

CHAP. 222.—An act in relation to the pay of Rear-Admiral James E. Jouett, retired.

March 3, 1893.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Rear-Admiral James E. Jouett, of the United States Navy, retired, be paid, out of any money in the Treasury not otherwise appropriated, the highest pay and compensation of his grade as a rear-admiral, from and after the date of the passage of this act.

Approved, March 3, 1893.

James E. Jouett, retired.
To receive highest pay, etc., of grade as rear-admiral, Navy.

CHAP. 223.—An act granting the right of way through the Arlington Reservation for railroad purposes.

March 3, 1893.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Washington Southern Railway Company is hereby authorized to construct and thereafter maintain and operate its railroad across the grounds of the United States Government, known as the Arlington Reservation, in the State of Virginia, opposite the city of Washington, and for such purpose said company is hereby granted a right of way thirty-three feet in width, each side of the center line of the adopted line for the Georgetown Branch of the Washington Southern Railway, through the grounds aforesaid, at the points marked A and B, respectively, as shown on plat filed with the Secretary of War: *Provided,* That said line or route shall be subject to the approval of the Secretary of War, and when said right of way shall cease to be used for the purpose aforesaid, the same shall revert to the United States Government, and said road shall be commenced within one year from the date of the passage of this act and finished within three years: *Provided further,* That before this act shall take effect the Secretary of War shall cause to be assessed the damage, if any, which may accrue to the United States Government by the grant of this right of way, by three officers of the Army, and the amount of such award shall be paid into the Treasury of the United States.

SEC. 2. That the right to repeal, alter, or amend this act is reserved to Congress.

Approved, March 3, 1893.

Washington Southern Railway Company granted right of way through Arlington Reservation, Va.

Width.

Location.

Provisos.
Approval of route.

Commencement and completion.

Assessment of damages.

Amendment, etc.

CHAP. 224.—An act to authorize the Interoceanic Railway Company to construct and operate railway, telegraph, and telephone lines through the Indian Territory.

March 3, 1893.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Interoceanic Railway, a corporation created under and by virtue of the laws of the State of Arkansas, be, and the same is hereby, invested and empowered with the right of locating, constructing, equipping, operating, using, and maintaining a railroad, telegraph, and telephone lines, wherever said lines pass through the Indian Territory or through any Indian reservation, or lands reserved for Indian purposes or allotted to individual Indians within the Territory of Oklahoma, commencing at a point on the west line of Sebastian County in the State of Arkansas, and south of the corporate limits of the city of Fort Smith from the point of entrance into the Indian Territory, running in a westerly direction through the said Indian Territory and the Territory of Oklahoma, to a point on the west line of the said Territory of Oklahoma, between the North Canadian and the Washita rivers, with a branch running from the main line in the Choctaw Nation in a southerly or southwesterly direction by the most feasible and practicable route, to a point on the Red River at or near the city of Denison, Texas; also a branch beginning at a point in the Seminole Nation near the Wewoha

Interoceanic Railway Company may construct railway, etc., line through Indian Territory and Oklahoma.

Location.

Branch in Choctaw Nation.

Branch in Seminole Nation.

river, running thence in a northerly or northwesterly direction to a point on the south line of the State of Kansas at or near the town of Otto in said State of Kansas, with the right to construct, use, and maintain such tracts, turnouts, branches, and sidings and extensions as said company may deem it in their interest to construct along and upon the right of way and depot grounds herein provided for.

Sidings, etc.

Right of way.

Addition for stations, etc.

Additional for cuts and fills.

Provisos.

Limit.

Lands not to be sold, etc.

Reversion.

Damages.

Referees.

Oath, etc.

Substitution on failure to appoint.

Hearings.

Compensation.

Costs.

Award.

Appeal.

SEC. 2. That the said corporation is authorized to take and use for all purposes of railway, and for no other purpose, a right of way one hundred feet in width through said Indian Territory and other Indian reservations, or lands reserved for Indian purposes or allotted to individual Indians, in Oklahoma Territory for said main line and branches of the Interoceanic Railway Company; and to take and use a strip of land three hundred feet in width, with a length of three thousand feet, in addition to right of way, for stations, for every ten miles of 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 roadbed, 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 or individual allottee from which the same shall be taken.

