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CHAP. 1605.—An Act To enable the Secretary of War to permit the erection of a lock and dam in aid of navigation in the Tennessee River near Chattanooga, Tennessee, and for other purposes.

April 26, 1904.
[H. R. 15014.]
[Public, No. 165.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, fully authorized and empowered to grant permission to the city of Chattanooga, Tennessee, or to a private corporation or company, or to individuals, as provided in section five of this bill, to build and construct a lock and dam across the Tennessee River at "Scott Point," near Chattanooga, Tennessee, under his direction, supervision, and control, and in accordance with and conformity to the plans and designs made by Major Dan C. Kingman, an engineer of the United States Army, in pursuance of an Act of Congress passed on March third, eighteen hundred and ninety-nine, with such changes and modifications as the Secretary of War may direct: *Provided*, That the said contracting municipality or parties shall purchase and pay for all lands on either side of the river that may be necessary to the successful construction and operation of said lock and dam, including flowage rights and rights of way for ingress and egress from public highways, and deed the same to the United States, and make all excavations, erect all stone, concrete, and timber work, furnish all materials of every character, and pay for all labor employed in the construction of said lock and dam, and give said lock and dam to the United States completed, free of all cost, expense, claims, or charges of any kind whatsoever, except for expenses connected with the preparation of plans and the superintendence, as provided in section five of this Act, and further excepting the cost of the lock gates and ironwork and machinery necessary to operate the lock when completed, which shall be furnished by the United States.

Tennessee River. Chattanooga, Tenn., etc., authorized to build lock and dam.
Post, p. 310.

Post, p. 603.

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Proviso. Conditions.

SEC. 2. That the said municipality, corporation, company, or individuals undertaking the construction of said work shall begin the building of said lock and dam within eighteen months from the passage of this Act, and the same shall be completed within four years from the date of beginning the construction, the right being reserved to the United States to enter on the construction of said lock and dam if deemed advisable at any time before the work is commenced by said contracting parties; or if begun and not carried on in strict accordance with the directions of the Secretary of War, then the United States may assume the further construction and completion of said work at its option, the cost of such further construction and completion to be paid by the said contracting municipality, corporation, company, or individuals.

Time of construction.

United States may construct.

SEC. 3. That the deed to the United States to the land to be purchased and donated to the same, as mentioned in the first section of this Act, shall be executed and delivered within twelve months after the passage of this Act; and, further, that the Secretary of War shall determine from time to time whether the work is being properly done, and may require an increase in force to be employed by the contractor so as to force the work to completion within the limit mentioned in the Act.

Delivery of deed.

SEC. 4. That in consideration of the construction of said lock and dam, free of cost to the United States except as provided in section one of this Act, the United States hereby grants to the municipality, corporation, company, or persons constructing said lock and dam under the provisions of this Act such rights as it possesses to use the water power produced by said dam, and to convert the same into electric power or otherwise utilize it for a period of ninety-nine years: *Provided*, That it or they shall furnish the necessary electric current while its or their power plant is in operation to move the gates and operate the locks and to light the United States buildings and grounds,

Use of water power.

Provisos. Electric current to be supplied free to Government buildings, etc.

Unobstructed navigation.

free of cost to the United States: *And provided further*, That the plans for the necessary works and structures to utilize said water power shall be approved by the Secretary of War, and that nothing shall be done in the use of the water from said dam or otherwise to interfere with or in any way impede or retard the proper and complete navigation of the river at all times, nor in any way to interfere with the use and control of the same by the United States for the purposes of navigation: *And provided further*, That the Secretary of War is hereby authorized to prescribe regulations to govern the use of the said water power and the operations of the plant and force employed in connection therewith; and no claim shall be made against the United States for any failure of water power resulting from any cause whatever.

Regulations.

Contract.
Preference options.

SEC. 5. That it shall be the duty of the Secretary of War in contracting for the erection of the said lock and dam to give the preference, option, or first right to contract to do said work to the city of Chattanooga, Tennessee, but if said city of Chattanooga shall fail within four months from the passage of this Act to formally notify the Secretary of War of its intention to construct said lock and dam and to enter into contract to do so, then to C. E. James and J. C. Guild, residents of Chattanooga, Tennessee, their heirs and assigns. In case of failure on the part of said C. E. James and J. C. Guild, residents of Chattanooga, Tennessee, their heirs and assigns, for a further period of eight months to formally notify the Secretary of War of their intention to proceed with the construction of the lock and dam as herein provided, then it shall be lawful for the Secretary of War to contract with any private corporation, company, firm, or persons for the construction of said lock and dam on the terms and in the manner herein provided:

Provisos.
Bond.

