INDIAN LEGISLATION PASSED DURING THE SECOND SESSION OF THE FIFTY-SECOND CONGRESS.*

January 12, 1893.
27 Stat., p. 417.

CHAP. 32.—An act granting to the Blue Mountain Irrigation and Improvement Company a right of way for reservoir and canals through the Umatilla Indian Reservation in the State of Oregon.

Blue Mountain Irrigation and Improvement Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Blue Mountain Irrigation and Improvement Company, a corporation organized and existing under the laws of the State of Oregon, may purchase so much of sections one (1) and two (2) in township one (1) south of range thirty-three (33) east Willamette meridian, in the Umatilla Indian Reservation in the State of Oregon, as may be required by said company for the purpose of a reservoir, dam, and grounds accompanying, out of lands allotted to or which may have been selected for allotment by any Indians, if said company shall be able to agree with the Indian owners or allottees thereof upon the terms of such sale, and the Secretary of the Interior shall approve and ratify the same; but the said company shall have no right to compel the sale by any Indian owner or allottee of any lands for the purposes of reservoir or dam, or accompanying grounds. And said company may also take of the lands in said sections one and two in said reservation which have not yet been allotted, so much additional land as shall be required for the purposes of a reservoir and dam, and necessary grounds appurtenant thereto, upon making payment as hereafter provided in respect to the right of way. And upon and after acquiring by purchase as aforesaid, with the approval of the Secretary of the Interior, the necessary grounds for reservoir and dam, the right of way is hereby granted to said Blue Mountain Irrigation and Improvement Company for a main ditch or canal to commence at a point on McKay Creek north, six degrees west of corner to sections one, two, eleven, and twelve, township one south, range thirty-three east, Willamette meridian, thence running across said Indian reservation to the city of Pendleton, and to the Umatilla river, with the right to divert the waters of McKay Creek and its tributaries and for such other purposes 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 said company may desire to use the same. But all the rights herein granted are upon the express condition that during their continuance, the grantees or their assigns shall furnish to occupants of said lands on said reservation, so situated as to be capable of irrigation or supply from any ditch constructed by them hereunder, 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 from the full enjoyment of said streams, either for power, irrigation, or domestic purposes. For the purpose of determining the fairness of any agreement of sale negotiated with any of said Indian owners or allottees, and the wisdom of their making such sale to said company, the Secretary of the Interior shall appoint such commissioners, not exceeding three in number, as he shall think fit, to personally inquire into and report to him the facts in respect to said matter, and he shall approve and ratify or disapprove any such agreement as he shall think the best interests of the Indians may require; and all expenses attending such inquiry shall be paid by the said Blue Mountain Irrigation and Improvement Company, security for the payment of which may be required in advance by the Secretary of the Interior.

Purchase of lands on Umatilla Indian Reservation for reservoir and dam authorized.

Right of way for irrigating canal.

Location.

Supplying water.

Commissioners to determine agreement.

Expenses.

* This does not include item of appropriations for the Indian service unless they involve new legislation.

Right of way.

SEC. 2. That the right of way to said company shall be fifty feet in width on each side of the center line of said ditch or canal, together with the ground adjacent to the said right of way for distributing ditches not exceeding ten acres in the aggregate for every ten miles of said ditch or canal. The company shall also have the right to enter upon lands adjacent to said canal or reservoir to take therefrom material, stone, earth, or timber necessary for the construction of said dam, ditch, or canal. But no land belonging to any Indian owner in severalty, or which shall have been selected for allotment by any Indian, shall be taken by the said company, nor shall the company have a right to take therefrom any material, stone, earth, or timber except by agreement with the said Indian owner approved by the Secretary of the Interior, or by first making compensation for the same, and any injury thereby caused to other lands of such Indian owner or allottee, to be determined by the Secretary of the Interior, after appraisal in the manner provided in section one of this act.

Material, etc.

Compensation to Indian allottees.

Commissioners to fix compensation for right of way, etc.

SEC. 3. That the Secretary of the Interior may appoint three commissioners to fix the amount of compensation to be paid the Indian owners or allottees for right of way for the said main ditch or canal of the said company, which shall include the value of the land taken therefor and all damages to other lands of such owner or allottee caused by such taking; and also to fix the amount of compensation to be paid for any lands of the tribe, not allotted or selected for allotment by individuals which may be required by the said company for reservoir and dam and adjacent grounds or for right of way or for distributing ditches, which shall be fixed upon the same principle; and such 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 in all cases subject to his approval. In case of inability or refusal of any commissioner to act or continue in service, after appointment, the Secretary of the Interior shall by appointment supply such vacancy or vacancies so caused. The Secretary of the Interior shall fix the compensation of such commissioners, not exceeding that allowed to the commissioners appointed under the provisions of an act of Congress entitled "An act providing for the allotment of lands in severalty to the Indians residing upon the Umatilla Indian Reservation in the State of Oregon, and granting patents therefor, and for other purposes," approved March third, eighteen hundred and eighty-five, and the same shall be paid by the said Blue Mountain Irrigation and Improvement Company and the Secretary of the Interior may require security for the payment thereof in advance of their appointment. The consent of the Indians upon said reservation to the granting of this right of way and the diversion of the water necessary to the accomplishment of the purposes of said company shall be obtained by the said company in such manner as the Secretary of the Interior shall prescribe, before any right of way under this act shall accrue to this company. In all cases, all lands which have been selected by any individual Indians upon said reservation for allotment, shall be treated and regarded for the purposes of this act as belonging to such Indian allottee; but the Secretary of the Interior may hold any moneys agreed to be paid, or awarded to him, in compensation for lands sold or taken, or injuries resulting, until the approval by him of the allotment and the issuance of patent therefor; but the same shall then be paid over to, or invested for, such Indian owner as the Secretary of the Interior in his discretion may see fit. Payment for land in said reservation held by the Indians of said tribe in common, and of all damages awarded to them by reason of the construction of the dam and reservoir, ditch, or canal, are to be made to the confederated tribe in common occupying the reservation under the direction of the Secretary of the Interior.

Vacancies in commission.

Compensation.

Vol. 23, p. 341.

Consent of Indians.

Payment to Indian allottees.

Payment to tribe.

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

No assignment before completion.

Proviso.

Construction.

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

Surveys.

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.

Forfeiture.

SEC. 6. 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.

Amendment, etc.

SEC. 7. That the right to alter, amend, or repeal this act is hereby reserved.

Approved, January 12, 1893.

January 20, 1893.
27 Stats p. 420.

CHAP. 39.—An act granting to the Yuma Pumping Irrigation Company the right of way for two ditches across that part of the Yuma Indian Reservation lying in Arizona.

Yuma Pumping Irrigation Company granted right of way through Yuma Indian Reservation, Ariz.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby granted unto the Yuma Pumping Irrigation Company, incorporated under the laws of Arizona, its successors and assigns, a right of way one hundred feet wide, the center line of which right of way shall commence on the bank of the Colorado River, three hundred feet west of the east line of the Yuma Indian Reservation, in Arizona (formerly the Fort Yuma military reservation); thence running westerly along said bank to the center of the angle of the flume of said company; thence following the center of the ditch of said company to the boundary line of the said reservation. Also, there is hereby granted unto said corporation, its successors and assigns, a right of way two hundred feet wide across said reservation in Arizona, the center line of which shall commence at low water of the Colorado River, one hundred and fifty feet westerly of the east line of the said reservation; thence running in a southerly direction to and crossing the west line of said reservation one hundred and fifty feet, more or less, north of the southwest corner of said reservation: *Provided,* That for the distance of two hundred and fifty feet from the point of beginning on said river said right of way shall be three hundred feet in width. The plats of the ditches of said company through said reservation shall be subject to the approval of the Secretary of the Interior, and such ditches shall not be so located or the rights of way herein granted so used as to in any manner interfere with any permanent building upon said reservation, except with the express assent of said Secretary of the Interior.

Location.

Branch.

Proviso.
Width.

Secretary of the Interior to approve plats, etc.

Condition.

SEC. 2. That the rights herein granted are upon the express condition that the grantee or grantees thereof shall, at all times during the continuance thereof, furnish the Indian occupants of the lands situated south of and under either of said ditches, and within said reservation as now bounded, water sufficient for all domestic and agricultural purposes, and purposes of irrigation, on such terms, and under such rules and regulations as shall be prescribed by the Secretary of the Interior.

Amendment, etc.

SEC. 3. That this act shall take effect and be in force from and after its passage, but the right to amend or repeal it at any time is hereby reserved to Congress.

Approved, January 20, 1893.

January 28, 1893.
27 Stats., p. 426.

CHAP. 52.—An act to authorize the Court of Claims to hear and determine the claims of certain New York Indians against the United States.

New York Indians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That jurisdiction is hereby conferred on the Court of Claims to hear and enter judgment as if it had original jurisdiction of said case, the claim of the New York Indians, being those Indians who were parties to the treaty of Buffalo Creek, New York, on the fifteenth of January, eighteen hundred and thirty-eight, against the United States, growing out of the alleged unexecuted stipulations of said treaty on the part of the United States. In

Claim to be tried in Court of Claims.
Vol. 7, p. 550.

the hearing and adjudication of said case said court may proceed upon the finding of facts already made, upon a reference of said claim to said court, filed on the eleventh day of January, eighteen hundred and ninety-two, and transmitted to Congress by John Randolph, assistant clerk of said court, on the sixteenth day of January, eighteen hundred and ninety-two. Or said court may, if in its opinion justice so requires, take other testimony as to facts. But in any judgment it may render against the United States, in favor of said claimants, interest shall not be allowed. The statute of limitations shall not be pleaded as a bar to recovery in said case. The Attorney-General is hereby directed to appear in behalf of the United States in said case. And from any judgment rendered by the court, either party may appeal to the Supreme Court of the United States. Said cause shall be advanced on the docket and tried without delay in any court which shall become invested with jurisdiction thereof by the provisions of this act.

Approved, January 28, 1893.

Proceedings.

Interest not allowed.

Bar of limitation raised.

Attorney-General to appear for Government.

Appeal.

Advancement.

CHAP. 120.—An act granting right of way to the Colorado River Irrigation Company through the Yuma Indian Reservation in California.

Feb. 15, 1893.

27 Stats., p. 456.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby granted unto the Colorado River Irrigation Company, incorporated under the laws of the State of Colorado, its successors and assigns, a right of way for an irrigating canal through the Yuma Indian Reservation in California to the extent of the ground occupied by the water of the canal and its adits and laterals, and fifty feet on each side of the marginal limits thereof, beginning at a point near where the northeast boundary line of the said reservation joins the Colorado River and running thence south and west through the said reservation to and beyond the limits thereof. The plats of the ditches of said company through said reservation shall be subject to the approval of the Secretary of the Interior, and such ditches shall be so located, or the rights of way herein granted so used as to not in any way interfere with any permanent buildings upon said reservation, except with the express consent of the Secretary of the Interior.

Colorado River Irrigation Company granted right of way through Yuma Indian Reservation, Cal.

Secretary of the Interior to approve plats, etc.

SEC. 2. That the rights herein granted are upon the express condition that the grantee or grantees thereof shall at all times during the continuance thereof furnish the Indian occupants of the land situated on the lower side of the canal with water sufficient for all domestic and agricultural purposes and purposes of irrigation on such terms and under such rules and regulations as shall be prescribed by the Secretary of the Interior.

Conditions.

SEC. 3. That this act shall take effect and be in force from and after its passage; but the right to amend or repeal it at any time is hereby reserved to Congress.

Approved, February 15, 1893.

Amendment, etc.

CHAP. 144.—An act to grant to the Gainesville, Oklahoma and Gulf Railway Company a right of way through the Indian Territory, and for other purposes.

February 20, 1893.

27 Stats., p. 465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Gainesville, Oklahoma and Gulf Railway Company, a corporation created under and by virtue of the laws of the State of Texas, 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, begining at a point to be selected by said company on Red River, north of the west part of Cooke County, in the State of Texas, and running thence by the most practicable route, through the Indian Territory and Oklahoma in a northwesterly direction to a point on the southern boundary of the State of Kansas.

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

Location.

SEC. 2. That a right of way of one hundred feet in width through said Indian Territory is hereby granted to the Gainesville, Oklahoma

Right of way.

Addition for stations.

and Gulf Railway Company, and a strip of land two hundred feet in width, with a length of three thousand feet in addition to the right of way, is granted for such stations as may be established, but such grant shall be allowed but once for every ten miles of the road, no portion of which shall be sold or leased by the company, with the right to use such additional grounds 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 hereinafter granted shall be used except in such manner and for such purpose only as shall be necessary for the construction and convenient operation of said railroad, telegraph, and telephone line, and when any portion thereof shall cease to be used such portion shall revert to the nation or tribe of Indians from which the same shall have been taken.

Provisos.

Limit.

To be used solely for purposes granted.

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 by the President of the United States, who, before entering upon the duties of their appointment, shall take and subscribe before competent authority an oath that they will faithfully and impartially discharge the duties of their appointment, which oath, duly certified, shall be returned with their award. 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 courts, where the case shall be tried de novo. 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. 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.

Referees.

Appeal.

Work may begin on depositing double award.

Payment to referees.

