

herein specified, the said corporation so constructing the same shall, previous to commencing the work of construction of said bridge, submit the plans and location thereof with a detailed map of the river at the proposed site of the bridge and near thereto, exhibiting the depths and currents of such river, to the Secretary of War for his approval, together with such other information concerning said bridge and said river as may be deemed requisite by him, and until he approves the plans and location of the said bridge it shall not be built. The Secretary of War upon receiving such map and plans shall proceed with due diligence to consider the same, and being satisfied that the same conform to the prescribed conditions of this Act, shall notify said company that he approves the same, and shall notify said company of any changes or modifications necessary in order that the same be made to conform to said conditions, and the said company, upon receiving such notification, may proceed to erect the said bridge in conformity with the approved plans and location and the conditions herein prescribed, and no change shall be made therein without the consent of the Secretary of War and his approval thereof: *Provided, however,* That the Secretary of War shall give or cause to be given to said corporation reasonable notice of the time and place of the consideration of said plans and maps by him or by any officer of his Department, and the said corporation shall have the right to appear with its engineer and attorney, or either, before such officer and be heard on behalf of said plans before him, as well as before any officer authorized by him to report upon the same.

Changes.

Proviso.
Notification of examining plans.

Litigation.

SEC. 6. That in case of any litigation arising by reason of any obstruction of the free navigation of said river by reason of said bridge, the cause may be tried before the circuit court of the United States for the States of Minnesota or Wisconsin. And the said corporation, its successors or assigns in interest, for the purpose of acquiring necessary rights of way for the construction of necessary abutments and approaches for said bridge, and the lines and tracks of railroad thereon, shall have the power to acquire the same by purchase, gift, or conveyance, or by the exercise of the power of eminent domain, and for such latter purposes may institute proceedings in the proper court having jurisdiction in each or either of the States wherein the premises sought to be condemned are located, or in the circuit court of the United States in the proper district or division of either of said States; said proceedings to be conducted in all respects in conformity with the provisions of law in such State or States for the acquisition by condemnation of private property and appropriating the same to public use by corporations authorized to exercise the power of eminent domain.

Condemnation proceedings.

Commencement and completion.

SEC. 7. That if such bridge hereby authorized to be constructed shall not be commenced within one year and finished in three years from the date of the approval of this Act the rights and privileges hereby granted shall determine and cease.

Amendment, etc.

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

Approved, March 2, 1895.

CHAP. 166.—An Act To amend an Act entitled “An Act to incorporate the Maryland and Washington Railway Company,” approved August first, eighteen hundred and ninety-two, and for other purposes.

March 2, 1895.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section five of the Act entitled “An Act to incorporate the Maryland and Washington Railway Company,” approved August first, eighteen hundred and ninety-two, be, and it is hereby, amended so as to read as follows:

Maryland and Washington Railway Company.
Vol. 27, p. 341, amended.

“SEC. 5. That the said railway shall be constructed of good materials and in a substantial and durable manner, with the rails of the most approved pattern, all to be approved by the Commissioners of

Construction.
Vol. 27, p. 342.

said District, laid upon an even surface with the pavement of the street, and the gauge to correspond with that of other railways in the District of Columbia. Wherever more than one of the tracks of said railway company shall be constructed in any of the public highways in the District of Columbia, the width of the space between the two tracks shall not be less than five feet. The plans of construction, rails, electrical and mechanical appliances, conduits and stations, and location of stations and tracks shall be subject to the approval of the Commissioners of the District of Columbia."

That section eight of said Act be, and it is hereby, amended so as to read as follows:

"SEC. 8. That it shall be lawful for said corporation, its successors or assigns, to make all needful and convenient trenches and excavations in any of said streets or places where said corporation may have the right to construct and operate its road, and place in such trenches and excavations all needful and convenient devices and machinery for operating said railway in the manner and by the means aforesaid, subject to the approval of the said Commissioners. But whenever such trenches or excavations shall interfere with any sewer, gas, or water pipes, or any subways or conduits or any public work of the kind which has been ordered by the Commissioners, then the expense necessary to change such underground constructions shall be borne by the said railway company. And the said company shall be liable for any damage to pipes or other underground constructions, caused by the passage of its cars over the same or by electric currents used in the propulsion of its cars.

