officers so furloughed shall receive one half only of the pay to which they would have been entitled if on leave of absence.

Rank of assistant surgeons under certain circumstances.

If any assistant surgeon shall have been absent from the United States, on duty, at the time others of his date were examined, he shall if not rejected at a subsequent examination be entitled to the same rank with them; and if from any cause, his relative rank cannot be assigned to him, he will retain his original position on the register.

Rations.

One ration per day, only, shall be allowed to all officers when attached to vessels for sea service.

No allowance to be made for drawing bills, &c.

Sec. 2. *And be it further enacted*, That no allowance shall hereafter be made to any officer, in the naval service of the United States, for drawing bills, for receiving or disbursing money, or transacting any business for the government of the United States, nor shall he be allowed servants, or pay for servants, or clothing or rations for them or pay for the same, nor shall any allowance be made to him for rent of quarters or to pay rent for furniture, or for lights or fuel, or transporting baggage. It is hereby expressly declared that the yearly allowance provided in this act is all the pay, compensation, and allowance that shall be received under any circumstances whatever, by any such officer or person, except for travelling expenses when under orders, for which ten cents per mile shall be allowed.

Approved, March 3, 1835.

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Statute II.

March 3, 1835.

1831, ch. 35.

Chap. XXVIII.—*An Act supplementary to an act entitled "An act to authorize the extension, construction, and use of a lateral branch of the Baltimore and Ohio railroad into and within the District of Columbia," passed December, eighteen hundred and twenty-nine.* (a)

Construction of road within the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the Baltimore and Ohio Railroad Company be, and they are hereby, authorized to locate and construct their said road within the city of Washington, through squares nine hundred and nine, eight hundred and eighty-eight, eight hundred and fifty-eight, eight hundred and thirty-two, nine hundred and eight, eight hundred and eighty-seven, eight hundred and fifty-six, eight hundred and fifty-seven, eight hundred and thirty-one, eight hundred and seven, seven hundred and seventy-six, seven hundred and fifty-one, seven hundred and eighteen, in the same manner, and with the same rights and privileges which are granted to them by the act to which this is a supplement, for the construction of their said road within the District of Columbia, beyond the limits of the city of Washington, any thing in the said act contained to the contrary notwithstanding, and the assent of Congress is hereby given to the construction of the said railroad through or over any of the said lots or parts of lots which are owned by the United States.

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(a) The following decision of the Supreme Court is introduced, as it is one of the occasions in which the Baltimore and Ohio railroad has been the subject of the legislation of Congress.

The state of Maryland, in 1836, passed a law directing a subscription of three millions of dollars to be made to the capital stock of the Baltimore and Ohio Railroad Company, with the following proviso, "that if the said company shall not locate the said road in the manner provided in this act, then and in that case, they shall forfeit one million of dollars to the state of Maryland, for the use of Washington county." In March, 1840, the state passed another act, repealing so much of the prior act as made it the duty of the company to construct the road by the route therein prescribed, remitting and releasing the penalty, and directing the discontinuance of any suit brought to recover the same. Held, that the proviso was a measure of state policy, which it had a right to change, if that policy was afterwards discovered to be erroneous; and neither the commissioners, nor the county, nor any one of its citizens, acquired any separate or private interest under it, which could be maintained in a court of justice. State of Maryland *v.* The Baltimore and Ohio Railroad Company, 3 Howard, 534.

It was a penalty, intended to be imposed on the company for disobeying the law; and the assent of the company to it, as a supplemental charter, was not sufficient to deprive it of the character of a penalty. *Ibid.*

A clause of forfeiture in a law is to be construed differently from a similar clause in an engagement between individuals. A legislature can impose it as a punishment; but individuals can only make it a matter of contract. Being a penalty, imposed by law, the legislature had a right to remit it. *Ibid.*



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Extension of the road.

Sec. 2. *And be it further enacted*, That the main stem of the said railroad, after passing through the squares or lots above-named, or any of them, shall not be constructed west or south of a point at the intersection of H street north, with Delaware Avenue, until the route from that point to the final termination of the main stem of said road shall be surveyed and approved by the mayor, board of aldermen, and board of common council of the city of Washington; and when the said route shall be so surveyed and approved, the said company shall be, and they are hereby, authorized to construct the said railroad on the said route, under such restrictions and conditions as may be agreed upon by the said railroad company and the mayor, board of aldermen, and board of common council of the said city of Washington.

Road may pass through unimproved lots or squares.

Sec. 3. *And be it further enacted*, That if the said route from the intersection of H street and Delaware Avenue should pass through any unimproved lots or squares, except public reservations, the said railroad company shall be, and they are hereby, authorized to construct their road through or over the same, upon the same terms, and with the same privileges, as are prescribed for passing through the squares enumerated in the first section of this act.

Branches may be constructed.

Sec. 4. *And be it further enacted*, That the said company are further authorized to construct branches of their road from the main stem thereof, within the said city, to such place or places, and in such number of tracts, as the corporate authority of the city of Washington shall assent to or permit: *Provided*, That the said branches shall not pass through any of the public reservations.

Proviso.

Company may obtain, hold, and improve lots.

Sec. 5. *And be it further enacted*, That it shall be lawful for the said company, and they are hereby empowered to obtain, by gift or purchase, any lot or lots adjacent to any street or avenue along which the said company shall construct their said road or branches, and to hold and improve the same in such manner as may be necessary for the purposes of said company, or for the beneficial use of said road, or the branches thereof; and the said company shall be authorized to extend and construct tracks of railway into any lot or lots so held by them, in connection with the tracks in any adjacent street or avenue: *Provided*, That the free use of any street or avenue shall not be impaired thereby: *And provided, also*, That the said company shall not use or employ any steam engine in drawing or propelling the cars, wagons, or other vehicles, on any part of the said road within the city of Washington, except in such parts as may be agreed to by the corporate authorities of said city.

Proviso.

Sec. 6. *And be it further enacted*, That such provisions of the act to which this is a supplement, as are inconsistent herewith, be, and the same are hereby, repealed.

Approved, March 3, 1835.

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Statute II.

March 3, 1835.

[Obsolete.]

Chap. XXIX.—*An Act making appropriations for building light-boats, beacons, and monuments, and placing buoys, for the year one thousand eight hundred and thirty-five, and for other purposes.*

Appropriations for light-boats, &c.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the following appropriations be, and the same are hereby made, and directed to be paid out of any money in the treasury not otherwise appropriated, to enable the Secretary of the Treasury to provide, by contract, for building light-boats, beacons, and monuments, and placing buoys, to wit:

Maine.

*State of Maine.*—For placing buoys in St. George's river, to wit: on Jenk's, Colmel's, Gay's cove, and Fullerton's ledges and Point of Rocks, seven hundred dollars.

For placing buoys in Passamaquoddy bay, and for substituting for the