Fees and costs.

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 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 freight 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 rates of such transportation of passengers, local or interstate, shall not exceed those 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.

Passenger rates.

Regulations.

Provisos.

Maximum rates.

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 railway may be located, the sum of fifty dollars, in addition to compensation provided for by this act for property taken or damage done 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 five hundred dollars as each ten miles of road is graded. Said company shall also pay, as 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 their 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: *Provided further*, 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 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 land, with the right to appeal to the courts upon the same terms, conditions, and requirements as herein 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 provisions of this section. Nothing in this act shall be construed to prohibit Congress from imposing taxes upon said railway, nor any Territory or State hereafter formed through which said railway shall have been established from exercising 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: *Provided further*, That if said right of way shall pass over or through any land allotted to an Indian in accordance with any law or treaty it shall be the duty of the Secretary of the Interior to provide for obtaining the consent of such allottee or allottees to said right of way and to fix the amount of compensation to be paid such allottees for right of way and for damages sustained by them by reason of the construction of the road; but no right of any kind shall vest in said railway company to any portion of said right of way passing over or through any allotted lands until the compensation herein provided for shall be fixed and paid.

Annual payment.

Provisos.

Additional taxes.

Appeal by general council.

Award to be in lieu of compensation.

Taxation.

Payment to allottees.

SEC. 6. That said railway 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 railways may be located; and after the filing of said maps no claim for 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 as to any occupant thereof.

Maps to be filed.

Proviso.

Work may commence on filing map.

SEC. 7. That the officers, servants, and employees of said company necessary to the construction, operation, and management of said road and telegraph and telephone lines 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.

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, 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 Gainesville, Oklahoma and Gulf 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

Litigation.

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.

Construction.

SEC. 9. That said railway company shall build at least one hundred miles of its railway in said territory within three years after the passage of this act, or this grant shall be forfeited as to that portion not built; that said railroad 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.

Condition of acceptance.

SEC. 10. That said Gainesville, Oklahoma and Gulf Railway Company shall accept this right of way upon express condition, binding upon itself, its successors and assigns, that they will neither aid, advise, nor assist in any effort looking toward 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 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.

Record of mortgages.

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.

Amendment, etc.

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

Approved February 20, 1893.

February 20, 1893.

27 Stats., p. 468.

CHAP. 145.—An act to ratify and confirm agreement between the Puyallup Indians and the Northern Pacific Railroad Company for right of way through the Puyallup Indian Reservation.

Puyallup Indians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the agreement *dated November twenty-first, eighteen hundred and seventy-six, made between J. W. Sprague, superintendent of the Pacific Division of the Northern Pacific Railroad Company, on behalf of said company, and R. H. Milroy, then agent in charge of the Puyallup Indian Reservation, on behalf of the Indians occupying the same, a copy of which is on file in the office of the Secretary of the Interior, under the terms of which said Indians granted said railroad company right of way through said reservation for its Cascade Branch, which said agreement was assented to and approved by said Indians, as evidenced by a certain memorandum in writing, bearing date November twenty-third, eighteen and seventy-six, signed by the chiefs and headmen of the Puyallup tribe of Indians, also on file in the office of the Secretary of the Interior, which said last-mentioned agreement was approved by the Commissioner of Indian Affairs December fourteenth, eighteen hundred and seventy-six, and by the Secretary of the Interior April thirteenth, eighteen hundred and seventy-seven, be, and the same is hereby ratified and approved: *Provided*, The said company shall comply with all the terms and stipulations of said agreement, and maintain in proper condition all buildings, structures, and ways provided for therein.

Agreement with Northern Pacific Railroad Company ratified.

Right of way.

Proviso.

Condition.

Branch.

SEC. 2. That there be, and is hereby, granted to the Northern Pacific Railroad Company a right of way not exceeding sixty feet in width through the Puyallup Indian Reservation, for a spur one thousand three hundred and seventy-eight feet in length from a point on the Cascade branch of said railroad company now constructed through said reservation to the western boundary thereof, according to the map thereof filed by said railroad company in the office of the Commissioner of Indian Affairs June twenty-seventh, eighteen hundred and eighty-eight, upon the following terms and conditions, viz:

Fences.

First. That said railroad company shall erect and maintain on either side of said right of way a good lawful fence so as to protect stock in the fields on either side thereof.

*For this agreement see page 518.

Second. That said railroad company shall put in and keep in order a water gate at the point where the wagon road now being used and maintained across said reservation will cross said spur when constructed, in order to allow the water to escape, and also to keep the salt water from coming in during high tide. Water gate.

Third. That said railroad company shall construct and maintain gates in its right of way, fences at the point where said wagon road crosses the right of way herein granted for said spur, and construct and maintain a wagon road crossing between said gates. Gates, etc.

Fourth. That said railroad company shall pay the Indians for the right of way so taken for said spur such sum, not less than one thousand five hundred dollars per acre, as may be determined by the Secretary of the Interior to be right and proper; and that it shall be the duty of the Secretary of the Interior, within thirty days after the approval of this act, to prescribe the time and manner for the payment thereof. Payments.

Approved, February 20, 1893.

CHAP. 147.—An act to restore to the public domain a portion of the White Mountain Apache Indian Reservation, in the Territory of Arizona, and for other purposes. February 20, 1893.

27 Stat., p. 469.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the White Mountain Apache Indian Reservation in the Territory of Arizona, established by executive orders dated November ninth, eighteen hundred and seventy-one; December fourteenth, eighteen hundred and seventy-two; August fifth, eighteen hundred and seventy-three; July twenty-first, eighteen hundred and seventy-four; April twenty-seventh, eighteen hundred and seventy-six; January twenty-sixth, eighteen hundred and seventy-seven; and March thirty-first, eighteen hundred and seventy-seven; as lies between the following boundary lines, namely: Beginning at the summit of Chromo Butte, a prominent peak of the Apache Mountains about three and one-half miles southwest of the town of McMillen; thence running north forty-five degrees east a distance of twelve miles; thence due north to the middle of Salt River, a distance of five miles, more or less; thence down the middle of Salt River to the intersection thereof with the present western boundary line of said reservation; thence southerly with the said western boundary line as the same has been ascertained and located by John C. Smith, deputy surveyor, to the place of beginning, be, and the same is hereby, restored to the public domain and declared to be public lands of the United States. White Mountain Apache Indian Reservation Arizona, restored to public domain. Boundaries.

SEC. 2. That the lands hereby restored shall be subject to entry and occupation under the laws providing for the disposal of the public domain in force at the date of the passage of this act: *Provided*, That each person seeking to obtain title to portions of said land, not mineral, under the homestead laws, shall, in addition to the legal fees and charges of the register and receiver, pay for the land so entered not less than one dollar and twenty-five cents per acre in cash; *Provided further*, That any location, entry, or entries, mineral or nonmineral, heretofore made on said lands or any part thereof by any qualified person or persons shall bear date and be allowed with the same effect and no other, as though said lands had been public lands at the date of the institution of such proceedings; but no such entry shall be deemed completed except upon the payment to the proper officers of the regular purchase price of said lands, irrespective of any payments which may have been heretofore made. Entries. *Provisos.* Prices for homestead locations. Date of entry.

SEC. 3. That upon making payment as prescribed in the preceding section all entries and mill-site applications heretofore allowed upon any of said lands shall be, and the same are hereby, confirmed, and patents shall issue therefor. Confirmation of previous entries.

SEC. 4. That all moneys accruing from the sale of the lands hereby restored, except the fees allowed by law to the register and receiver, shall be paid into the Treasury of the United States and applied solely as follows: Disposition of receipts.

First. To reimburse the United States for all expenses actually and necessarily incurred in running said boundary lines and surveying said lands. Reimbursement.

Trust fund.

Second. The remainder to be held in trust for the sole use and benefit of the tribes of Indians now located upon said reservation, and to be expended by the Commissioner of Indian Affairs, under the direction and control of the Secretary of the Interior, in such manner and for such purposes as may to him seem to be for the best interests of said Indian tribes.

Ownership of Indians not recognized.

SEC. 5. That nothing herein contained shall be construed as recognizing title or ownership of said Indians to any part of said White Mountain Apache Indian Reservation, whether that hereby restored to the public domain or that still reserved by the Government for their use and occupancy.

Approved February 20, 1893.

February 20, 1893.

CHAP. 148.—An act to ratify and confirm an agreement made between the Seneca Nation of Indians and William B. Barker.

27 Stat., p. 470. Preamble.

Whereas, the Seneca Nation of Indians in council January third, eighteen hundred and ninety-three, duly entered into an agreement with William B. Barker, whereby said nation leased to said Barker the Oil Springs, the Cattaraugus and the Allegany Reservations, situate in western New York, for the purpose of boring and testing said territory for gas and oil, on condition that if oil was found in paying quantities said nation should receive one-eighth part thereof, and if gas should be found in paying quantities said nation should receive forty dollars per annum for each gas well drilled and used, and in addition that each Seneca Indian family residing on either of said reservations should, if gas is found, have sufficient fuel for domestic use from any gas wells drilled on said territory free of charge, all of which is provided in said agreement, which was duly recorded in the Seneca Nation deed book, volume five, page three hundred and forty-one, January fourth, eighteen hundred and ninety-three, at three o'clock post meridian of that day: Therefore

Seneca Indians. Agreement with W. B. Barker ratified.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the agreement above recited be, and the same hereby is, in all things ratified, accepted, and confirmed.

Approved, February 20, 1893.

February 27, 1893. 27 Stat., p. 487.

CHAP. 169.—An act to authorize the Kansas City, Pittsburg and Gulf Railroad Company to construct and operate a railroad, telegraph, and telephone line through the Indian Territory, and for other purposes.

Kansas City, Pittsburg and Gulf Railroad Company may construct railroad line, etc., through the Indian Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Kansas City, Pittsburg and Gulf Railroad Company, a corporation created under and by virtue of the laws of the State of Missouri, be, and the same is hereby, invested and empowered with the right of locating, constructing, operating, using, and maintaining a railroad, telegraph, and telephone line through the Indian Territory, beginning at a point on the south line of Cherokee County, near the town of Galena, in the State of Kansas, and running thence in a southerly direction through the Indian Territory or through the State of Arkansas and the Indian Territory, by the most feasible and practicable route, to a point on the Red River, near the town of Clarksville, in the State of Texas, with the right to construct, use, and maintain such tracks, turnouts, sidings, and extensions as said company may deem its interest to construct along and upon the right of way and depot grounds herein provided for.

Location.

Right of way.

Width.

Stations, etc.

SEC. 2. That said corporation is authorized to take for all uses of a railroad, telegraph, and telephone line, 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 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: *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 railroad, 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.

Provisos.
Limit.
Land not to be sold, etc.
Reversion.

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 railroad. 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 railroad 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, 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 railroad 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 original petition to the United States court held at Fort Smith, Arkansas, which court shall have jurisdiction to hear and determine the subject-matter of said petition according to the laws of the State of Arkansas, 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 railroad 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. 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 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.

Damages.
Referees.
Oath, etc.
Substitution on failure to appear.
Hearings.
Compensation.
Costs.
Appeal.
Costs on appeal.
Work may begin on depositing double award.

SEC. 4. That said railroad 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 Arkansas for services or transportation of the same kind: *Provided*, That passenger rates on said railroad shall not exceed three cents per mile. Congress hereby reserves the right to regulate the charges for freight and passengers on said railroad 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 rail-

Freight charges.
Provisos.
Passenger rates, etc.
Regulation.

Interstate transportation.

road; but Congress expressly reserves the right to fix and regulate at all times the cost of such transportation by said railroad 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 railroad 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.

Maximum.

Mails.

Additional compensation to tribes.

SEC. 5. That said railroad 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 railroad for each mile of railroad 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 railroad 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 provisions. 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 railroad 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 railroad that may be constructed by said railroad 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 railroad as it may deem just and proper for their benefit; and any Territory or State hereafter formed through which said railroad shall have been established may exercise the like power as to such part of said railroad as may be within its limits. Said railroad company shall have the right to survey and locate its railroad immediately after the passage of this act.

Provisos.

Appeal by general councils.

Award to be in lieu of compensation.

Annual rental.

Apportionment.

Taxation,

Survey, etc.

Maps to be filed.

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 railroad 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 railroad 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.

Proviso.

Grading to begin on filing maps.

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 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.

Litigation.

SEC. 8. That the United States circuit and district court for the western district of Arkansas, 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 be-

Jurisdiction.

tween said Kansas City, Pittsburg and Gulf Railroad Company and the nations and tribes through whose territory said railroad shall be constructed. Said courts shall have like jurisdiction, without reference to the amount in controversy, in all controversies arising between the inhabitants of said nations or tribes and said railroad 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.

Commencement and completion.

SEC. 9. That said railroad company shall build at least fifty miles of its railroad 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 railroad company shall construct and maintain continually all fence, road, and highway crossings, and necessary bridges over said railroad whenever said roads and highways do now or may hereafter cross said railroad'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 Kansas City, Pittsburg and Gulf 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 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 railroad company under this act.

Proviso. Violation to forfeit.

Record of mortgages.

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

Amendment, etc. Assignment, etc.

