

Secretary of War to
adjust disputes.

Railway, wagon, and
footbridge.

Existing laws.
Vol. 17, p. 398.

Vol. 22, p. 414.
Proviso.

Commencement and
completion.

Amendment.

all matters at issue between them shall be decided by the Secretary of War, upon a hearing of the allegations and proofs of the parties.

SEC. 5. That said bridge shall be constructed to provide for the passage of railway trains and, at the option of the corporation by which it may be built, may be used for the passage of wagons and vehicles of all kinds, for the transit of animals, and for foot-passengers, for such reasonable rates of toll as may be approved, from time to time, by the Secretary of War.

SEC. 6. That the said bridge shall be built under the provisions of the act of seventeenth December, eighteen hundred and seventy-two, and authorizing the construction of bridges across the Ohio River and the amendatory act of fourteenth February, eighteen hundred and seventy-three, except in so far as the provisions of said acts may be modified or changed by the provisions of this act: *Provided*, That if the construction of said bridge shall not be commenced within one year, and completed within four years after the passage of this act, all privileges conferred hereby, and this act, shall become null and void.

SEC. 7. That Congress shall have power at any time to alter, amend or repeal this act.

Approved, May 14, 1888.

May 14, 1888.

CHAP. 247.—An act authorizing the Secretary of the Treasury to award a gold medal of the first class to Captain Thomas Sampson, of New York City, for rescuing five boys from drowning.

Thomas Sampson.
Awarded a gold life-
saving medal.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to award to Captain Thomas Sampson, of New York City, a gold medal of the first class, for bravery in rescuing, at the peril of his own life, five boys from drowning—three in June, eighteen hundred and fifty-four, and two in June, eighteen hundred and fifty-six.

Approved, May 14, 1888.

May 14, 1888.

CHAP. 248.—An act to grant a right of way to the Kansas City and Pacific Railroad Company through the Indian Territory, and for other purposes.

Kansas City and Pa-
cific Railroad Com-
pany may build railway,
telegraph, and tele-
phone line through In-
dian Territory.
Location.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Kansas City and Pacific Railroad 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 Territory, beginning at any point to be selected by said railroad company on the south line of the State of Kansas, in the county of Labette or Montgomery, at or near Coffeyville, and running thence by the most practicable route through the Indian Territory to a point on the southern boundary of the said Indian Territory, and within three miles of where the line of the Denison and Wichita Valley Railroad crosses Red River, with a branch commencing at Ockmulgee, and running thence westerly or southwesterly, to the south line of said Indian Territory, at or near the mouth of the north fork of Red River, with the right to construct, use, and maintain such tracks, turnouts, branches, 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.

Dimension of right
of way.

SEC. 2. That said corporation is authorized to take and use for all purposes of a railway, 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 two hundred 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 such additional ground 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: *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 from which the same shall have been taken.

Provisos.
Stations.

To be used for rail-
road, etc., purposes
only.

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 appraisal 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 railroad 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, and 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. 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 at the district court for the northern district of Texas, or at 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 such occupant belongs. 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 nations. Costs, including compensation of the referees, shall be made a part of the award, and be paid by such railroad company.

Damages.

Referees.

Substitution on fail
ure to appoint.

Compensation.

Costs.

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 the making of the award and notice of the same, to appeal by original petition to the district court of Western Arkansas, or the district court for the northern district of Texas, or the district court of Kansas, which court shall have jurisdiction to hear and determine the subject-matter of said petition, according to the laws of the State in which the same shall be heard provided for determining the damage when property is taken for railroad purposes. If upon the hearing of said appeal the judgment of the court shall be for a larger sum than the award of the referees, the costs of said appeal shall be adjudged against the railroad company. If the judgment of the court shall be for the same sum as the award of the referees, then the costs

Appeal.

Costs on appeal.

Work may begin on depositing double award.

shall be adjudged against the appellant. 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 the construction of the railroad.

Freight charges.

SEC. 4. That said railroad company shall not charge the inhabitants of said Territory a greater rate of 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 telephone lines, until a State government or governments shall exist in said Territory 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 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 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.

Provisos.
Passenger rates.

Right to regulate reserved.

Maximum rate.

Mails.

Additional compensation to tribes.

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 railway, for each mile of railway that it may construct in said Territory, said payments 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 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 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 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 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 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 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 railroad 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

Provisos.
Appeal of general council as to allowance.