That section thirteen of said Act be, and it is hereby, amended to read as follows:

"SEC. 13. That within thirty days after the passage of this Act the corporators named in the first section, their associates, successors, or assigns, or a majority of them, or if any refuse or neglect to act then a majority of the remainder, shall meet at some convenient and accessible place, in the District of Columbia, for the organization of said company, and for the receiving subscriptions to the capital stock of the company: *Provided*, That every subscriber shall pay, at the time of subscribing, ten per centum of the amount by him subscribed to the treasurer appointed by the corporators, or his subscription shall be null and void: *Provided*, That the full face value of said stock shall be wholly paid for in cash within twelve months after the subscription therefor is made, and after twelve months no stock shall be voted unless the same has been wholly paid for: *And provided*, That the said stock shall be wholly paid for before any bonds shall be issued: *Provided further*, That nothing shall be received in payment of the ten per centum at the time of subscribing except lawful money, or certified checks from any established bank. And when the books of subscription to the capital stock of said company shall be closed the corporators named in the first section, their associates, successors, or assigns, or a majority of them, and in case any of them refuse or neglect to act then a majority of the remainder, shall, within twenty days thereafter, call the first meeting of the stockholders of said company to meet within ten days thereafter for the choice of directors, of which public notice shall be given for five days in two daily newspapers published in the city of Washington, and by written personal notice to be mailed to the address of each stockholder by the clerk of the corporation; and in all meetings of the stockholders each share shall entitle the holder to one vote, to be given in person or by proxy."

That section fifteen of said Act be, and is hereby, amended so as to read as follows:

"SEC. 15. That the said company is authorized to erect and maintain, subject to the approval of the Commissioners of the District of Columbia, the power houses and buildings necessary to the operation

Width between tracks increased.

Commissioners to approve plans, etc.

Excavations. Vol. 27, p. 342.

Liability for damages.

Meeting of incorporators. Vol. 27, p. 343.

Provisos. Ten per cent on subscribing.

Full value of stock within a year.

Issue of bonds.

Subscriptions must be in money.

First meeting of stockholders.

Prohibition on consolidation or sale omitted.

Erection of power houses, etc. Vol. 27, p. 344.

of its road, and shall furnish and maintain, as required by said Commissioners, passenger houses and transfer stations; failure to furnish and maintain such passenger houses and transfer stations shall render said company liable to a fine of twenty-five dollars for each and every day of such failure, after reasonable notice, said fine to be recovered in any court of competent jurisdiction at the suit of the Commissioners of the District of Columbia."

Fine for failure to have stations, etc.

That section twenty-four of said Act be, and is hereby, amended so as to read as follows:

"SEC. 24. That in the event that Rhode Island avenue shall not have been extended, and said company shall not be able to come to an agreement with the owner or owners of any land through which the said road may be located to pass for the purchase or dedication of so much land as may be necessary for the opening of Rhode Island avenue, then the said company may institute proceedings for the condemnation of so much land as may be required for the extension of the aforesaid avenue: *Provided*, That the strip of land so to be acquired by condemnation shall be one hundred and thirty feet in width, and shall be located according to the official plats for the extension of Rhode Island avenue: *And provided further*, That all the land within the lines of the proposed extension of Rhode Island avenue which shall be acquired by said Maryland and Washington Railway Company, either by purchase or by condemnation, shall, by appropriate conveyance, be dedicated, before tracks are laid therein, by said Maryland and Washington Railway Company as an extension of Rhode Island avenue to the extent of the land so acquired.

Proceedings to acquire land.

Provisos.
Width.

Extension of Rhode Island avenue.

"Such proceedings may be instituted and conducted by the company in the supreme court of the District of Columbia, holding a special term as a district court, and shall be commenced by a petition of the company for the condemnation of such land as has not been purchased or dedicated and for the ascertainment of just compensation for the taking of such land for the purposes aforesaid.