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 prior to the construction and completion of the road, except as to mortgage or other liens that may be given or secured thereon to aid in the construction thereof.

Approved, February 27, 1893.

CHAP. 171.—An act to grant to the Chicago, Rock Island and Pacific Railway Company a right of way through the Indian Territory, and for other purposes.

February 27, 1893. 27 Stat., p. 492.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Chicago, Rock Island and Pacific Railway Company, a corporation created under and by virtue of the laws of the State of Illinois, 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 to be selected by said company at or near Chicasha Station, on said railway, in the Chickasaw Nation, Indian Territory, and running thence by the most practicable route southeasterly in the direction of Dallas, Texas, to the south line of the Indian Terrritory, and also through the Indian Territory and any Indian reservations upon a line beginning at or near said Chicasha Station and running thence by the most practicable route in a westerly or southwesterly direction to the west or south line of Oklahoma Territory.

Chicago, Rock Island and Pacific Railway Company may build railway, etc., line through Indian Territory.

Location.

Route.

Right of way.

SEC. 2. That a right of way of one hundred feet in width through said Indian Territory is hereby granted to the Chicago, Rock Island and Pacific Railway Company, and a strip of land two hundred feet in width, with a length of three thousand feet, in addition to the right of way, is granted for such stations as may be established, but such grant shall be allowed but once for every ten miles of the road, no portion of which shall be sold or leased by the company, with the right to use such additional grounds where there are heavy cuts or fills as may be necessary, not exceeding one hundred feet in width on each side of

Width.

Stations.

Limitations.

Proviso. said right of way, for the construction and maintenance of the road-bed, or as much thereof as may be included in said cut or fill: *Provided,* That no part of the lands herein granted shall be used except in
Restricted use. such manner and for such purposes only as shall be necessary for the construction and convenient operation of said railroad, telegraph, and telephone line, and when any portion thereof shall cease to be used
Reversion. such portion shall revert to the 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 by the
Referees. President, who, before entering upon the duties of their appointment, shall take and subscribe before competent authority an oath that they will faithfully and impartially discharge the duties of their appoint-
Oath, etc. ment, which oath, duly certified, shall be returned with their award. In case the referees can not agree, then any two of them are authorised to make the award. Either party being dissatisfied with the finding of the referees shall have the right, within ninety days after the mak-
Appeal. ing of the award and notice of the same, to appeal, by original petition, to the courts, where the case shall be tried de novo. When proceed-
Work may be- ings have been commenced in court the railway company shall pay
gin on depositing double the amount of the award into court to abide the judgment
double award. thereof, and then have the right to enter upon the property sought to be condemned, and proceed with the construction of the railroad.
Compensation, Each of said referees shall receive for his services the sum of four
etc. 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.
Fees. Witnesses shall receive the usual fees allowed by the courts of said
Costs. nations. Costs, including compensation of the referees, shall be made a part of the award and be paid by such railroad company.

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 Kansas for services or transportation of the
Provisos. same kind: *Provided,* That passenger rates on said railway shall not
Passenger rates. exceed three cents per mile. Congress hereby reserves the right to
Regulation. 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
Interstate which said railway or part thereof shall be located, and then such
transportation. State government or governments shall be authorized to fix and regulate the cost of transportation of persons and freight 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
Maximum rates. by said railway or said company whenever such transportation shall extend from one State into another or shall extend into more than
Mails. one State: *Provided, however,* That the rates of such transportation of passengers, local or interstate, shall not exceed those 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.

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 railway may be located, the sum of fifty dollars, in addition to compensation provided for by this act for property taken or damage done 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 five hundred dollars as each ten miles of road
Annual rental. is graded. Said company shall also pay, as long as said Territory is owned and occupied by the Indians as nations or tribes, 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 their 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: *Provided further,* 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 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 land, with the right to appeal to the courts upon the same terms, conditions and requirements as herein 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 provisions of this section. Nothing in this act shall be construed to prohibit Congress from imposing taxes upon said railway, nor any Territory or State hereafter formed through which said railway shall have been established from exercising 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.

Provisos.
Additional taxes.
Appeal by general councils.
Ante, p. 492.
Award to be in lieu of compensation.
Taxation.
Survey, etc.

SEC. 6. That said railway 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 railways 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 as to any occupant thereof.

Maps to be filed.
Proviso.
Grading to begin on filing maps.

SEC. 7. That the officers, servants, and employees of said company necessary to the construction, operation, and management of said road and telegraph and telephone lines 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.

Employees to reside on right of way.

SEC. 8. That the United States circuit and district courts for 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 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 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 three years after the passage of this act, or this grant shall be forfeited as to that portion not built; that said railroad company shall construct and maintain continually all road and highway 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 proper authorities laid out across the same.

Construction.
Forfeiture.
Crossings, etc.

SEC. 10. That said railway company shall accept this right of way upon express condition, binding upon itself, its successors and assigns, that they will neither aid, advise, nor assist in any effort looking toward 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 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.

Condition of acceptance.
Proviso.
Violation to forfeit.

Record of mortgages.

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.

Amendment, etc.

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

Approved, February 27, 1893.

February 28, 1893.
27 Stat., p. 495.

CHAP. 175.—An act granting to the Chicago, Rock Island and Pacific Railway Company the use of certain lands at Chickasha Station, and for a "Y" in the Chickasaw Nation, Indian Territory.

Chicago, Rock Island, and Pacific Railway may use lands at Chickasha Station, Ind. Ter., with right of way for a "Y."

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Chicago, Rock Island and Pacific Railway Company, a corporation created under and by virtue of the laws of the States of Illinois and Iowa, is hereby granted the right to use for railroad purposes two additional strips of land, each one hundred feet in width, lying on each side of the ground selected for station purposes, under act of Congress, at Chickasha Station, in the Chickasaw Nation, Indian Territory; and said railway company is also granted a right of way one thousand five hundred feet in length for a "Y" in sections twenty-one and twenty-two, township seven north, range seven west of Indian meridian, said right of way to be of a width of three hundred feet for a distance of four hundred feet, and for the remaining one thousand one hundred feet the width shall be one hundred feet. The amount of compensation to be paid to the Chickasaw Nation or tribe of Indians for such appropriation of land and right of way shall be ascertained and determined in the manner provided for the determination of the compensation to be paid to individual occupants of lands, as provided in section three of an act entitled "An act to grant the right of way through the Indian Territory to the Chicago, Kansas and Nebraska Railway Company, and for other purposes," approved March second, eighteen hundred and eighty-seven: *Provided,* That said strips of lands and the lands included in the said "Y" shall be subject to all the conditions, restrictions, and limitations contained in the said act of Congress last mentioned.

Station.
Right of way for a "Y."
Width.
Length.
Compensation.
Vol. 24, p. 446.
Proviso.
Conditions.

Approved, February 28, 1893.

March 1, 1893.
27 Stat., p. 524.

CHAP. 188.—An act to grant to the Gainesville, McCallister and Saint Louis Railway Company a right of way through the Indian Territory, and for other purposes.

Gainesville, McCallister and Saint Louis Railway Company may construct railway, etc., through Indian Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Gainesville, McCallister and Saint Louis Railway Company, a corporation created under and by virtue of the laws of the State of Texas, 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 a point to be selected by said railway company on Red River, north of the east part of Cooke County, in the State of Texas, or the west part of Grayson County, in said State, and running thence in a northeast direction, by the most practicable route, through the Indian Territory, to a point on the western boundary of the State of Arkansas.

Location.

Right of way.

SEC. 2. That a right of way of one hundred feet in width through said Indian Territory is hereby granted to the Gainesville, McCallister and Saint Louis Railway Company, and a strip of land two hundred feet in width, with a length of three thousand feet, in addition to the right of way, is granted for such stations as may be established, but such grant shall be allowed but once for over ten miles of the road, no portion of which shall be sold or leased by the company, with the right to use such additional grounds 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

Addition for stations.
Lands not to be leased or sold.
Provisos.
Limit.

granted shall 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 line 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. Not to be used for other purposes. Reversion.

SEC. 3. That, before said railway shall be constructed through any lands held by individual occupants according to the laws, custom, 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 by the President, who, before entering upon the duties of their appointment, shall take and subscribe before competent authority an oath that they will faithfully and impartially discharge the duties of their appointment, which oath, duly certified, shall be returned with their award. 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 courts, where the case shall be tried de novo. 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. 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. Appraisement. Referees. Disagreement. Award. Appeal. Work may begin on depositing double award. Compensation of referees. Witness fees. Costs.

SEC. 4. That said railway 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 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 freight 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 rates of such transportation of passengers, local or interstate, shall not exceed those 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. Maximum. Mails.

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 railway may be located, the sum of fifty dollars, in addition to compensation provided for by this act for property taken or damage done 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 five hundred dollars as each ten miles of road is graded. Said company shall also pay, as 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 their 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 Additional compensation to tribes. Annual payments. Apportionment. *Provisos.* Additional taxes.

Appeal by general councils.

for their benefit: *Provided further*, 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 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 land, with the right to appeal to the courts upon the same terms, conditions, and requirements as herein 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 provisions of this section. Nothing in this act shall be construed to prohibit Congress from imposing taxes upon said railway, nor any Territory or State hereafter formed through which said railway shall have been established from exercising 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: *Provided further*, That if said right of way shall pass over or through any land allotted to an Indian in accordance with any law or treaty it shall be the duty of the Secretary of the Interior to provide for obtaining the consent of such allottee or allottees to said right of way and to fix the amount of compensation to be paid such allottees for right of way and for damages sustained by them by reason of the construction of the road; but no right of any kind shall vest in said railway company to any portion of said right of way passing over or through any allotted lands until the compensation herein provided for shall be fixed and paid.

Infra.

Ante, p. 525.

Award to be in lieu of compensation.

Taxation.

Survey, etc.

Right of way over allotted lands.

Maps to be filed.

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 railways may be located; and after the filing of said maps no claim for 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 as to any occupant thereof.

Proviso.

Grading to begin on filing map.

Employees to reside on right of way.

SEC. 7. That the officers, servants, and employees of said company necessary to the construction, operation, and management of said road and telegraph and telephone lines shall be allowed to reside while so engaged on said right of way, but subject to the provisions of the Indian intercourse laws and such regulations as may be established by the Secretary of the Interior in accordance with said intercourse laws.

Litigation.

SEC. 8. That the United States circuit and district courts for the northern district of Texas, the western district of Arkansas, 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 Gainesville, McCallister and Saint Louis 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 the citizenship of the 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 one hundred miles of its railway in said Territory within three years after the passage of this act, or this grant shall be forfeited as to that portion not built; that said railroad company shall construct and maintain continually all road and highway 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 proper authority laid out across the same.

Crossings, etc.

Condition of acceptance.

SEC. 10. That the said Gainesville, McCallister and Saint Louis Railway Company shall accept this right of way upon 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 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.

Amendments, etc.

Approved, March 1, 1893.

CHAP. 192.—An act extending the time for the construction of the Big Horn Southern Railroad through the Crow Indian Reservation.

March 1, 1893.

27 Stat., pp. 529.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time limited in section four of the act of Congress entitled "An act granting to the Big Horn Southern Railroad Company a right of way through a part of the Crow Indian Reservation, in Montana Territory," approved February twelfth, eighteen hundred and eighty-nine, within which said railroad company was required to construct its road through said reservation, be, and the same is hereby, extended for two years from December twentieth, eighteen hundred and ninety-two, so that said railroad company shall have until December twentieth, eighteen hundred and ninety-four, to construct its railway. And all the prohibitions and restrictions against transfer and assignment of said right of way which are contained in the act of February twelfth, eighteen hundred and eighty-nine, of which this act is amendatory, shall continue in force: *Provided*, That in order to facilitate the construction of said road the said railroad company may transfer the said right of way, subject to the approval of the Secretary of the Interior, to another railroad company of the State of Montana.

Big Horn Southern Railroad through Crow Indian Reservation, Mont.

Extension of time for construction, etc.

Vol. 25, p. 660.

Transfer and assignment prohibited.

Proviso. Exception.

SEC. 2. That the said right of way through the Crow Indian Reservation, described in said act of February twelfth, eighteen hundred and eighty-nine, is hereby amended, and is granted upon and along the following route: Beginning at some point on the Yellowstone River, in Yellowstone County, Montana; thence, by the most practicable route, across said reservation to the valley of the Big Horn River, thence up said valley and across the Fort Custer military reservation and up the valley of the Little Big Horn River and a tributary thereof, to and across the southern boundary of the said Crow Indian Reservation, with a branch from said line above described, beginning in the Fort Custer military reservation, or at some point in the valley of the Little Big Horn River, and running thence in a southwesterly or westerly direction across said Crow Indian Reservation to the boundary line of said reservation, said grant of a right of way through the military reservation to be subject to the consent and approval of the Secretary of War.

Right of way changed, etc. Vol. 25, p. 660.

Location.

Across Fort Custer military reservation, etc.

Branch line.

Consent, etc., of Secretary of War.

SEC. 3. That the said railroad company shall, in all particulars not inconsistent with this act, conform to the requirements of said act of February twelfth, eighteen hundred and eighty-nine, and the benefits, and provisions of said act shall apply to the right of way herein granted.

Requirements to be conformed to.

