

SEC. 10. That the President is authorized to appoint on or before March first, eighteen hundred and ninety-one, a board of three officials, which board shall be charged with the duty of examining the classes and kinds of property and the amount of moneys pertaining to and in the possession of the Signal Corps, and said board shall as soon as practicable make to the Secretary of War a report setting forth the amount of moneys and the quantities and kinds of property more suitable for the work of the Weather Bureau and not necessary for the use of the Signal Corps, and what part of said property will be suitable and necessary for the Signal Corps, and upon the approval of said report by the Secretary of War the property and moneys which shall be decided to properly pertain to the Weather Bureau work shall be transferred to such bureau, and to the custody of the Secretary of Agriculture, while the remaining property and funds shall continue in the possession of the Signal Corps.

President to appoint board to report on division of moneys, property, etc., between Weather Bureau and Signal Corps.

Approved, October 1, 1890.

CHAP. 1267.—An act establishing a customs collection district to consist of the States of North Dakota and South Dakota, and for other purposes.

October 1, 1890.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a collection of customs district be, and the same is hereby, established, embracing the States of North Dakota and South Dakota, with Pembina, in the State of North Dakota, as a port of entry, and Sioux Falls, in the State of South Dakota, as a port of delivery.

North and South Dakota customs district established.

Ports of entry and delivery.

SEC. 2. That the collector for the port of North and South Dakota shall be appointed by the President, by and with the advice and consent of the Senate, and shall be paid a salary of twelve hundred dollars per annum.

Collector.

Salary.

Approved, October 1, 1890.

CHAP. 1268.—An act to provide for railroad crossings in the Indian Territory.

October 1, 1890.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That every railroad corporation created and organized under the laws of the United States, or any of the States thereof, which may now or shall hereafter be authorized to construct and operate a railroad in the Indian Territory, shall have the right to cross, intersect, join, or unite its railroad with any other railroad now constructed or that may hereafter be constructed at any point upon its route and upon the grounds and right of way of such other railroad company, with the necessary turn-outs, sidings, and switches, telegraph and telephone lines, and other conveniences in furtherance of the objects of its construction; and every railroad company whose railroad is or shall be crossed, joined, or intersected by any other railroad shall unite with the owners and corporators of such other railroad in forming such crossing, intersection, and connection, and shall grant to such railroads so crossing, intersecting, or uniting all the necessary facilities for that purpose.

Indian Territory. Railroads in, may cross, etc., other lines.

Companies to unite in making connection, etc.

SEC. 2. That if the two corporations or their management can not agree upon the amount of compensation to be made for the purposes set forth in the foregoing section, or the points or manner of such crossings, junctions, or intersections the corporation desiring to cross, intersect, join, or unite with the other railroads, may file its petition in the nearest United States court having jurisdiction of civil causes in said Territory, with a description and map of the place at which

Compensation. Disagreement.

Petition to court to assess damages.

