

SEC. 2. That section three shall be amended by striking out the words "fifty-two" and inserting the word "fifty," so it shall read as follows:

Spans. SEC. 3. That the said bridge shall be made with unbroken and continuous spans: the spans thereof shall not be less than four hundred feet in length in the clear, and the main span shall be over the main channel of the river. The lowest part of the superstructure of said bridge shall be at least fifty feet above extreme high-water mark, as understood at the point of location," and this bridge shall be at right angles to, and its piers parallel with, the current of the river: *Provided*, That nothing in this act shall be so construed as to repeal or modify any of the provisions of law now existing in reference to the protection of the navigation of rivers, or to exempt this bridge from the operation of the same.

Proviso.
Existing laws.

Approved, June 28, 1890.

June 30, 1890.

CHAP. 638.—An act to grant the right of way to the Pittsburgh, Columbus and Fort Smith Railway Company through the Indian Territory, and for other purposes.

Pittsburgh, Columbus and Fort Smith Railway Company may build railroad, telegraph, and telephone line through Indian Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Pittsburgh, Columbus and Fort Smith 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, equipping, operating, using and maintaining a railway, telegraph, and telephone line through the Indian Territory, beginning at a point at or near the south-west corner of lot number four of section number fourteen, township number thirty-five, range twenty-three east, on the south line of the State of Kansas, in the county of Cherokee, and running thence by the most practicable route through the Indian Territory, by way of a point at or near Afton and Tahlequah, to a point on the Arkansas River near Fort Smith, Arkansas, 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.

Location.

Sidings, etc.

Right of way.

Width.

Stations, etc.

Provisos.

Limitation.

Lands not to be sold, etc.

SEC. 2. That said corporation is authorized to take and use, for all purposes of a railway and for no other purposes, a right of way one hundred feet in width through said Indian Territory, and to take and use a strip of land two hundred and fifty 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 grounds where there are heavy cuts or fills as may be necessary for the construction and maintenance of the road-bed, 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 land shall be taken for any one station: *And provided further*, That no parts 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 purpose only as shall be necessary for the construction and convenient operation of said railway, telegraph, and telephone line, and when any portion thereof shall cease to be used, such portion shall revert to said nation or tribe of Indians from which the same shall have been taken.

Damages.

SEC. 3. That before said railway 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, 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. 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, and one by said railway company, who, before entering upon the duties of their appointments, 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 appointments, 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 the 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 district judge of the court for the western district of Arkansas, or the district court of Kansas, 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 occupants belong. 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 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 notice of the same, to appeal by the original petition to the United States court at Muskogee, Indian Territory, which court shall have jurisdiction to hear and determine the subject matter of said petition according to the laws of the State of Kansas provided for determining the damage when property is taken for railroad purposes. 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 construction of the railroad.

SEC. 4. That said railway Company shall not charge the inhabitants of said Territory a greater rate of freight than the rates authorized by the laws of the State of Kansas 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 shall be authorized to fix and regulate the cost of transportation of persons and freight within its 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 into another, or shall extend into more than one State: *Provided, however*, That the rates of such transportation of passengers, local or interstate, shall not exceed the rates 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.

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 compensation provided for in this act, for property taken and damages done to individual occupants by the construction of the

Appraisement.
Referees.

Oath.

Substitution on failure to appoint.

Hearings.

Compensation.

Witnesses' fees.
Costs.

Disagreement.
Award.

Appeal.

Work may proceed on depositing double award.

Freight charges.

Provisos.
Passenger rates, etc.
Regulation.

Maximum.

Mails.

Additional compensation to tribes.

Proviso.
Appeal by general
councils.

Award to be in lieu
of compensation.

Annual rental.

Apportionment.

Additional taxes.

Survey and location.

Maps to be filed.

Proviso.
Grading to begin
within one year after
filing.

Location to be first
approved.

Employees, etc.,
may reside on right of
way.

Litigation.
Jurisdiction.
Note, p. 184.

railway for each mile of railway that it may construct in said Territory, said payment to be made in installments of one thousand two hundred and fifty dollars as each working section of twenty-five miles of road is graded: *Provided*, That if the general council of either of the nations or tribes through whose land said railroad may be located shall, within four months after the filing of the maps of definite location, as set forth in section six of this act, dissent from the allowances 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 occupants of lands, with the right of appeal to the courts upon the same conditions, terms, and requirements as therein provided: *Provided further*, That the amount awarded or adjudged to be paid by said railway company for 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 provision. 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 nation or tribe, 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 be within its limits. Said railway company shall have the right to survey and locate its railway immediately after the passage of this act.

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 each 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 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 one year 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.

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 said intercourse laws.

SEC. 8. That the United States circuit court for the western district of Arkansas shall except as provided in section three of this act have, without reference to the amount in controversy, concurrent jurisdiction over all controversies arising between said Pittsburgh, Columbus and Fort Smith Railway Company and the nations or tribes through whose territory said railway company shall construct their lines; said courts 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 without distinction as to citizenship of the parties, so far as may be necessary to carry out the provisions of this act.

SEC. 9. That the said railway shall build at least one hundred miles of its railway in said Territory within three years after the passage of this act and complete main line of the same within one year 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, roads, and highways, crossings, and necessary bridges over said railway whenever 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.

SEC. 10. That the said Pittsburgh, Columbus and Fort Smith 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 in any effort looking towards 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 land or its occupancy than is hereinbefore provided: *Provided*, That any violation of the conditions 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.

Forfeiture.

SEC. 11. That all mortgages executed by said railway company conveying any portion of its railway, with the franchises, that may be constructed in said Indian 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 property of said company as therein expressed.

Record of mortgages.

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

Amendment, etc.

Rights not assignable except to aid construction.

Approved, June 30, 1890.

CHAP. 639.—An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes.

June 30, 1890.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of pensions for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes, namely:

Pensions appropriations.

For Army and Navy pensions as follows: For invalids, widows, minor children, and dependent relatives; survivors and widows of the war of eighteen hundred and twelve and with Mexico, ninety-seven million ninety thousand seven hundred and sixty-one dollars: *Provided*, That the appropriation aforesaid for Navy pensions shall be paid from the income of the Navy pension fund, so far as the same may be sufficient for that purpose: *And provided further*, That the amount expended under each of the above items shall be accounted for separately: *And provided further*, That hereafter a check or checks drawn by a pension agent in payment of pension due, and mailed by him to the address of the pensioner, shall constitute payment within the meaning of section forty-seven hundred and sixty-five, Revised Statutes, in the event of the death of a pensioner subsequent to the mailing and before the receipt of said check;

Invalid, etc., pensions.

Provisos.
Navy pensions.

Accounts.

Mailing check to be payment in certain cases.

R. S., sec. 4765, p. 926.