Approved, March 1, 1893.

CHAP. 203.—An act to ratify and confirm an agreement with the Kickapoo Indians in Oklahoma Territory, and to make appropriations for carrying the same into effect.

March 3, 1893.

27 Stat., p. 557.

Whereas David H. Jerome, Alfred M. Wilson, and Warren G. Sayre, duly appointed commissioners on the part of the United States, did, on the ninth day of September, eighteen hundred and ninety-one, con-

Preamble.

clude an agreement with Kickapoo Indians in Oklahoma T have formerly a part of the Indian Territory, which said agreem tates follows:

Agreement with Kickapoo Indians, Oklahoma Territory.

"Articles of agreement made and entered into on the Kick ervation, in the Indian Territory, on the 21st day of June, A. by and between David H. Jerome, Alfred M. Wilson, and W Sayre, commissioners on the part of the United States, and t apoo tribe of Indians, in the Indian Territory, and comple city of Washington, D. C., on this 9th day of September, A

nark; ua P ; Kee ee Re ; The nark; nark; his x ugh, Come 1 Tee e No ark; ark; ark; his rk; rk; x ist Me k;

Article I.

ARTICLE I.

Lands ceded absolutely.

"The said Kickapoo tribe of Indians in the Indian Territo cede, convey, transfer, and relinquish, forever and absolut out any reservation whatever, all their claim, title, and i every kind and character in and to the lands embraced in th ing described tract of country in the Indian Territory, to wit

Description.

"Commencing at the southwest corner of the Sac and Fox tion; thence north along the western boundary of said reserv the Deep Fork of the Canadian River; thence up said Deep the point where it intersects the Indian meridian; thence sout said Indian meridian to the North Fork of the Canadian River; down said river to the place of beginning.

Article II.

ARTICLE II.

Allotments in severalty.

In consideration of the cession recited in the foregoing articl t, United States agrees that in said tract of country there shall be all to each and every member, native and adopted, of said Kickapoo of Indians in the Indian Territory 80 acres of land, to conform boundary to the legal surveys of said land. Each and every men of said tribe of Indians over the age of eighteen years shall have

Selections of land by Indians.

right to select for himself or herself 80 acres of land, to be held a owned in severalty; and that the father, or, if he be dead, the mothe shall have the right to select a like amount of land, under the same restrictions, for each of his or her childr en under the age of eighteen years; and that the Commissioner of In dian Affairs, or some one appointed by him for the purpose, shall select a like amount of land, under the same restrictions, for each orphan child belonging to said tribe under the age of eighteen years.

Occupied land, etc.

"It is hereby further expressly agreed that no person shall have the right to make his or her selection of land in any part of said tract of country that is now used or occupied, or that has, or may hereafter be, set apart for military, agency school, school farm, religious, town site, or other public uses, or in section sixteen (16) and thirty-six (36) in each Congressional township; provided, in cases where any member

Existing improvements on school sections, etc.

of said tribe of Indians has heretofore made improvements upon, and now occupies and uses, a part of said sections sixteen (16) and thirty-six (36), such persons may make his or her selection, according to the legal subdivisions, so as to include his or her improvements. It is further agreed that wherever, in said tract of country, any one of said Indians has made improvements and now uses and occupies the land embracing such improvements, such Indian shall have the undisputed right to make his or her selection, to conform to legal subdivisions, however, so as to include such improvements.

Article III.

ARTICLE III.

Limit of time for selections by Indians.

"All allotments hereunder shall be selected within ninety days from the ratification of this agreement by the Congress of the United States, provided the Secretary of the Interior in his discretion may extend the time for making such selections; and should any Indian entitled to allotment hereunder fail or refuse to make his or her selection of land in such time, then the allotting agent in charge of said work of makir

Allotment by agent on failure to select.

such allotments shall, within the next thirty (30) days after said tim make allotments to such Indians, which shall have the same force an effect as if the selections had been made by the Indians themselves.

ARTICLE IV. Article IV.

hen said allotments of land shall have been selected and taken Titles to be held
resaid, and approved by the Secretary of the Interior, the titles in trust.
to shall be held in trust for the benefit of the allottees, respec-
, for a period of twenty-five (25) years, in the manner and to the
provided for in the act of Congress entitled 'An act to provide Vol. 24, p. 388.
allotment of land in severalty to Indians on the various reser-
s, and to extend the protection of the laws of the United States
rritories over the Indians, and for other purposes.' Approved
ary 8, 1887.
d at the expiration of the said twenty-five (25) years the title Conveyance in
shall be conveyed in fee simple to the allottees or their heirs fee.
om all incumbrances, provided the President may at the end of
eriod extend the time the land shall be so held, in accordance
he provisions of the above-recited act.

ARTICLE V. Article V.

In addition to the allotments above provided for, and the other Per capita pay-
fits to be received under the preceding articles, and as the only ment to tribe
her consideration to be paid for the cession and relinquishment of for lands ceded.
e above recited, the United States agrees to pay the said Kickapoo
lians, to be distributed among them per capita, under the direction
he Commissioner of Indian Affairs, for the improvement of their
d allotments, and for other purposes for their benefit, the sum of
ty-four thousand and six hundred and fifty ($64,650) dollars; pro- *Proviso.*
ded, that the number of allotments of land provided for shall not Limit.
xceed three hundred (300). But if the number of allotments shall
xceed three hundred (300), then there shall be deducted from the said Number of al-
um of sixty-four thousand and six hundred and fifty ($64,650) dollars, lotments.
the sum of fifty ($50) dollars for each allotment in excess of the three
hundred (300); provided, however, that should the Kickapoos elect to Indians may
leave any or all of said money in the Treasury of the United States it leave money in
shall bear interest at the rate of five per cent per annum after the rat- Treasury at in-
ification by Congress of this contract. terest.

ARTICLE VI. Article VI.

"It is hereby further agreed that wherever in this reservation, any Land used for
religious society or other organization is now occupying any portion of religious, etc., work reserved
said reservation for religious or educational work among the Indians from entry.
the land so occupied may be allotted and confirmed to such society or
organization, not, however, to exceed one hundred and sixty (160)
acres of land to any one society or organization, so long as the same
shall be so occupied and used, and such land shall not be subject to
homestead entry.

ARTICLE VII. Article VII.

"This agreement shall have effect whenever it shall be ratified by Effect.
the Congress of the United States.
"In witness whereof the said commissioners on the part of the Signatures of
United States have hereunto set their hands and the undersigned, mem- commissioners.
bers of the said tribe of Kickapoo Indians in the Indian Territory,
have set their hands the day and year first above written.

"DAVID H. JEROME,
"ALFRED M. WILSON,
WARREN G. SAYRE,
Commissioners on the part of the United States.

KICKAPOO VILLAGE, *August 16, 1891.*

"At a special council called to elect delegates to send to Washington Authorization
to make deal with the Government about our homes, we give Oc qua of Indian dele-
Noc a Sey and Kee Soc cau mee waw, and John T. Hill full power and gates.

Power of attorney.

authority to deal with the Government or Commission, and they full power to settle with them or the Government of the United S of America.

"Hereunto we set our hands and seal.

Signatures of delegates, etc.

Wape Mee Shay Waw, his x mark; Washe He Hoon, his x n
Waw Patte Co Se Way, his x mark; Wah Mattee C
Yoka, his x mark; Pa Mee Thout, his x mark; Noc
Thow, his x mark; Ta Ke Kak Thoe, his x mark; M
Aj Quaw, his x mark; The Ourouh Naugh, his x mark
O Cann, his x mark; Wap Augh Noc A Sey, his x
Pay Ah Nough, his x mark; Chaugh Co Thow, his x
Fish A. Tame Augh, his x mark; No Ten Wa Attee,
mark; May Soop Pattee Saut, his x mark; So Tea N
his x mark; Panney Paw He Wah, his x mark; Tush
Mee, his x mark; Pass Car U Taugh, his x mark; Ketc
Waw, his x mark; O Ke Maw Waw, his x mark; Se
Som Mee, his x mark; Wap Pee Chee Ka Way, his x m
West Sact To Sauth, his x mark; Mat Tanney, his x m
Auch Chest Caw, his x mark; Chest Kee Augh, his x m
May Say Qua Sheald, his x mark; Mau Kaugh The Sey
x mark; Pee Quaa, his x mark; West Scoa Thay, his x ma
Kam Keney Nay, his x mark; Mass McCarmick, his x ma
So Puck A Waw, his x mark; Kee Wi Quar Kuck, his
mark; Young Ah Qua They, his x mark; Paugh Thee S
Lugt, his x mark; Atch Ah Thee, his x mark; Pa
Thought, his x mark; Wah Theim Augh, his x mark
Mautch E Nonine Augh, his x mark; Pene A Pan Though
his x mark; Mack Aureyer, his x mark; Augh Paut thousep
yeare, his x mark; Pat The Sathe, his x mark; Em Ne Statte
his x mark; E Cone Putt, his x mark; Nect Co Tau Quay
Paw, his x mark; Oka Matha Thou, his x mark; Waw Pee
Pam, his x mark;

Witness:
JOSEPH WHIPPLE (his x mark).
JOHN T. HILL.

Certifications, etc.

John Whipple, special interpreter for Kickapoos, appointed by all of those that have signed this agreement is a member of the Kickapoo tribe of Indians.

I, John T. Hill, hereby certify that I read and explained the foregoing power of attorney to Joseph Whipple, who understands well the English language, and was made to fully understand the same; that I was requested by the Kickapoo tribe of Indians to prepare the power of attorney, and did so, and when I explained it to said Whipple he pretended to interpret it to said Indians in full council assembled.

"Witness my hand at Washington, D. C., this ninth day of September, 1891.

JOHN T. HILL.

I, Joseph Whipple, hereby certify that I am a member of the Kickapoo tribe of Indians in the Indian Territory; that I speak and well understand the English language and the Kickapoo language, and that at a council of all the Kickapoos on the 16th day of August, 1891, on this reservation, I was chosen as interpreter; that John T. Hill prepared and explained to me the foregoing power of attorney, and, when so explained, I interpreted it to said Indians and they were made to fully understand the same as it was read and explained to me, and then they signed it; and I further certify that the Secretary of the Interior further advised and informed me what the paper contains, and he stated it as said Hill stated it to me and as I interpreted it to said Indians.

"Witness my hand at Washington, D. C., this ninth day of September, 1891.

JOSEPH WHIPPLE (his x mark).

Attest:
WM. F. RYAN.

We, the undersigned, commissioners on the part of the United States, and Ock-qua-noc-a-sey, Kish-o-com-me, and John T. Hill, authorized by the Kickapoo tribe of Indians in the Indian Territory, hereby agree with each other as follows: Agreement to submit certain disputed points to decision of Secretary of Interior, etc.

"The United States commissioners aforesaid and the Kickapoos have agreed on terms of sale of their reservation, except the commissioners insist on the Indians taking lands in allotment, while the Indians insist in taking an equal amount of land as a diminished reservation, the title to be held in common.

"The tribe has executed a power of attorney authorizing the above-named persons to make the contract with the commissioners, but have directed them to do so at Washington. The Kickapoos so authorized insist on going to Washington to see the Secretary of the Interior and submit to him their claim to have a diminished reservation held in common as aforesaid, and hereby agree with the United States commission to abide his decision in the premises, and take their lands in common or in allotment as he shall direct, and further agree that at Washington they will sign a contract as the Secretary of the Interior may determine. This is agreed to on condition that the United States shall pay their expenses and subsist them to Washington and return.

"Done at Oklahoma City, Oklahoma Territory, this 29th day of August, A. D. 1891.

Signatures.

DAVID H. JEROME,
WARREN G. SAYRE,
ALFRED M. WILSON,
U. S. Commissioners.
OCK QUA NO CASEY (his x mark).
KISH O CAM MEE (his x mark).
JOHN T. HILL.

Attest:
"CHAS. S. KING.

Certification.

"We, the undersigned, head men of the Kickapoo tribe of Indians in the Indian Territory, have had interpreted and fully explained to us the foregoing agreement, and we hereby, as representatives of said tribe, agree to the same and further certify that the power of attorney referred to was executed by the persons whose names are signed thereto, and that they each understood its contents and meaning.

"Witness our hands at Oklahoma City, Oklahoma Territory, this 29th day of August, A. D. 1891.

WASH E HONE, his mark.
WA PA KO THE WAH, his mark.
NON NA QUA PE WAH, his mark.
QUA KEN NA HAH, his mark.
KISH AH TUN HUH, his mark.
JOSEPH WHIPPLE, his mark.

In presence of—
"CHAS. S. KING.

"DEPARTMENT OF THE INTERIOR,
Washington D. C.

Announcement of terms of agreement by the Secretary of the Interior.

"The Kickapoo tribe of Indians having agreed upon terms of sale of their reservation with the commissioners for the United States, except the commissioners insist on the Indians taking lands in allotment, while the Indians insist on taking an equal amount of land as a diminished reservation, the title to be held in common, and having further agreed to abide by the decision of the Secretary of the Interior in the premises, and that said lands shall be taken in common or in allotment as he shall direct, and that a contract shall be signed as he may determine:

"(All of which more fully appears by an agreement dated August 29th, 1891, and a power of attorney dated August 16th, 1891, hereunto annexed.) *Ante*, p. 557. *Ante*, p. 559.