- said crossing, intersection, or junction is desired, asking to have the damages for said right of way, crossing, intersection, or junction assessed, and upon the filing of such petition, in term time or vacation, the court or judge thereof in vacation shall forthwith appoint three disinterested citizens of the United States residing in said Territory as special commissioners to assess said damages, giving preference to those who may be agreed upon by the two parties.
- Appointment of commissioners.**
- Oath.** SEC. 3. That the said commissioners shall be sworn by the judge or any officer authorized by law to administer oaths to assess said damages fairly and impartially according to law. They shall appoint as early a day as practicable and a place as near as practicable to said point of crossing or junction for the hearing of the parties, and shall notify each of the parties in writing of the time and place so selected at least five days before the hearing, which notice may be served on any officer, agent, or attorney of said corporation or management of the railroad to be notified, and by any person competent to testify. If notice shall not be perfected at the time set the hearing may be postponed from time to time till service thereof shall be perfected.
- Hearings.**
- Powers.** SEC. 4. That the said commissioners shall have power to compel the attendance of witnesses and the production of testimony, and to administer oaths.
- Assessment of damages.** SEC. 5. That at the time and place appointed the commissioners shall meet and proceed to fully hear the parties interested and shall assess the actual damages, if any, sustained by reason of the crossing or junction sought; they shall reduce their decision to writing, stating therein the amount of damages, if any, awarded, the amount of costs, with each item thereof and against which party adjudged, and shall without delay file said statement, with all the papers connected with the case, in the office of the clerk of said court.
- Upon paying, etc., award, company may cross, etc.** SEC. 6. That if the party seeking the crossing or junction shall pay to the other party, or deposit with the clerk of said court for the use of the other party the damages and costs so assessed and awarded against it, said party shall have the right upon said payment or deposit to enter upon the right of way of the other party and to cross, intersect, join, or unite its road with the other railroad in accordance with the award.
- Appeal from commissioners' decision.** SEC. 7. That if either party be dissatisfied with the decision of the commissioners it may, within ten days from the filing thereof, file its exceptions thereto in writing, setting forth the particular cause or causes of objection, and thereupon the adverse party shall be summoned, and said cause shall be tried and determined as other causes in said court. But nothing in this section shall be so construed as to deprive the railroad company seeking a crossing from accepting the report of the commissioners, and paying into the court the full amount of the award of damages made by the commissioners, and immediately thereafter to cross, intersect, join, or unite with the line of the opposing railway. If no exceptions are filed within said time the judge shall cause the said decision to be recorded in the minutes of his court, and shall make the same judgment of his court, and may issue the necessary process to enforce the same.
- Right of accepting company to proceed, etc., not barred.**
- Record of decision, if not appealed.** SEC. 8. That commissioners shall be entitled to receive for their services five dollars each for every day they are engaged in the performance of their duties, which they shall include in their statement of costs and which shall be paid as such. If the commissioners or any of them shall be unable or for any cause fail to act the court or judge shall appoint a commissioner or commissioners to supply the place or places of those failing to act.
- Compensation of commissioners.**
- Supplying vacancies.** SEC. 9. That the costs of the proceedings before the commissioners and in the court shall be determined as follows, to wit: If the commissioners shall award greater damages than the said company offered to pay before the proceedings commenced, or if exceptions are
- Determination of costs.**

filed to the decision of the commissioners as herein provided for, and the judgment of the court is for a greater sum than the amount awarded by the commissioners, then the said company shall pay all costs; but if the amount awarded by said commissioners as damages, or if the judgment of the court shall be for the same or less amount of damages than the amount offered by the company before proceedings were commenced, then the cost shall be paid by the other company.

SEC. 10. That every railroad company operating a railroad in the Indian Territory shall cause all passenger and freight trains running on its road to stop at all points on its road where another railroad crosses, joins, unites, or intersects, and take and receive on said trains all passengers and all freights and mail offered at that point, and shall carry the same, and shall also discharge at said point all passengers desiring to stop there and all freight and mails consigned to said point, and no railroad company shall in any wise discriminate against passengers or freight transported or conveyed by any intersecting railroad company.

Trains to stop at all intersections, etc.

Discriminations forbidden.

Penalty for violations.

SEC. 11. That any railroad company violating any of the provisions of the preceding section shall forfeit and pay to the company or individual injured thereby double the amount of damages which said company or individual may have sustained, to be recovered in any court of competent jurisdiction.

Approved, October 1, 1890.

**CHAP. 1269.**—An act for the relief of certain settlers on the public lands of the United States and to authorize the taking and filing of final proofs in certain cases.

October 1, 1890.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in cases now before any of the land offices of the United States in which there has been or is now a vacancy in either of the offices of register or receiver, where the day set for hearing final proofs came during the vacancy in said office, and there is no contest or protest against said claims, and where the remaining officer has taken said proofs and reduced the same to writing, the same may now be passed upon by the register and receiver as if the same had been taken when there was no vacancy.

Public lands. Completion of entries where office of register or receiver is vacant.

SEC. 2. That hereafter, when a vacancy shall occur in any of the land offices of the United States by reason of the death, resignation, or removal of either the register or receiver, and the time set for taking final proofs falls within the vacancy thus caused, the remaining officer may proceed to take said final proofs, in the absence of any contest or protest, reduce the same to writing, and place it on file in the office to be considered and passed upon when the vacancy is filled.

In vacancy in office of register or receiver, remaining officer may take final proofs.

Approved, October 1, 1890.

**CHAP. 1270.**—An act to authorize the appointment of Assistant Surgeons Thomas Owens and William Martin, United States Navy, not in the line of promotion, to the position of Surgeons, United States Navy, not in the line of promotion, and for other purposes.

October 1, 1890.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President be, and is hereby, authorized to appoint Assistant Surgeons Thomas Owens and William Martin, United States Navy, not in the line of promotion, to the rank of surgeons, United States Navy, not in the line

Navy. Thomas Owens and William Martin may be appointed surgeons not in line of promotion.