Condemnation proceedings.

"Such petition shall contain a particular description of the property not so purchased or dedicated and selected for the use aforesaid, with the names of the respective owners thereof and their residences, so far as the same may be ascertained, together with a plan of the land proposed to be taken; and thereupon the said court is authorized and required to summon all such owners and all other persons interested to appear in said court at a time to be fixed by said court. If it shall appear to the court that there are any owners or other persons interested who are nonresidents of the District of Columbia publication may be substituted for personal service of process upon such nonresident, after any summons has been returned 'not to be found,' in the same manner as is provided by law with reference to nonresident defendants in actions of ejectment; and if it shall appear that there are any persons under disability, either who have been served with process or who have been proceeded against by publication, the court shall appoint a guardian ad litem for such persons.

Petition.

Notices to nonresidents, etc.

"After all the parties interested have been served with process or proceeded against by publication, as aforesaid, the court shall, upon the return day stated in said process or order of publication, proceed to appoint three competent and disinterested persons commissioners to appraise the damages which the owner of the land taken may sustain by such appropriation. The commissioners shall be duly sworn, and they shall consider the damages which such owner may sustain by reason of the appropriation by such railway company of the land proposed to be taken for the purposes aforesaid, and shall forthwith return their assessment of such damages to the clerk of the court.

Appraisal commissioners.

"That when the use of a part of any parcel or tract of land shall be condemned in such proceedings the commissioners in assessing the damages therefor shall take into consideration the benefit the purpose for

Award.

which it is taken may be to the owner or owners of such tract or parcel by enhancing the value of the remainder of the same and shall make their award accordingly, and the court may require in such case that the damages and benefits shall be found and stated separately, and when the award shall have been confirmed by the court said company, unless an appeal is taken, shall make a payment of the amounts awarded to the respective owners thereof, according to the judgment of the court; and in case any of such persons are under disability or can not be found, and no person is authorized to receive the said award, or in case any person entitled to an award shall neglect to receive the same, or in case an appeal shall be taken concerning an award, then the money to be paid on account of such award shall be deposited in the registry of the court to abide its further order; and when such payments are made or the amounts belonging to persons to whom payment shall not so be made for any of the aforesaid reasons are so deposited, the use of said land shall be deemed to have been condemned and taken for the use of said railway company, and no appellate proceedings or controversies as to ownership shall interfere with or delay said company in taking possession of the land so condemned after payment therefor as above provided; but when any award shall have been approved by the said court holding a special term as aforesaid, the said company shall be entitled to take immediate possession of the parcel of land, in regard to which said award has been approved and payment or deposit made, and the court shall enforce such right of possession by proper order and process addressed to the marshal of the United States for the District of Columbia. Any party aggrieved by the final order or decree of said court, in special term aforesaid, fixing the amount of damages as to any parcel of land may take an appeal therefrom to the court of appeals of the District of Columbia in the manner now provided by law. And said court of appeals may affirm, reverse, or modify the order or decree appealed from: *Provided*, That said court of appeals shall consider only questions of law arising on such appeal. From the final decree of said court, in special terms as aforesaid under this Act, distributing the damages among contending claimants, any party aggrieved may, in like manner, take an appeal to said court of appeals. Any appeal under this Act shall be taken within twenty days after the making of the final order or decree appealed from, and not afterwards, and shall be subject to existing laws and rules of court regulating appeals to said court of appeals. Cases arising under this Act shall have precedence over all other business in said court, in special term, and shall have precedence in said court of appeals over all other cases, except criminal cases; and the decision of said court of appeals upon any questions arising under this Act shall be final."

Possession of land.

Appeal.

Proviso.
Only law points to be considered.

Precedence of appeals.

Bonds for construction authorized.

Provisos.
Use of proceeds.
Limit of bonds and stock.

Time of construction.