And said question having been submitted to the Secretary by the commissioners in person and by said Indians, appearing by their delegates, Ock-qua-noc-a-sey, Kish-o-com-me, and John T. Hill, and having been duly considered,

Decision. Lands to be taken in allotment.

"Now, I, John W. Noble, Secretary of the Interior, and as said Secretary, do hereby decide that the Kickapoo Indians take their lands in allotment and not to be held in common, and I so direct.

"Let the contract, so far as the question submitted is involved, be signed in accordance with this decision.

Signatures. "Done this ninth day of September, A. D. eighteen hundred and ninety-one.

"JOHN W. NOBLE,
Secretary of the Interior.

"Wape Mee Shay Waw, Washe He Hoon, Waw Patte Co Se Way, Wah Matte Qua P Yoka, Pa Mee Thout, No Kee Thow, Ta Kak Thee, Mee Re Aj Quaw, The Ourouh Naugh, The O Cann, Wab Augh Noc A Sey, Pay Ah Nough, Chaugh Co Thow, Fish A Tame Augh, No Ten Wa Atte, May Scop Patte Saut, So Tea Naugh, Panney Paw He Wah, Tush Come Mee, Pass Car U Taugh, Ketch Tee Waw, O Ke Maw Waw, See No Som Mee, Wap Pee Chee Ka Way, West Sact to Sauth, Mat Tanney, Auch Chest Caw, Chest Kee Augh, May Say Qua Sheald, Mau Kaugh The Sey, Pee Quaa, West Scoa Thay, Kam Keney Nay, Mass McCarmick, So Puck A Waw, Kee Wi Quar Kuck, Young Ah Qua They, Paugh Thee Sist Lugt, Atch Ah Thee, Pa Me Thought, Wah Theim Augh, Mautch E Nonine Augh, Pene A Pan Thought, Mack Aureyer, Augh Paut Thousepyeare, Pat The Sathe, Em Ne Statte, E Cone Putt, Nect Co Tau Quaw Paw, Oka Matha Thou, Waw Pee Pam.

"By OC-QUA-NOC-A-SEY (his X mark),
"KEE-SO-COM-MEE (his X mark),
JOHN T. HILL,
"Attorneys in fact.

Ante, p. 557. "(See power of attorney hereto attached.)
"Attest:
"WM. F. RYAN.

"SAC AND FOX INDIAN AGENCY,
"Indian Territory.

Certification. "I, Samuel L. Patrick, United States Indian agent at Sac and Fox Indian Agency, in the Indian Territory, hereby certify that the Kickapoo tribe of Indians is attached to said agency; that there are no complete rolls of the persons constituting said tribe of Indians, they have persistently refused to have or permit an enrollment to be made, but from all the information I can obtain I certify that the male adult population of said tribe is about fifty (50), but I am certain that it can not exceed sixty (60).

"Given under my hand, on the Kickapoo Reservation, this 20th day of June, A. D. 1891.

"SAMUEL L. PATRICK, United States Indian Agent.

"I, Joseph Whipple, hereby certify that I am a member of the Kickapoo tribe of Indians, in the Indian Territory and was chosen by Oc-quanoc-a-sey and Kee sho-com-mee and the head men of said tribe as their interpreter; that I speak and understand well both the English and Kickapoo languages, but do not read or write; that I heard the foregoing contract read and explained by Warren G. Sayre, one of the commissioners on the part of the United States, and that I well understand it as it was explained by him. I further certify that I, at the time said Sayre so explained it, interpreted the same to said Indians, and they were made to fully understand the same.

Witness my hand at Washington, D. C., this 9th day of September, 1891.

"JOSEPH (his mark) WHIPPLE.

"Attest;
"WM. F. RYAN.

Therefore

Confirmation of cession. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That said agreement be, and the same hereby is, accepted, ratified, and confirmed.

Appropriation. "That for the purpose of carrying into effect the provisions of the foregoing agreement there is hereby appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, the

sum of sixty-four thousand six hundred and fifty dollars. And after first paying to John T. Hill the sum of five thousand one hundred and seventy-two dollars for services rendered said Kickapoo Indians and in discharge of a written contract made with said Indians and recommended by the Secretary of the Interior, the remainder to be expended for the use of said Indians as stipulated in said contract: *Provided*, That should said Indians elect to leave any portion of said remaining balance in the Treasury, the amount so left shall bear interest at the rate of five per cent per annum:" *Provided*, That none of the money or interest thereon, which is by the terms of said agreement to be paid to said Indians, shall be applied to the payment of any judgment that has been or may hereafter be rendered under the provisions of the act of Congress approved March third, eighteen hundred and ninety-one, entitled "An act to provide for the adjudication and payment of claims arising from Indian depredations."

Expenditure.

John T. Hill.

Interest.

Proviso.

Restriction as to Indian depredation claims.

Vol. 26, p. 851.

SEC. 2. That for the purpose of making the allotments and payments provided for in said agreement, including the preparation of a complete roll of said Indians, the pay and expenses of a special agent, if the President thinks it necessary to appoint one for the purpose, and the necessary surveys or resurveys, there be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of five thousand dollars, or so much thereof as may be necessary.

Expenses of allotments, etc.

SEC. 3. That whenever any of the lands acquired by this agreement shall, by operation of law or proclamation of the President of the United States, be open to settlement or entry, they shall be disposed of (except sections sixteen and thirty-six in each township thereof) to actual settlers only, under the provisions of the homestead and town site laws (except section twenty-three hundred and one of the Revised Statutes of the United States, which shall not apply): *Provided, however*, That each settler on said lands shall, before making a final proof and receiving a certificate of entry, pay to the United States for the land so taken by him, in addition to the fees provided by law, and within five years from the date of the first original entry, the sum of one dollar and fifty cents an acre, one-half of which shall be paid within two years; but the rights of honorably discharged Union soldiers and sailors, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes of the United States shall not be abridged, except as to the sum to be paid as aforesaid. Until said lands are opened to settlement by proclamation of the President of the United States, no person shall be permitted to enter upon or occupy any of said lands; and any person violating this provision shall never be permitted to make entry of any of said lands or acquire any title thereto: *Provided*, That any person having attempted to, but for any cause failed to acquire a title in fee under existing law, or who made entry under what is known as the commuted provision of the homestead law, shall be qualified to make homestead entry upon said lands.

Ceded lands open to settlement.

R. S., sec. 2301, p. 421.

Provisos.

Additional payment.

Soldiers' and sailors' homestead, etc.

R. S., secs. 2304, 2305, p. 422.

No settlement until proclamation made.

Violation.

Further qualification for homestead entry.

Approved March 3, 1893.

3

March 3, 189

CHAP. 205.—An act to provide for the adjustment of certain sales of lands in the late reservation of the confederated Otoe and Missouria tribes of Indians in the States of Nebraska and Kansas.

27 Stats., p. 568.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to revise and adjust on principles of equity the sales of lands in the late reservation of the confederated Otoe and Missouria tribes of Indians in the States of Nebraska and Kansas, provided by the act of Congress approved March third, eighteen hundred and eighty-one, to be appraised and sold in the manner specified in said act, and which were sold at public sales at the land office at Beatrice, Nebraska, in May and December, eighteen hundred and eighty-three, and in his discretion, the consent of the Indians having first been obtained, in such manner and under such regulations as the Secretary of the Interior shall prescribe and approve, to allow to the purchasers of said lands at said public sales, their heirs and legal representatives, rebates of the amounts, respectively, paid, or agreed to be paid, by said purchasers: *Provided*, That such rebates shall in no case exceed the price for which said tracts of land were severally sold in excess of the appraised value thereof, as

Confederated Otoe and Missouria Indian lands, Nebr. and Kans.

Adjustment of sales.

Vol. 21, p. 380.

Consent of Indians.

Regulations.

Rebates on purchases.

Proviso.

Maximum.

shown by the appraisement made by the commissioners appointed and designated under said act.

Records of rebates.

SEC. 2. As soon as practicable after such adjustments, such rebates, if any shall be allowed, shall be severally indorsed on the certificates and receipts of purchase, and on the records of the General Land Office,

Notice of amounts due.

and the Secretary of the Interior shall cause notice to be given to said purchasers, severally, of the amounts of the deferred payments found to be due and unpaid on their respective purchases under such adjust-

Resale on default of payments due.

ments. And in default of the payment in cash of the amounts thus found to be severally due within one year from the date of the issuance of such notice, with interest thereon from the date of such adjustments, the entries of any of said purchasers so in default shall be canceled and the lands shall be resold at no less than the appraised price, and in no case less than two dollars and fifty cents per acre, as provided in said act; and where lands have been fully paid for and rebate of the

Payment of rebates, etc.

purchase money has been allowed by the Secretary of the Interior, he shall pay said money, within three months, to said purchaser, his heirs or legal representatives, out of any money in the Treasury derived from the fund received from the sale of said lands; the same to be paid on the requisition of the Secretary of the Interior.

Approved, March 3, 1893.

March 3, 1893.
27 Stats., p. 612.

CHAP. 209.—An act making appropriations for current and contingent expenses, and fulfilling treaty stipulations with Indian tribes, for fiscal year ending June thirtieth, eighteen hundred and ninety-four.

Indian Department appropriations.

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 they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian Department for the year ending June thirtieth, eighteen hundred and ninety-four, and fulfilling treaty stipulations with the various Indian tribes, namely:

* * * * * *

[27 Stats. p. 616.]

CŒUR D'ALENES.

* * * * * *

Negotiation authorized for change of northern line of reservation.

The Secretary of the Interior is hereby directed to negotiate with the Cœur d'Alene Indians for a change of the northern line of their reservation, so as to exclude therefrom a strip of land on which the town of Harrison and numerous settlers are located.

Effect.

That the foregoing provisions shall take effect and be in force after it shall have been submitted to, and duly agreed to, by the Indians of said tribe and approved by the Secretary of the Interior.

* * * * * *

[27 Stats., p. 617.]
Delawares.

DELAWARES.

Payment to Indians per capita, of all trust funds, bond proceeds, etc.

That all the funds not held in trust by the United States for the benefit of the Delaware tribe of Indians in the Indian Territory, with interest due upon same, including the school fund and interest thereon, and also the amount invested by the United States in Florida and North Carolina bonds, which bonds are now held in trust for the benefit of said tribe, be paid per capita under the direction of the

Proviso.
Bonds to be property of United States.
Sale of Union Pacific Railroad bonds.
Distribution, etc.

Secretary of the Interior to said tribe: *Provided*, That said bonds shall hereafter be the property of the United States, and the Secretary of the Interior is hereby authorized and directed to sell twenty five thousand two hundred and fifty dollars of the Union Pacific Railroad bonds held in trust for the Delawares, and to pay to the said Indians per capita the proceeds, together with all uninvested funds and interest moneys to their credit and on deposit in the United States Treasury, as herein provided, and the authority herein granted shall be in force from and after the approval of this act.

Payment for undivided interest in bonds.

And there is hereby appropriated, from moneys in the Treasury of the United States not otherwise appropriated, the sum of thirty-three dollars and ninety cents, to be immediately available, the difference between the amount, twenty-five thousand two hundred and fifty

dollars of Union Pacific Railroad bonds authorized to be sold by this act, and the undivided interest in said bonds owned by the Delawares, amounting to twenty-five thousand two hundred and eighty-three dollars and ninety cents, and said sum is also to be paid to the Delawares as other moneys herein provided for: *Provided*, That said undivided interest in said bonds, amounting to thirty-three dollars and ninety cents, shall become the property of the United States: *Provided*, That the undivided interest of George Bullett and his family and Lucy Zulkey and her family remain in the Treasury as now.

Provisos. Undivided interests in bonds.

* * * * * *

SISSETON AND WAHPETON INDIANS.

Sissetons and Wahpetons. [27 Stats., p. 624.]