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, or by allotment under any law of the United States or agreement with the Indians, 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, one by the chief of the nation to which said occupant belongs, or, in the case of an allottee, by said allottee or by his duly authorized guardian or representative, and one by said railway 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, an 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 United States district court held in the Territory where the property is situated, 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 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 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 the making of the award and notice of the same, to appeal by original petition to the United States district court held nearest the property, which court shall have jurisdiction to hear and determine the subject matter of said petition, according to the laws of the Territory 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 cost of said appeal shall be adjudged against the railway company. If the judgment of the court shall be for the same sum as the award of the referees, then the costs shall be adjudged against the appellant.

Costs on appeal.

If the judgment of the court shall be for a smaller sum than the award of the referees, then the costs shall be adjudged against the party claiming damages. 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.

Work may begin on depositing double award.

SEC. 4. That said railway company shall not charge the inhabitants of said Territories a greater rate of freight than the rate authorized by the laws of the State of Arkansas for services and 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 Territories 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.

Freight charges.

Provisos.

Passenger rates. Regulation of charges.

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 the said railway 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 Territories, said payments to be made in installments of five hundred dollars as each ten miles of road is graded: *Provided*, That if the general council of either of the nations or tribes through whose lands 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 allowance hereinbefore provided for, 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 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 lands are owned and occupied by the Indians in their present tribal relations and not as citizens of the United

Interstate transportation.

Maximum.

Mails.

Additional compensation to tribes.

Provisos. Appeal by general councils.

Award to be in lieu of compensation.

Annual rental.

States, to the Secretary of the Interior, the sum of fifteen dollars per annum for each mile of railway it shall construct through said lands. 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 between the United States and said 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 of said railway as may lie within its limits. Said railway company shall have the right to survey and locate its railway immediately after the passage of this act.

Taxation.

Survey, etc.

Maps to be filed.

SEC. 6. That said company shall cause maps showing the route of its located lines through said Territories 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.

Provisos.

Grading to begin on filing of map.

Employees may reside on right of way.

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.

Jurisdiction.

SEC. 8. That the United States circuit and district courts for the western district of Arkansas and the northern district of Texas, 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 Interoceanic Railway 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 parties, so far as may be necessary to carry out the provisions of this act.

Construction.

SEC. 9. That said railway company shall build at least fifty miles of its railway in said Territory within three years after the passage of this act, and complete the main line of the same within said Territory within three years 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 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.

Crossings, etc.

Condition of acceptance.

SEC. 10. That the said Interoceanic 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 of 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 a forfeiture of all the rights and privileges of said railway company under this act.

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.

SEC. 12. That Congress may at any time amend, add to, alter, or repeal this act.

Amendment, etc.

SEC. 13. That 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.

No assignment before construction.

Construction liens, etc., excepted.

Approved, March 3, 1893.

CHAP. 225.—An act to regulate the manner in which property shall be sold under orders and decrees of any United States courts.

March 3, 1893.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all real estate or any interest in land sold under any order or decree of any United States Court shall be sold at public sale at the Court-house of the county, parish, or city in which the property, or the greater part thereof, is located, or upon the premises, as the court rendering such order or decree of sale may direct.

Sale of property under orders, etc., of United States courts.
Real estate, etc.

SEC. 2. That all personal property sold under any order or decree of any Court of the United States shall be sold as provided in the first section of this act, unless in the opinion of the court rendering such order or decree, it would be best to sell it in some other manner.

Personal property.

SEC. 3. That hereafter no sale of real estate under any order, judgment, or decree of any United States Court shall be had without previous publication of notices of such proposed sale being ordered and had once a week for at least four weeks prior to such sale in at least one newspaper printed, regularly issued and having a general circulation in the county and State where the real estate proposed to be sold is situated, if such there be. If said property shall be situated in more than one county or state, such notice shall be published in such of the counties where said property is situated, as the court may direct. Said notice shall, among other things, describe the real estate to be sold. The court may, in its discretion, direct the publication of the notice of sale herein provided for to be made in such other papers as may seem proper.

No sale of real estate without publication in newspaper of county and State where situated.

Description.

In other papers.

Approved, March 3, 1893.

CHAP. 226.—An act to amend section seven hundred and sixty-six of the Revised Statutes of the United States.

March 3, 1893

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section seven hundred and sixty-six of the Revised Statutes be amended by adding thereto, at the end of said section, the following words: "*Provided*, That no such appeal shall be had or allowed after six months from the date of the judgment or order complained of."

Appeals in habeas corpus cases.
R. S. sec. 766, p. 144 amended.
Proviso.
Limit of time.

Approved, March 3, 1893.