

CHAP. 129.—An act granting to the Umatilla Irrigation Company a right of way through the Umatilla Indian Reservation in the State of Oregon.

February 10, 1891.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of way is hereby granted, as hereinafter set forth, to the Umatilla Irrigation Company, a corporation organized and existing under the laws of the State of Oregon, for the construction and maintenance of a water ditch or canal for irrigation purposes from any convenient point on the Umatilla Indian Reservation, in Umatilla County, State of Oregon, near the headwaters of the Umatilla River, across said reservation to Wild Horse Creek, its northwestern boundary, at any convenient point, with the right to divert the waters of said Umatilla River and tributary streams from their beds, and for such purpose to construct and maintain reservoirs, dams, flumes, ditches, and such other structures and devices as may be necessary for storing, conveying, and distributing water at such points as such company may desire to use the same. The rights herein granted are upon express condition that, during their continuance, the grantees or their assigns shall furnish all occupants of lands of said reservation, so situated as to be capable of irrigation from any ditches constructed by them hereunder, with water sufficient for purposes of agricultural and domestic uses and irrigation under such rules and regulations and on such terms as the Secretary of the Interior shall prescribe; and shall not divert or diminish the volume of water in said streams or exhaust either of them, so far as to impair vested rights, or to hinder, or prevent the occupants of lands on said reservation the full enjoyment of said streams either for power, irrigation, or domestic purposes.

SEC. 2. That the right of way hereby granted to said company shall be fifty feet in width on each side of the center line of said ditch or canal, together with ground adjacent to such right of way for dams, reservoirs, and distributing ditches, not exceeding ten acres in the aggregate for every ten miles of said ditch or canal; and said company shall also have the right to enter upon lands adjacent to the line of said ditch or canal and to take therefrom material, stone, earth, and timber necessary for the construction of said ditch or canal.

SEC. 3. That whereas E. J. Summerville, J. P. Bushee, and J. B. Eddy have been appointed by the Secretary of the Interior as Commissioners to appraise the lands of said reservation for the purpose of carrying into effect the provisions of the act of Congress entitled "An act providing for allotment of lands in severalty to the Indians residing upon the Umatilla Reservation, in the State of Oregon, and granting patents therefor, and for other purposes," approved March third, eighteen hundred and eighty-five, and are now acting as such Commissioners, they are hereby appointed Commissioners to fix the amount of compensation to be paid the Indians for such right of way and other grounds, estimating the same by the smallest legal subdivisions in accordance with the public surveys; and also to ascertain and fix the amount of compensation to be made individual members of the confederated tribes of Umatilla, Walla Walla, and Cayuse Indians for damages sustained by them by reason of said ditch or canal crossing lands now inclosed or improved by them; and said compensation and damages shall be ascertained and adjusted, and all surveys made pursuant to such regulations as the Secretary of the Interior shall prescribe, and shall be subject to his approval. In case of the inability or refusal of said Commissioners, or any of them, to act, the Secretary of the Interior shall by appointment supply the vacancy or vacancies so caused. The compensation of said Commissioners shall be the same as that now received for the services rendered by them under their aforesaid appointment, and shall be paid by said company: *Provided*, That the consent of the Indians to said diversion of water, compensation, and right of way shall be obtained by

Umatilla Irrigation Company granted canal right of way through Umatilla Indian Reservation, Oreg.

For irrigation purposes.
Location.

Diversion of waters from their beds.

Construction, etc., of reservoirs, etc.

Conditions of grant.

Water for lands of reservation.

Vested rights of occupants, etc.

Width.

Adjacent ground for reservoirs, etc.

Limit.

Material, etc.

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Appointment of commissioners to fix compensation to the Indians, etc.

Damages to individuals of confederated tribes.

Ascertainment, etc., of compensation and damages.

Supplying vacancies.

Compensation of commissioners.

Proviso.

Prior consent of Indians to be obtained.

said irrigation company in such manner as the Secretary of the Interior shall prescribe before any right under this act shall accrue to said company.

No mortgage, etc., until completion, save for construction purposes.

Proviso.

Completion.

Immediate entry for surveys.

Limitation.

Plats to be filed with Secretary of Interior.

Pre-payment for lands and commissioners' services.

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Secretary of the Interior to distribute moneys received for right of way, etc., to certain Indian allottees.

Payments for damages to certain other Indian land-holders.

Vouchers to be filed.

Forfeiture.

Amendment.

SEC. 4. That said company shall not assign, or transfer, or mortgage its right of way for any purpose whatever until said canal shall be completed; except, however, that the company may mortgage said franchise for the purpose of raising money to construct and build said canal: *And provided further*, That the right herein granted shall be lost and forfeited by said company unless the canal is constructed across said reservation within three years from the passage of this act.

SEC. 5. That the right of immediate entry upon the lands of said reservation for the purpose of making surveys of the line of the ditch or canal of said company is hereby granted, but no right of any kind in or to any part of the right of way or other grounds above mentioned shall vest in said company until plats thereof, made upon actual survey for the definite location of said ditch or canal, including the points for dams, reservoirs, and distributing ditches, with the amount of ground requisite for such purposes, shall be filed with the Secretary of the Interior, and until the compensation for said lands and for the services of said Commissioners has been fixed and paid.

SEC. 6. That whereas under the provisions of the act of Congress above mentioned the lands of said reservation are soon to be allotted to the Indians belonging thereto in severalty, the Secretary of the Interior shall hold the moneys paid to him by said company for right of way and other grounds, as above provided, until such allotment in severalty shall have been perfected, and thereupon he shall pay over to the Indians to whom shall be allotted the lands traversed by said ditch or canal the amount of compensation assessed by the Commissioners as properly appertaining to the tract of land to each Indian allotted. Payments for improved or inclosed lands held by Indians prior to such allotment and damaged by the construction of said ditch or canal shall be made to the several Indians affected thereby immediately upon the appraisalment of said Commissioners being made, and vouchers for such payments, attested by the agent in charge of the reservation, shall be filed by said company with the Secretary of the Interior at the time of filing its plat of location of said ditch or canal.

SEC. 7. That any failure in the performance of the conditions prescribed in this act shall be taken and deemed to work a forfeiture of the rights herein granted, without any act of Congress or judgment of court declaring the same.

SEC. 8. That the right to alter, amend, or repeal this act is hereby reserved.

Approved, February 10, 1891.

February 10, 1891.

CHAP. 130.—An act to amend sections forty-seven hundred and eighty-three and fifty-four hundred and eighty-six of the Revised Statutes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Sections forty-seven hundred and eighty-three and fifty-four hundred and eighty-six of the Revised Statutes be, and the same are hereby, so amended as to read as follows:

“Every guardian, conservator, curator, committee, tutor, or other person having charge and custody in a fiduciary capacity of the pension of his ward, who shall embezzle the same in violation of his

Pensions. Embezzlement, etc., by guardian, etc. R. S., secs. 4783, p. 929, and 5486, p. 1064, amended.

Description of fiduciary agent.