* * * * *

That for the purpose of paying to the scouts and soldiers of the Sisseton, Wahpeton, Medawakanton, and Wapakoota bands of Sioux Indians who were enrolled and entered into the military service of the United States, and served in suppressing what is known as the Sioux outbreak of eighteen hundred and sixty-two, or who were enrolled and served in the armies of the United States in the war of the rebellion, and are now living, and to the descendants and members of the families of such of said scouts and soldiers as are now dead, who were not parties to the agreement entered into between the United States and the Sisseton and Wahpeton bands of Dakota and Sioux Indians on the twelfth day of December, eighteen hundred and eighty-nine, for the reason that they were not residents of the said Sisseton Reservation and did reside elsewhere, their pro rata shares of the amount found due said scouts and soldiers for annuities under the provisions of the fourth article of the treaty of July twenty-third, eighteen hundred and fifty-one, and of which they have been wrongfully and unjustly deprived by the operation of the provision of the act of Congress approved February sixteenth, eighteen hundred and sixty-three, and entitled "An act for the relief of persons for damages sustained by reason of depredations and injuries by certain bands of Sioux Indians," the whole amount so found due all of said scouts and soldiers by the Department of the Interior, having been appropriated by the United States, to the Indians residing on the Sisseton Reservation, in and by article three of the said agreement of December twelfth, eighteen hundred and eighty-nine, to the Indians residing on the said Sisseton Reservation, without reference to military service, and the said scouts and soldiers residing off said reservation being thereby deprived of their pro rata share of said annuities for which Congress made provision to the thirtieth day of June, eighteen hundred and ninety, in and by section twenty-seven of the act of March third, eighteen hundred and ninety-one, leaving their share of the annuity of eighteen thousand four hundred dollars due the first day of July, eighteen hundred and ninety, and the first day of July, eighteen hundred and ninety-one, and the first day of July, eighteen hundred and ninety-two, and the first day of July, eighteen hundred and ninety-three, and the first day of July, eighteen hundred and ninety-four, wholly unpaid and unprovided for, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, thirty thousand six hundred and sixty-six dollars and sixty-six cents, or so much thereof as may necessary, to be paid in equal shares and per capita to said scouts and soldiers who are still living, and who are not parties to the agreement aforesaid, and————a share that any such scout or soldier would receive if living shall, in the event he is dead, be divided pro rata between his wife and children and descendants, and the pay rolls upon which payments were made to said scouts and soldiers and their descendants under the twenty-seventh section of the act of March third, eighteen hundred and ninety-one, shall be conclusive in all cases where the name appears upon said rolls, except in cases where deaths have subsequently occurred, and the Secretary of the Interior is hereby authorized to add such other names to said rolls as were previously omitted therefrom by mistakes or omissions of persons who were lawfully entitled to be enrolled thereon.

Payment to Indian scouts and soldiers, military service.

Sioux outbreak.

War of the rebellion.

Vol. 26, pp. 1035–1038.

Vol. 10, p. 949.

Vol. 12, p. 652.

Vol. 26, p. 1037

Vol. 26, p. 1038.

Distribution per capita.

Pay rolls.

Vol. 26, p. 1038.

Mistakes, etc., in enrollment.

* * * *

MISCELLANEOUS SUPPORTS.

* * * * *

[27 Stats., p. 628.] Digger Indians, Jackson, Cal. Immediately available.

To enable the Secretary of the Interior to purchase land and subsistence and other necessaries for the support of the Digger Indians of Central California, at Jackson, in said State, and for such other purposes as may be deemed necessary for the civilization of said Indians, ten thousand dollars, to be immediately available. A primary day school may be established and maintained out of said appropriation.

* * * * *

[27 Stats., p. 630.] Eastern band of Cherokees. Removal. Vol. 9, p. 265.

That for the amount necessary to pay for the removal and subsistence of those members of the Eastern band of Cherokees who have removed themselves, as well as those who may now or hereafter desire to remove to the Cherokee Nation, in the Indian Territory, at the rate of fifty-three dollars and thirty-three cents per head, being the amount specified in the eighth article of the Cherokee treaty of December twenty-ninth, eighteen hundred and thirty-five, and the act of Congress approved July twenty-ninth, eighteen hundred and forty-eight, twenty thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior.

* * * * *

Alexander Redwing may sell to American Missionary Association land for cemetery, Nebr.

Authority is hereby granted to Alexander Redwing, a Sioux Indian of the Santee tribe in the State of Nebraska, to sell and convey to the American Missionary Association, incorporated under the laws of the State of New York, so much of the land allotted and patented by the United States to him, the said Redwing, as is used for a cemetery lot, not exceeding fifteen acres, situated in the tract described as follows, to wit: West half of southeast quarter of southwest quarter section thirteen, township thirty-three north, range five west, the same to be held, occupied, and used for cemetery purposes only.

Omaha Indians, Nebr. Vol. 22, p. 342. Allotments. Indian women and children born since allotments made. *Provisos.* Conditions, etc. Vol. 22, p. 342. Expenses. [27 Stats., p. 631.]

That the act of Congress approved August seventh, eighteen hundred and eighty-two, entitled "An act to provide for the sale of a part of the reservation of the Omaha tribe of Indians in the State of Nebraska, and for other purposes," be, and the same is hereby, amended so as to authorize the Secretary of the Interior, with the consent of the Indians of that tribe, to allot in severalty, through an allotting agent of the Interior Department, to each Indian woman and child of said tribe born since allotments of land were made in severalty to the members thereof under the provisions of said act, and now living, one-eighth of a section of the residue lands held by that tribe in common, instead of one-sixteenth of a section, as therein provided, and to allot in severalty to each allottee under said act, now living, who received only one-sixteenth of a section thereunder, an additional one-sixteenth of a section of such residue lands: *Provided*, That the allotments so made shall be subject to the same conditions, restrictions, and limitations provided for in sections six, seven, and eight of said act, touching allotments and patents to allottees therein mentioned: *And provided*, That the expenses incurred in making the allotments hereby authorized shall be defrayed out of the funds appropriated for surveying and allotting Indian reservations. * * *

Payment of costs of legal contests by or against Indians. *Proviso.* One-half fees Accounts. District attorneys to represent Indians.

To enable the Secretary of the Interior, in his discretion, to pay the legal costs incurred by Indians in contests initiated by or against them, to any entry, filing, or other claims, under the laws of Congress relating to public lands, for any sufficient cause affecting the legality or validity of the entry, filing or claim, five thousand dollars: *Provided*, That the fees to be paid by and on behalf of the Indian party in any case shall be one-half of the fees provided by law in such cases, and said fees shall be paid by the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, on an account stated by the proper land officers through the Commissioner of the General Land Office. In all States and Territories where there are reservations or allotted Indians the United States district attorney shall represent them in all suits at law and in equity.

* * * * *

[27 Stats., p. 631.]

That the agreement* entered into by Robert S. Gardner, United States Indian inspector, on the part of the United States, duly appointed by the Secretary of the Interior in that behalf, of the one

* For agreement see page 520.

part, and the head chief, chiefs, headmen, and delegates of the Yakama and other confederated tribes and bands of Indians, residing on the Yakama Indian Reservation, in the State of Washington, of the other part, bearing date the thirteenth day of January, in the year of our Lord one thousand eight hundred and eighty-five, and now on file in the office of the Commissioner of Indian Affairs, is hereby accepted, ratified, and confirmed: *Provided*, That the Northern Pacific Railroad Company, its successors or assigns shall, within sixty days from the taking effect of this act, pay to the Treasurer of the United States the sum of eight thousand two hundred and ninety-five dollars and eighty cents for the use and benefit of said Yakama and other confederated tribes and bands of Indians residing on the Yakama Reservation, in the State of Washington, five thousand three hundred and nine dollars whereof shall be expended for the benefit of said Indians in such manner as the Secretary of the Interior may direct, and the balance, or two thousand nine hundred and eighty-six dollars and eighty cents, shall be expended for the benefit of such individual Indians, or their heirs, or paid to them in cash, in the proportion to which they may severally be entitled, as appears on the schedule E attached to said agreement, as the Secretary of the Interior may direct.

Agreement with Yakama, etc., Indians, Washington, ratified, etc.

Proviso. Payment for benefit of Indians by Northern Pacific Railroad.

Expenditure.

* * * * *

To enable the Secretary of the Interior, in his discretion, to negotiate with any Indians for the surrender of portions of their respective reservations, any agreement thus negotiated being subject to subsequent ratification by Congress, fifteen thousand dollars, or so much thereof as may be necessary.

[27 Stats., p 633.] Negotiations with any Indians.

Mission Indians: To enable the Attorney-General to employ a special attorney for the Mission Indians of Southern California, upon the recommendation of the Secretary of the Interior, one thousand dollars.

Mission Indians, Cal. Special attorney.

To pay George W. Maffet for buildings and improvements at the Cheyenne and Arapaho Agency, Indian Territory, now used and occupied by the Government, one thousand dollars.

G. W. Maffet, payment to.

For removal of Lower Brule and consolidating with Crow Creek Agency in South Dakota, and for construction of agency building at some place on the Lower Brule Reservation, and to complete the Indian industrial school at Chamberlain, South Dakota, fifty thousand dollars, or so much thereof as may be necessary.

Consolidation of Lower Brule and Crow Creek agencies, etc.

Industrial school, Chamberlain, S. Dak.

That the President of the United States is hereby authorized immediately after the passage of this act to appoint a commission of three persons, and not more than one of whom shall be a resident of any one State, and it shall be the duty of said commission to select and appraise such portions of the allotted lands as are not required for homes for the Indian allottees; and also that part of the agency tract, exclusive of the burying ground, not needed for school purposes, in the Puyallup Reservation, in the State of Washington. And if the Secretary of the Interior shall approve the selections and appraisements made by said commission, the allotted lands so selected shall be sold for the benefit of the allottees, and the agency tract for the benefit of all the Indians, after due notice, at public auction at not less than the appraised value for cash, or one-third cash and the remainder on such time as the Secretary of the Interior may determine, to be secured by vendor's lien on the property sold.

Commission to select and appraise portions of alloted lands, etc., Puyallup Reservation, Wash.

Approval.

Sale.

Notice.

Terms of sale.

It shall be the duty of said commission, or a majority of them, to superintend the sale of said lands, ascertain who are the true owners of the allotted lands, have guardians duly appointed for the minor heirs of any deceased allottees, make deeds of the lands to the purchasers thereof, subject to the approval of the Secretary of the Interior, which deeds shall operate as a complete conveyance of the land upon the full payment of the purchase money; and the whole amount received for allotted lands shall be placed in the Treasury to the credit of the Indian entitled thereto, and the same shall be paid to him in such sums and at such times as the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, shall direct: *Provided*, That the portion of the agency tract selected for sale shall be platted into streets and lots as an addition to the city of Tacoma, and sold in separate lots, in the same manner as the allotted lands, and the amount received therefor, less the amount necessary to pay the expenses of said commission, including salaries, shall be placed to the credit of the

Duty of commission.

Ascertainment of owners, etc.

Deeds.

Disposal of purchase money.

Provisos.

Addition to Tacoma.

Sale of lots in agency tract.

School fund. Puyallup band of Indians as a permanent school fund, to be expended for their benefit: *And provided further*, That the Indian allottees shall

Power of alienation by Indian allottees of unselected land. not have power of alienation of the allotted lands not selected for sale by said commission, for a period of ten years from the date of the passage of this act, and no part of the allotted land shall be offered for

Limit. sale until the Indian or Indians entitled to the same shall have signed a

Consent of Indians to sale of allotted land. written agreement consenting to the sale thereof, and appointing said commissioners, or a majority of them, trustees to sell said land and make a deed to the purchaser thereof; and no part of the agency tract

Sale of agency tract. shall be sold until a majority of said Indians shall consent thereto in a written agreement, which shall also constitute said commissioners, or a majority of them, trustees to sell said land, as directed in this act, and make deeds to the purchaser for the same. The deeds executed by said commission shall not be valid until approved by the Secretary of the Interior, who is hereby directed to make all necessary regulations

Disposal of proceeds. to carry out the purposes of the foregoing provisions. The proceeds arising from the sale of the allotted lands shall be placed in the Treasury to the credit of the respective allottees, and the net proceeds

Reimbursement. of the agency tract, after paying the expenses of said commission in the appraisement and sale of said lands, and reimbursing the United States for the amount advanced to said commission, shall be placed in

Interest. the Treasury of the United States to the credit of all said Indians, and

Expenditure of interest. the said sums shall draw interest at the rate of four per centum per

Expenditure of principal. annum, and the income shall be annually expended for the benefit of said Indians, under the direction of the Secretary of the Interior: *Provided*, That an amount not exceeding one-tenth of the principal sum may be expended for their benefit during any fiscal year, if deemed necessary by the Secretary of the Interior: *Provided further*, That the

Apportionment of expenses. entire expense herein incurred shall be apportioned by the Secretary of the Interior pro rata between the several allottees and the owners of the tribal tract; and the Secretary of the Interior may in his discretion designate one member of said commission to superintend the execution of any of the requirements of said commission herein provided for.

Available. And the sum of twenty thousand dollars, or so much hereof as may be necessary, is hereby appropriated for the purpose of defraying the expenses of said commission, to be reimbursed to the United States out of the proceeds of the sale of that portion of the agency tract, to be immediately available.

* * * * *

Cherokee Outlet.

CHEROKEE OUTLET.

[27 Stats., p. 640.] SEC. 10. That the sum of two hundred and ninety-five thousand seven hundred and thirty-six dollars payable as hereinafter provided is hereby appropriated out of any money in the Treasury not otherwise

Secretary of the Interior authorized to purchase. appropriated, and the Secretary of the Interior is hereby authorized and directed to contract to pay eight million three hundred thousand dollars, or so much thereof as may be necessary in addition, to pay the Cherokee Nation of Indians for all the right, title, interest, and claims which the said nation of Indians may have in and to certain lands described and specified in an agreement* concluded between David H. Jerome, Alfred M. Wilson, and Warren G. Sayre, duly appointed commissioners on the part of the United States, and Elias C. Boudinot, Joseph A. Scales, George Downing, Roach Young, Thomas Smith, William Triplett, and Joseph Smallwood, duly appointed commissioners on the part of the Cherokee Nation of Indians in the Indian Territory,

Boundaries. on the nineteenth day of December, eighteen hundred and ninety-one, bounded on the west by the one hundredth degree of west longitude; on the north by the State of Kansas; on the east by the ninety-sixth degree of west longitude, and on the south by the Creek Nation, the Territory of Oklahama, and the Cheyenne and Arapaho Reservation,

Agreement. created or defined by Executive order dated August tenth, eighteen hundred and sixty-nine; which said agreement is fully set forth in the message of the President of the United States, communicating the same to Congress, known as Executive Document Numbered Fifty-six, of the first session of the Fifty-second Congress, the lands referred to being commonly known and called the "Cherokee Outlet;" and said

* For agreement see page 522.

agreement is hereby ratified by the Congress of the United States, subject, however, to the Constitution and laws of the United States and the acts of Congress that have been or may be passed regulating trade and intercourse with the Indians, and subject, also, to certain amendments thereto, as follows:

Ratification.
Limitations.

