge across the Mississippi River at Prairie du Chien, Wisconsin.

Chicago, Milwaukee
and St. Paul Railway
may rebuild, etc., Mis-
sissippi River at Prai-
rie du Chien, Wis., etc.
Vol. 18, p. 62.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the railway pontoon bridge across the Mississippi River and an island therein, between Prairie du Chien, Wisconsin, and North McGregor, Iowa, legalized and established by the Act of Congress approved June sixth, eighteen hundred and