SEC. 2. That for the purpose of constructing and equipping its said railway, and acquiring rights of way as provided for in this Act, the said Maryland and Washington Railway Company is hereby authorized and empowered to issue its bonds to aid in paying for such construction and equipments and rights of way, and secure the said bonds by mortgage or deed of trust of its franchises, rights of way, and all of its property of whatsoever kind, whether real or personal: *Provided*, That the moneys raised on said bonds shall be used and expended only for the purposes aforesaid: *And provided further*, That the amount of said bonds and stock shall not exceed the cost of the construction of the said road and of the plant necessary to operate the same; and in no case shall the amount of stock and bonds so issued exceed the sum of four hundred and fifty thousand dollars.

SEC. 3. That the line of said railway company, from the point of beginning herein named to a point at or near the intersection of Rhode Island avenue extended and the northeast boundary of the District of Columbia, shall be commenced within six months and completed within twelve months from the date of approval of this Act; and the said Maryland and Washington Railway Company is hereby authorized

to construct and lay down a single or double track railway, and to operate the same as provided in the Act incorporating said company, westerly along Rhode Island avenue to North Capitol street, to connect with the tracks of the Eckington and Soldiers' Home Railway Company, and thence southerly on said street over the tracks of said last-mentioned company to F street; the price for the use or purchase of said tracks to be fixed by the board of directors of said companies, and on their failure to agree as to the price it shall be fixed by the supreme court of the District of Columbia, upon petition to be filed on the equity side of said court by either company. The said extension shall be completed within the time hereinbefore provided for with reference to the original line of said railway: *Provided*, That nothing in this Act shall operate to authorize the erection of overhead wires within the limits of the city of Washington.

Extension of track.

Proviso.
Overhead wires not authorized.

SEC. 4. That all Acts or parts of Acts inconsistent with this Act are hereby repealed.

Repeal.

SEC. 5. That Congress hereby reserves the right at any time to alter or amend or repeal this Act.

Amendment, etc.

Approved, March 2, 1895.

CHAP. 167.—An Act To authorize the Washington and Marlboro Electric Railway Company, of Maryland, to extend its line of road into and within the District of Columbia.

March 2, 1895.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Washington and Marlboro Electric Railway Company, incorporated by an act of the general assembly of Maryland, entitled "An Act to incorporate the Washington and Marlboro Electric Railway Company," and so forth, approved on the eighth day of April, eighteen hundred and ninety, is hereby authorized to construct and lay down a street railway, with the necessary switches, turn-outs, and other mechanical devices, in the District of Columbia, and run cars thereon through and along the following routes:

District of Columbia.
Washington and Marlboro Electric Railway may lay street railway, etc.

Beginning at and on the southeasterly boundary line of the District of Columbia where the line of railway of said company within the State of Maryland shall reach the same, and running thence by Suitland road, Bowen road, and Branch avenue, or other practicable route which may be approved by the Commissioners of the District of Columbia, to connect with Pennsylvania avenue extended; thence by and with said avenue to and across the tracks of the Baltimore and Ohio Railroad on Railroad avenue; thence along Railroad avenue to Naylor road and by the same to the Anacostia River; thence across the Anacostia River by a steel or iron truss bridge resting on masonry piers built parallel to the direction of the current, with pile or other secure and approved foundations, and with spans not less than those of the Pennsylvania avenue bridge, and with a wide drawspan over the channel. The plans of said bridge shall be approved in writing by the Secretary of War, and the bridge shall be built by said company over and above the tracks of the Baltimore and Potomac Railroad in such manner and at such height as not to interfere with the use of said railroad; and thence to the intersection of Pennsylvania avenue and Fifteenth street southeast by a route to be approved by the Commissioners of the District of Columbia; thence north on Fifteenth street east, to Florida avenue; thence northwesterly on Florida avenue to Seventh street northwest; also, when the proposed extension of Pennsylvania avenue shall have been completed to Bowen road, then the route of said railroad may be extended from the intersection of Branch avenue therewith to Bowen road, and by further practicable route as may be approved by the Commissioners of the District of Columbia to the boundary line of the said District at or near the Suitland road: *Provided*, That such extension

Route in the county.

Bridge.

Secretary of War to approve plans, etc.

Route in the city.

Proviso.
Extension.