Amend the same by adding to the first paragraph of article two of said agreement the following words: "*And provided further*, That before any intruder or unauthorized person occupying houses, lands, or improvements, which occupancy commenced before the eleventh day of August, anno Domini eighteen hundred and eighty-six, shall be removed therefrom, upon demand of the principal chief or otherwise, the value of his improvements, as the same shall be appraised by a board of three appraisers, to be appointed by the President of the United States, one of the same upon the recommendation of the principal chief of the Cherokee Nation, for that purpose, shall be paid to him by the Cherokee Nation; and upon such payment such improvements shall become the property of the Cherokee Nation: "*Provided*, That the amount so paid for said improvements shall not exceed the sum of two hundred and fifty thousand dollars: *And provided further*, That the appraisers in determining the value of such improvements may consider the value of the use and occupation of the land.

Agreement amended.
Provisos.
Removal of intruders.
To be paid value of improvements.
Appraisers.
Limit for improvements.
Value of the use.

Further amend the same by striking out paragraph three of article two of said agreement and changing the numbers of the subsequent paragraphs to correspond.

Further amendments.

And the provisions of said agreements so amended shall be fully performed and carried out on the part of the United States: *Provided*, That the money hereby appropriated shall be immediately available and the remaining sum of eight million three hundred thousand dollars, or so much thereof as is required to carry out the provisions of said agreement as amended and according to this act, to be payable in five equal annual instalments, commencing on the fourth of March, eighteen hundred and ninety-five, and ending on the fourth day of March, eighteen hundred and ninety-nine, said deferred payments to bear interest at the rate of four per centum per annum, to be paid annually, and the amount required for the payment of interest as aforesaid is hereby appropriated: *And provided further*, That of the money hereby appropriated a sufficient amount to pay the Delawares and Shawnees their pro rata share in the proceeds of said outlet shall remain in the Treasury of the United States until the status of said Delaware and Shawnee Indians shall be determined by the courts of the United States before which their suits are now pending; and a sufficient amount shall also be retained in the Treasury to pay the freedmen who are citizens of the Cherokee Nations, or their legal heirs and representatives, such sums as may be determined by the courts of the United States to be due them. Nor shall anything herein be held to abridge or deny to said freedmen any rights to which they may be entitled under existing laws or treaties. The acceptance by the Cherokee Nation of Indians of any of the money appropriated as herein set forth shall be considered and taken and shall operate as a ratification by said Cherokee Nation of Indians of said agreement, as it is hereby proposed to be amended, and as a full and complete relinquishment and extinguishment of all their title, claim, and interest in and to said lands; but such relinquishment and extinguishment shall not inure to the benefit of any railroad company nor vest in any railroad company anyright, title, or interest in or too any of said lands: *Provided*, Said railroad shall be relieved from any further payments of compensation to said Cherokee Nation, as required by law for running said railroad across said Cherokee outlet.

Amended agreements to be carried out, etc.
Provisos.
Appropriation immediately available.
Remainder payable in five annual installments.
Interest.
Appropriation for annual interest.
Share of Delawares and Shawnees, retained.
Retention to pay Cherokee freedmen.
Acceptance by Cherokee Nation of any of this money to operate as a ratification.
Railroad company not to be benefited, etc.
Nor to make further compensation to Cherokee Nation.

And said lands, except the portion to be allotted as provided in said agreement, shall, upon the payment of the sum of two hundred and ninety-five thousand seven hundred and thirty-six dollars, herein appropriated, to be immediately paid, become and be taken to be and treated as a part of the public domain. But in any opening of the same to settlement, sections sixteen and thirty-six in each township, whether surveyed or unsurveyed, shall be, and are hereby, reserved for the use and benefit of the public schools to be established within the limits of such lands, under such conditions and regulations as may be hereafter enacted by Congress: *Provided*, That if the legislative council of the Cherokee Nation shall deem it more advantageous to their people, they may issue a loan for the principal and interest

Unallotted lands to become public domain.
School sections reserved.
Cherokee council may issue a loan for deferred payments, etc.

of the deferred payments, pledging said amounts of interest and principal to secure payment of such debt.

Chilocco Indian Industrial School lands reserved from public settlement.

Sections thirteen, fourteen, fifteen, sixteen, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty eight, and the east half of sections seventeen, twenty, and twenty-nine, all in township numbered twenty-nine, north of range numbered two east of the Indian Meridian, the same being lands reserved by Executive order dated July twelfth, eighteen hundred and eighty-four, for use of and in connection with the Chilocco Indian Industrial School, in the Indian Territory, shall not be subject to public settlement, but shall, until the further action of Congress, continue to be reserved for the purposes for which they were set apart in the said Executive order. And the President of the United States, in any order or proclamation which he shall make for the opening of the lands for settlement, may make such other reservations of lands for public purposes as he may deem wise and desirable.

Other reservations may be made by Presidential proclamation.

President to make proclamation opening lands to settlement.

The President of the United States is hereby authorized, at any time within six months after the approval of this act and the acceptance of the same by the Cherokee Nation as herein provided, by proclamation, to open to settlement any or all of the lands not allotted or reserved, in the manner provided in section thirteen of the act of Congress approved March second, eighteen hundred and eighty-nine, entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and ninety, and for other purposes" (Twenty-fifth United States Statutes, page ten hundred and five); and also subject to the provisions of the act of Congress approved May second, eighteen hundred and ninety, entitled "An act to provide a temporary government for the Territory of Oklahoma to enlarge the jurisdiction of the United States court in the Indian Territory, and for other purposes;" also, subject to the second proviso of section seventeen, the whole of section eighteen of the act of March third, eighteen hundred and ninety-one, entitled "An act making appropriations for the current expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and ninety-two, and for other purposes;" except as to so much of said acts and sections as may conflict with the provisions of this act. Each settler on the lands so to be opened to settlement as aforesaid shall, before receiving a patent for his homestead, pay to the United States for the lands so taken by him, in addition to the fees provided by law, the sum of two dollars and fifty cents per acre for any land east of ninety-seven and one-half degrees west longitude, the sum of one dollar and a half per acre for any land between ninety-seven and one-half degrees west longitude, and ninety-eight and one-half degrees west longitude and the sum of one dollar per acre for any land west of ninety-eight and one-half degrees west longitude, and shall also pay interest upon the amount so to be paid for said land from the date of entry to the date of final payment therefor at the rate of four per centum per annum.

Vol. 25, p. 1005.

Vol. 26, p. 81.

County divisions, etc. School land leases.

Vol. 26, p. 1026.

Exceptions.

Additional payments by settlers before receiving patent.

Interest.

No person to enter until proclamation issues.

No person shall be permitted to occupy or enter upon any of the lands herein referred to, except in the manner prescribed by the proclamation of the President opening the same to settlement; and any person otherwise occupying or entering upon any of said lands shall forfeit all right to acquire any of said lands. The Secretary of the Interior shall, under the direction of the President, prescribe rules and regulations, not inconsistent with this act, for the occupation and settlement of said lands, to be incorporated in the proclamation of the President, which shall be issued at least twenty days before the time fixed for the opening of said lands.

Rules, etc., for occupation, etc., of lands.

Time of issue of proclamation.

Allotments.

The allotments provided for in the fifth section of said agreement shall be made without delay by the persons entitled thereto, and shall be confirmed by the Secretary of the Interior before the date when said lands shall be declared open to settlement; and the allotments so made shall be published by the Secretary of the Interior for the protection of proposed settlers. And a sum equal to one dollar and forty cents per acre for the lands so allotted shall be deducted from the full amount of the deferred payments, hereby appropriated for: *Provided*,

Deduction from deferred payments for allotted lands.

That D. W. Bushyhead, having made permanent or valuable improvements prior to the first day of November, eighteen hundred and ninety-one, on the lands ceded by the said agreement, he shall be authorized to select a quarter section of the lands ceded thereby, whether reserved or otherwise, prior to the opening of said lands to public settlement; but he shall be required to pay for such selection, at the same rate per acre as other settlers, into the Treasury of the United States in such manner as the Secretary of the Interior shall direct.

D. W. Bushyhead may have prior selection of certain land.

Payment.

The President of the United States may establish, in his discretion, one or more land offices to be located either in the lands to be opened or at some convenient place or places in the adjoining organized Territory of Oklahoma, and to nominate and, by and with the advice and consent of the Senate, to appoint registers and receivers thereof.

Land offices.

Registers and receivers.

The sum of five thousand dollars, or so much thereof as may be necessary, the same to be immediately available, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay for the services of the appraisers to be appointed as aforesaid, at a rate not exceeding ten dollars a day for the time actually employed by each appraiser, and their reasonable expenses, and to enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to effect the removal of intruders required by the first paragraph of Article two of said agreement as amended.

Compensation, etc., of appraisers.

Immediately available.

Limit.

Removal of intruders.

The sum of five thousand dollars, or so much thereof as may be necessary, the same to be immediately available, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to employ such expert person or persons to properly render a complete account to the Cherokee Nation of moneys due said nation, as required in the fourth subdivision of article two of said agreement.

Expert accountants.

Immediately available.

TONKAWA INDIAN LANDS.

Tonkawa Indian lands.

SEC. 11. That the sum of thirty thousand six hundred dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the same to be immediately available, to pay the Tonkawa tribe of Indians in the Territory of Oklahoma for all their right, title, claim, and interest of every kind and character in and to four townships of land, containing ninety thousand seven hundred and ten and eighty-nine one-hundredths acres, more or less, ceded, conveyed, and relinquished to the United States by article one of an agreement* concluded on the twenty-first day of October, eighteen hundred and ninety-one, between David H. Jerome, Alfred M. Wilson, and Warren G. Sayre, duly appointed commissioners on the part of the United States, and said Tonkawa tribe of Indians, which agreement is contained in the message of the President communicating the same to Congress, and known as Executive Document Numbered Thirteen, first session Fifty-second Congress, to be paid and applied in the manner provided for in said agreement. And such portion of said amount as may be deposited in the Treasury of the United States shall bear interest at the rate of five per centum per annum, which interest shall be applied as provided in said agreement; and said agreement is hereby accepted, ratified, and confirmed.

Payment for land relinquished to the United States.

Manner of payment, etc.

Interest, etc.

Ratification, etc., of agreement.

PAWNEE INDIAN LANDS.

Pawnee Indian lands.

SEC. 12. That the sum of eighty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the same to be immediately available, to pay the Pawnee tribe of Indians in Oklahoma, formerly a part of the Indian Territory, for all their right, title, claim, and interest of every kind and character in and to all that tract of country between the Cimarron and Arkansas rivers embraced within the limits of seventeen specified townships of land, ceded, conveyed, and relinquished to the United States by said Pawnee tribe of Indians, by article one of an agreement† concluded on the twenty-third day of Novem-

Payment to Pawnee Indians, Oklahoma, for cession of lands between the Cimarron and Arkansas rivers.

*For agreement see page 524.

†For agreement see page 526.

ber, eighteen hundred and ninety-two, between David H. Jerome, Alfred M. Wilson, and Warren G. Sayre, duly appointed commissioners on the part of the United States, and said Pawnee tribe of Indians, which agreement is contained in the message of the President communicating the same to Congress, and known as Executive Document Number Sixteen, second session Fifty-second Congress, to be paid and applied in the manner provided in article four of said agreement. And the further sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the same to be immediately available, to pay the expense of making the allotments provided for in said agreement, including the pay and expenses of necessary special agents hereby authorized to be appointed by the President for the purpose of making such allotments, and to pay the expense of necessary resurveys therefor. Said agreement is hereby accepted, ratified, and confirmed. And the residue of the proceeds of the surplus lands mentioned in said agreement shall be placed to the credit of said tribe in the Treasury of the United States, and shall bear interest at the rate of five per centum per annum, said interest to be paid and distributed to said tribe as provided in said article four.

Payment, etc.

Immediately available.

Compensation, etc., of special allotting agents.

Interest. Distribution.

Lands to become part of public domain.

School sections reserved.

Ante, p. 640.