Provided, That the Secretary of War may require the contracting party to execute a bond, with proper sureties, before the commencement of the work in such amount as he may consider necessary, not exceeding one hundred thousand dollars, to insure the commencement, prosecution, and completion of the work herein authorized and compliance with the terms, conditions, and requirements of this Act, and in case of failure to comply with the requirements of said bond the said contracting party shall forfeit to the United States the full amount thereof:

Plans, etc.

Provided further, That the plans, including specifications and drawings for the work, shall be prepared at the expense of the United States, under the direction and subject to the approval of the Secretary of War and the Chief of Engineers, United States Army, by the officer of the Corps of Engineers, United States Army, having under his charge the work of improving the Tennessee River, who shall at the expense of the United States maintain a suitable force of inspectors upon the work to see that the plans and specifications are strictly carried out, and such conditions or safeguards as the Secretary of War and the Chief of Engineers may deem essential to securing proper results shall be made a part of the contract. The expense for plans as well as for the maintenance of the force of inspectors herein referred to shall be paid from the amount appropriated for preliminary examinations, surveys, contingencies, and so forth, made in section two of the river and harbor Act of June thirteenth, nineteen hundred and two.

Inspection.

Expense.

Vol. 32, p. 372.

Extension of time for construction.

SEC. 6. That in the event the city of Chattanooga undertakes the erection of said lock and dam the Secretary of War shall extend the time provided herein for beginning the work on the same for a period not exceeding twelve months from the passage of the enabling act that the general assembly of the State of Tennessee may pass at its next regular session, enabling said municipality to undertake said work, if the same be necessary; and in the same event he shall extend the time for the completion of said lock and dam twelve months.

SEC. 7. That the right is expressly reserved in the United States to revoke by Act of Congress the rights, privileges, and benefits conferred by this Act; but in the event of such revocation the United States shall pay to the municipality, corporation, company, firm, or persons who may erect said lock and dam under the provisions of this Act, as full compensation, the reasonable value, exclusive of the franchise hereby conferred, of all properties erected and lands purchased by them necessary for the enjoyment of the benefits conferred upon them by the provisions of this Act, such value to be determined by mutual agreement between the Secretary of War and the owners of said properties, and in case they can not agree, then by proceedings instituted in the United States circuit court for the condemnation of said property, such proceedings to conform as nearly as may be to the laws of the State of Tennessee in respect of condemning land for the right of way for railroad purposes: *Provided*, That to insure compliance with the terms of the contract or of this Act, or to protect the interests of navigation, the Secretary of War shall have power at any time, before or after the completion of the work, to order a suspension of all privileges granted by this Act: *And provided further*, That compliance with such order of suspension may be enforced by the injunction of the circuit court of the United States exercising jurisdiction in the district in which the work is situated, and proper proceedings to this end shall be instituted by the Attorney-General upon request of the Secretary of War.

Right of revocation reserved.

Indemnification.

Provisos.
Suspension of privileges.

Enforcement by injunction.

SEC. 8. That nothing in this Act shall be construed as in any way interfering with the exclusive jurisdiction over and control by the United States of the Tennessee River and the lock and dam therein to be erected for the purpose of navigation, nor as repealing or modifying any of the provisions of law now existing in reference to the protection of navigation.

Existing laws not affected.

Approved, April 26, 1904.

CHAP. 1606.—An Act To amend an Act entitled "An Act to amend an Act entitled 'An Act granting the right to the Omaha Northern Railway Company to construct a railway across and establish stations on the Omaha and Winnebago Reservation, in the State of Nebraska, and for other purposes,' by extending the time for the construction of said railway," by a further extension of time for the construction of said railway.

April 26, 1904.
[S. 3611.]
[Public, No. 166.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time prescribed by an Act of Congress approved the twenty-sixth day of March, eighteen hundred and ninety-eight, entitled "An Act granting the right to the Omaha Northern Railway Company to construct a railway across and establish stations on the Omaha and Winnebago Reservation, in the State of Nebraska, and for other purposes," as amended by an Act of Congress approved on the thirtieth day of April, nineteen hundred and two, entitled "An Act to amend an Act entitled 'An Act granting the right to the Omaha Northern Railway Company to construct a railway across, and establish stations on, the Omaha and Winnebago Reservation, in the State of Nebraska, and for other purposes,' by extending the time for the construction of said railway," be, and the same is hereby, extended for a period of time, to wit, three years from the twenty-sixth day of March, nineteen hundred and four.

Omaha and Winnebago Reservation, Nebr.
Time of construction, across, extended to Omaha Northern Railway Company.

Vol. 32, p. 183, amended.

SEC. 2. That all other provisions of said Act are hereby continued in full force and effect.

Approved, April 26, 1904.