Award to be in lieu of compensation.

Rental.

Right to tax reserved.

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 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 construction of any such section shall be begun.

Maps to be filed with Secretary of Interior and chiefs.

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 road 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.

Employees may reside on right of way.

SEC. 8. That the United States circuit and district courts for the northern district of Texas, the western district of Arkansas, and the district of Kansas, and such other courts as may be authorized by Congress, shall have, without reference to the amount in controversy, concurrent jurisdiction over all controversies arising between said Kansas City and Pacific Railroad Company and the nations and tribes through whose territory said railway shall be constructed. Said courts shall have like jurisdiction, without reference to the amount in controversy, over all controversies arising between the inhabitants of said nations or tribes 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.

Litigation.

SEC. 9. That said railway company shall build at least one hundred miles of its railway in said Territory within two years and the remainder thereof and branches within four years after the passage of this act, or the rights herein granted shall be forfeited as to that portion not built; that said railroad company shall construct and maintain continually all fences, road, 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.

Commencement and completion.

Crossings, etc.

SEC. 10. That the said Kansas City and Pacific Railroad 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 land, 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 condition mentioned in this section shall operate as forfeiture of all the rights and privileges of said railway company under this act.

Condition of acceptance.

Proviso.

Violation to forfeit.

SEC. 11. That all mortgages executed by said railway company conveying any portion of its railroad, with its 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.

Amendment, etc.

SEC. 12. That Congress may at any time amend, add to, alter, or repeal 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 road, except as to mortgages or other liens that may be given or secured thereon to aid in the construction thereof.

Approved, May 14, 1888.

May 14, 1888.

CHAP. 249.—An act to authorize the Tennessee Midland Railway Company to construct a bridge across the Tennessee River, at any point on the line between the counties of Decatur and Perry, in the State of Tennessee, it may deem acceptable.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Tennessee Midland Railway Company, a corporation created and organized under the laws of the State of Tennessee, be, and is hereby, authorized to construct and maintain, for the purpose of running railway trains, a bridge and approaches thereto, over the the Tennessee River, at any point on the line between the counties of Decatur and Perry, in the State of Tennessee, which said company may deem most acceptable.

Tennessee Midland
Railway Company
may bridge Tennessee
River, Tenn.

To be a lawful structure and post-route.

SEC. 2. That any bridge built under this act and subject to its limitations shall be a lawful structure, and shall be recognized and known as a post-route, upon which no higher charge shall be made for the transmissions over the same of the mails, troops, and the munitions of war of the United States passing over said bridge than the rate per mile paid for the transportation over the railroad leading to said bridge; and it shall enjoy the rights and privileges of other post-roads in the United States. And equal privileges in the use of said bridge shall be granted to all telegraph companies; and the United States shall have the right of way across said bridge and its approaches for postal telegraph purposes.

Privileges to telegraph companies.

Draw.

SEC. 3. That the bridge built under this act shall be constructed as a pivot draw-bridge, with a draw over the main channel of the river at an accessible and the best navigable point and with spans of not less than one hundred and sixty feet in length in the clear on each side of the central or pivot pier of the draw, and said span shall be not less than ten feet above extreme high-water mark, measuring to the lowest part of the superstructure of the bridge, and the piers of said bridge shall be parallel to and the bridge itself at right angles to the current of the river at the average stage of water where said bridge may be erected: *Provided, also,* That in said bridge there shall be one span of not less than three hundred feet in length in the clear.

Proviso.

Span.

Opening draw.

SEC. 4. That said draw shall be opened promptly by said company upon reasonable signal for the passage of boats or vessels; and said corporation shall maintain, at its own expense, from sunset to sunrise, such lights or other signals as the Light-House Board shall prescribe, and no bridge shall be erected or maintained under the authority of this act which shall at any time substantially or materially obstruct the free navigation of the river, and if any bridge erected under such authority shall, in the opinion of the Secretary of War, obstruct such navigation, he is hereby authorized to cause such change or alteration of said bridge to be made as will effectually obviate such obstruction; and all such alterations shall be made and all such obstructions be removed at the expense of the owner or owners of said bridge. And in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said river, caused or alleged to be caused by said bridge, the case shall be brought in the district court of the United States of the State of Tennessee in whose jurisdiction any portion of said obstruction or bridge may be located.

Lights.

Not to obstruct navigation.