SEC. 13. That the lands acquired by the agreements specified in the two preceding sections are hereby declared to be a part of the public domain. Sections sixteen and thirty-six in each township, whether surveyed or unsurveyed, are hereby reserved from settlement for the use and benefit of public schools, as provided in section ten relating to lands acquired from the Cherokee Nation of Indians. And the lands so acquired by the agreements specified in the two preceding sections not so reserved, shall be opened to settlement by proclamation of the President at the same time and in the manner, and subject to the same conditions and regulations provided in section ten relating to the opening of the lands acquired from the Cherokee Nation of Indians. And each settler on the lands so to be opened as aforesaid shall, before receiving a patent for his homestead, pay to the United States for the lands so taken by him, in addition to the fees provided by law, the sum of two dollars and fifty cents per acre; and shall also pay interest upon the amount so to be paid for said land from the date of entry to the date of final payment at the rate of four per centum per annum.

Open to settlement on proclamation by President.

Additional fee.

Interest.

County divisions.

SEC. 14. Before any of the aforesaid lands are open to settlement it shall be the duty of the Secretary of the Interior to divide the same into counties, which shall contain as near as possible not less than five hundred square miles in each county. In establishing said county line the Secretary is hereby authorized to extend the lines of the counties already located so as to make the area of said counties equal, as near as may be, to the area of the counties provided for in this act: *Provided*, That range one west and ranges one, two, three, and four east, in township twenty, shall be attached to, and become a part of, Payne County. At the first election for county officers the people of each county may vote for a name for each county, and the name which receives the greatest number of votes shall be the name of such county: *Provided further*, That as soon as the county lines are designated by the Secretary he shall reserve not to exceed one-half section of land in each county, to be located for county-seat purposes, to be entered under sections twenty-three hundred and eighty-seven and twenty-three hundred and eighty-eight of the Revised Statutes. And all reservations for county seats shall be specified in any order or proclamation which the President shall make for the opening of the lands to settlement.

Provisos.

Payne County.

County names.

County seats.

R.S., secs. 2387, 2388, p. 437.

To be specified in proclamation.

Allotments to Cherokees, Creeks, Choctaws, and Seminoles.

Allottees to be deemed citizens.

Survey of allotted lands.

Rights of United States to cease.

SEC. 15. The consent of the United States is hereby given to the allotment of lands in severalty not exceeding one hundred and sixty acres to any one individual within the limits of the country occupied by the Cherokees, Creeks, Choctaws, Chickasaws and Seminoles; and upon such allotments the individuals to whom the same may be allotted shall be deemed to be in all respects citizens of the United States. And the sum of twenty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated to pay for the survey of any such lands as may be allotted by any of said tribes of Indians to individual members of said tribes; and upon the allotment of the lands held by said tribes, respectively, the reversionary interest of the United States therein shall be relinquished and shall cease.

Negotiations with the five civilized tribes in Indian Territory.

SEC. 16. The President shall nominate and, by and with the advice and consent of the Senate, shall appoint three commissioners to enter into negotiations with the Cherokee Nation, the Choctaw Nation, the Chickasaw Nation, the Muscogee (or Creek) Nation, the Seminole Nation, for the purpose of the extinguishment of the national or tribal title to any lands within that Territory now held by any and all of such nations or tribes, either by cession of the same or some part thereof to the United States, or by the allotment and division of the same in severalty among the Indians of such nations or tribes, respectively, as may be entitled to the same, or by such other method as may be agreed upon between the several nations and tribes aforesaid, or each of them, with the United States, with a view to such an adjustment, upon the basis of justice and equity, as may, with the consent of such nations or tribes of Indians, so far as may be necessary, be requisite and suitable to enable the ultimate creation of a State or States of the Union which shall embrace the lands within said Indian Territory.

Commission to be appointed.

Salaries, etc., of commissioners.

The commissioners so appointed shall each receive a salary, to be paid during such time as they may be actually employed, under direction of the President, in the duties enjoined by this act, at the rate of five thousand dollars per annum, and shall also be paid their reasonable and proper expenses incurred in prosecution of the objects of this act, upon accounts therefor to be rendered to and allowed by the Secretary of the Interior from time to time. That such commissioners shall have power to employ a secretary, a stenographer, and such interpreter or interpreters as may be found necessary to the performance of their duties, and by order to fix their compensation, which shall be paid, upon the approval of the Secretary of the Interior, from time to time, with their reasonable and necessary expenses, upon accounts to be rendered as aforesaid; and may also employ, in like manner and with the like approval, a surveyor or other assistant or agent, which they shall certify in writing to be necessary to the performance of any part of their duties.

Secretary, stenographer, and interpreter.

Surveyor, etc.

Regulations, etc.

Such commissioners shall, under such regulations and directions as shall be prescribed by the President, through the Secretary of the Interior, enter upon negotiation with the several nations of Indians as aforesaid in the Indian Territory, and shall endeavor to procure, first, such allotment of lands in severalty to the Indians belonging to each such nation, tribe, or band, respectively, as may be agreed upon as just and proper to provide for each such Indian a sufficient quantity of land for his or her needs, in such equal distribution and apportionment as may be found just and suited to the circumstances, for which purpose, after the terms of such an agreement shall have been arrived at, the said commissioners shall cause the lands of any such nation or tribe or band to be surveyed and the proper allotment to be designated; and, secondly, to procure the cession, for such price and upon such terms as shall be agreed upon, of any lands not found necessary to be so allotted or divided, to the United States; and to make proper agreements for the investment or holding by the United States of such moneys as may be paid, or agreed to be paid, to such nation, or tribes, or bands, or to any of the Indians thereof, for the extinguishment of their [title] therein. But said commissioners shall, however, have power to negotiate any and all such agreements as, in view of all the circumstances affecting the subject, shall be found requisite and suitable to such an arrangement of the rights and interests and affairs of such nations, tribes, bands, or Indians, or any of them, to enable the ultimate creation of a Territory of the United States with a view to the admission of the same as a State in the Union.

Duties of commission.

As to allotment of lands in severalty to Indians.

Cession of other lands to United States.

Agreements for interest, etc.

Power and objects of the commission.

Reports.

The commissioners shall at any time, or from time to time, report to the Secretary of the Interior their transactions and the progress of their negotiations, and shall at any time, or from time to time, if separate agreements shall be made by them with any nation, tribe or band, in pursuance of the authority hereby conferred, report the same to the Secretary of the Interior for submission to Congress for its consideration and ratification.

Available.

For the purposes aforesaid there is hereby appropriated, out of any money in the Treasury of the United States, the sum of fifty thousand dollars, to be immediately available.

Right of sovereignty of the United States not waived, etc.

Neither the provisions of this section nor the negotiations or agreements which may be had or made thereunder shall be held in any way to waive or impair any right of sovereignty which the Government of

the United States has over or respecting said Indian Territory or the people thereof, or any other right of the Government relating to said Territory, its lands, or the people thereof.

Approved, March 3, 1893.

March 3, 1893.
27 Stats., p. 744.

CHAP. 219.—An act for the relief of the Stockbridge and Munsee tribe of Indians in the State of Wisconsin.

Preamble.
Vol. 11., p. 663.

Whereas a treaty was entered into on the fifth day of February, eighteen hundred and fifty-six, by and between the Government of the United States and the Stockbridge and Munsee Indians, in which the said Indians ceded certain lands to the United States, and accepted in consideration thereof certain lands as a reservation, to which said Indians removed, and upon which they have ever since resided; and

Vol. 16, p. 404.

Whereas by the interpretation placed by Government officials on the act of February sixth, eighteen hundred and seventy-one, an act for the relief of said Indians, a large part of said Indians (and their descendants) who signed said treaty of eighteen hundred and fifty-six, and have continued with said tribe from the making of said treaty to the present time, are excluded from participating in tribal funds and the right to occupy said reservation: Therefore

Stockbridge and Munsee Indians, Wisconsin.
Distribution of tribal funds.
Vol. 11, p. 664.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons who were actual members of said tribe of Indians at the time of the execution of the treaty of February fifth, eighteen hundred and fifty-six, and their descendants, and all persons who became members of the tribe under the provisions of article six of said treaty, and their descendants, who did not in and by said treaty, and have not since its execution, separated from said tribe, are hereby declared members of said Stockbridge and Munsee tribe of Indians and entitled to their pro rata share in tribal funds and in the occupancy of tribal lands; and

Share in tribal funds and lands.

all members who entered into possession of lands under the allotments of eighteen hundred and fifty-six and of eighteen hundred and seventy-one, and who by themselves or by their lawful heirs have resided on said lands continously since, are hereby declared to be owners of such lands in fee simple, in severalty, and the Government shall issue patents to them therefor.

Fee simple ownership.
Patents to issue.

Enrollment to be taken and filed.

SEC. 2. That it shall be the duty of the Secretary of the Interior, without unnecessary delay after the passage of this act, to cause to be taken an enrollment of said tribe on the basis of the provisions of this act, which enrollment shall be filed, a copy in the Department of the Interior and a copy in the records of said tribe: *Provided*, That in all cases where allotments of eighteen hundred and seventy-one shall conflict with allotments of eighteen hundred and fifty-six, the latter shall prevail.

Proviso.
Prior allotments.

Approved, March 3, 1893.

March 3, 1893.
27 Stats., p. 747.

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

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

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

Location.

Branch in Choctaw Nation.

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 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.

Branch in Seminole Nation.

Sidings, etc.

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.

Right of way.

Addition for stations, etc.

Additional for cuts and fills.

Provisos.
Limit.

Lands not to be sold, etc.

Reversion.

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 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 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 cannot 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 rail-

Damages.

Referees.

Oath, etc.

Substitution on failure to appoint.

Hearings.

Compensation.

Costs.

Award.

Appeal.

Costs on appeal.

road 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.

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.

Freight charges.

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.

Provisos.

Passenger rates.

Regulation of charges.

Interstate transportation.

Maximum.

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 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 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.

Provisos.

Appeal by general councils.

Award to be in lieu of compensation.

Annual rental.

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.

Record of mortgages.

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.

Amendment, etc.

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

No assignment before construction.

Construction liens, etc., excepted.

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.

Approved, March 3, 1893.

RESOLUTION.

January 18, 1893.

27 Stat., p. 753.

[No. 7.] Joint resolution to authorize the Secretary of the Treasury to cover back into the Treasury forty-eight thousand eight hundred dollars of the appropriation to Choctaw and Chickasaw Indians.

Choctaw and Chickasaw Indians.

Excess for lands covered into the Treasury.

Vol. 26, p. 1025.

Proviso.

No liability to pay for lands in "leased district"

Resolved 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, directed to retain and cover back into the Treasury forty-eight thousand eight hundred dollars of the appropriation made by Congress to pay the Choctaw and Chickasaw tribes of Indians for their interest in lands of the Cheyenne and Arapahoe Reservation, dated March third, eighteen hundred and ninety-one; which amount has been ascertained, by a recount of the allottees of said Cheyennes and Arapahoes, to be by that amount more than is due the said Choctaws and Chickasaws upon the purchase and settlement for their said interest: *Provided, however,* That neither the passage of the original act of appropriation to pay the Choctaw and Chickasaw tribes of Indians for their interest in the lands of the Cheyennes and Arapahoe Reservation, dated March third, eighteen hundred and ninety-one, nor of this resolution, shall be held in any way to commit the Government to the payment of any further sum to the Choctaw and Chickasaw Indians for any alleged interest in the remainder of the lands situated in what is commonly known and called the "leased district."

Approved, January 19, 1893.

PRIVATE ACT.

December 19, 1892

27 Stat., p. 810.

CHAP. 5.—An act granting a pension to Tendoy, chief of the Bannocks, Shoshones, and Sheepeaters tribe of Indians.

Tendoy. Pension.

Be it enacted by the Seuate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll the name of Tendoy, chief of the Bannocks, Shoshones, and Sheepeaters tribe of Indians, located at Lemhi Agency, Idaho, at the rate of fifteen dollars per month.

Approved, December 19, 1892.

AGREEMENTS WITH INDIAN TRIBES.*

AGREEMENT WITH PUYALLUP INDIANS.

This article of agreement made and entered into by and between J. W. Sprague, general superintendent of the Pacific Division of the Northern Pacific Railroad Company, on behalf of said company, and R. H. Milroy, agent in charge of the Puyallup Indian Reservation, on behalf of the Indians of said reservation,

Witnesseth, That said R. R. Co., being desirous of locating and constructing a branch line of their said R. R. from New Tacoma to the Puyallup coal fields, which said branch line must pass through said reservation, and the right of way through said reservation being desired for the permanent location and construction of said branch line, said Sprague hereby agrees, on behalf of said R. R. Co., and binds the same in consideration of the Indians of said reservation, through their chiefs and head men, giving their consent to said right of way to the following stipulations, to wit: 1st. To pay reasonably for all damages that may be occasioned to improvements on said reservation by the construction and permanent right of way of said branch line through said reservation.

2nd. To construct at some convenient point upon said branch line within the limits of said reservation, where it will be of the most benefit to the same, a switch in connection with a side track of practicable length, with the right to said Indians to have a warehouse or depot constructed adjoining said side track, at which the passing trains of cars on said branch line will stop for the shipment of passengers and freight.

3rd. That during the construction of said branch line preference will be given in the employment of Indian laborers, over white and Chinese laborers, when the Indian laborers will perform the work required to be done as well and as cheaply as it would be done by white or Chinese laborers.

4th. That during the construction of said branch line through said reservation no

* These are the agreements referred to in foregoing legislation.