

CHAP. 149.—An act to authorize the Secretary of the Treasury to consent to the use of a portion of the public grounds of the United States in the town of Abingdon, Virginia, for a public street.

July 6, 1892.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized to consent, if in his judgment it be proper, to the use of so much of the public grounds belonging to the United States in the town of Abingdon, not exceeding thirty feet in width, on the west side of said public grounds, for a public street in the said town, upon such terms and conditions as he may deem proper for the protection of the rights of the United States.

Abingdon, Va.
Land granted for
public street.

Approved, July 6, 1892.

CHAP. 150.—An act to authorize the Marinette and Western Railroad Company to construct a railroad through the Menominee Reservation, in the State of Wisconsin.

July 6, 1892.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Marinette and Western Railway Company, a corporation created under and by virtue of the laws of the State of Wisconsin, 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 line, running in an easterly and westerly direction, in, on, upon, and through the Menominee Indian Reservation, comprised of township thirty, in ranges thirteen, fourteen, and fifteen, in Shawano County, and township thirty, in range sixteen, Oconto County, State of Wisconsin, with the right to construct, use, and maintain such tracks, turn-outs, and sidings as said company may deem it to their interest to construct along and upon the right of way and depot grounds of said railroad herein provided for: *Provided*, That the company shall have the right to adopt the most feasible and practicable route in following the general direction hereinbefore specified: *Provided further*, That said route or right of way shall be located within one and one-half miles from the north line of townships hereinbefore mentioned.

Marinette and West-
ern Railway Company
granted right of way
through Menominee
Indian Reservation,
Wis.

Location.

Proviso.

Location.

Width.

Stations, etc.

Lands not to be
leased or sold.

Reversion.

Damages.

Appraisement.
Referees.

SEC. 2. That said corporation is authorized to take and use for all purposes of a railroad, telegraph, and telephone line, and for no other purpose, a right of way one hundred feet in width through said Indian Reservation and to take and use a strip of land two hundred feet in width, with the length of three thousand feet, in addition to the right of way, for station purposes, not to exceed one station for every six 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 on each side of said right of way, or so much thereof as may be included in said cut or fill; but 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 from which the same was taken.

SEC. 3. That before said railroad shall be constructed through any lands held by individual occupants according to the laws, customs, and usages of any of the Indian members of said Menominee tribe 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 said railroad. In case of failure to make amicable settlement with any occupant, such compensation shall be determined by the appraisement of three disinterested referees, a majority of whom shall be a quorum for the transaction of business, to be appointed, one by the President, one by the Menominee Indians in

Oath. general council to which said occupant belongs, and one by the railroad company, who, before entering upon the duties of their appraisalment, shall take and subscribe an oath that they will faithfully and impartially discharge the duties of appraisalment, which oath, duly certified, shall be returned with their award to and filed with the Secretary of the Interior within twenty days from the completion thereof, and a majority of said referees shall be competent to act in case of the absence of a member, after due notice; and upon the failure of either party to make such appointment within thirty days after the appointment made by the President, the vacancy shall be filled by the judge of the district court for the eastern district of Wisconsin upon application of either party. The person appointed by the President shall be chairman of said board, and shall appoint the time and place of 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 the cause submitted to them under this act, with mileage at 5 cents per mile. A majority of the board, where all can not agree, may 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 district court for the eastern district of Wisconsin, having jurisdiction over the place where the land lies, which court shall have jurisdiction to hear and determine the subject matter of the petition according to the laws of the State of Wisconsin for determining damages 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 or a sum equal to said award the costs of said appeal shall be adjudged against the railroad company. If the judgment of the court shall be for a less sum than the award made by the referees, then the costs shall be adjudged against the party claiming damages. All proceedings of said district court upon appeal from the award of the referees shall be conducted in the same manner as an original action brought therein, except that the court may direct formal pleadings to be made and served: *Provided*, That all costs of appraisements by referees shall be paid by the railroad company.

Substitution on failure to appoint.

Hearing.

Compensation.

Award.

Appeal to district court.

Costs on appeal.

Proceedings.

Proviso.

Payment by railway company.

Additional compensation to tribes.

Annual rental.

Appeal to Secretary of the Interior by general council.

Proviso.

Award to be in lieu of compensation.

Title to timber.

SEC. 4. That said railroad company shall pay to the Secretary of the Interior, for the benefit of the particular nation or tribes through whose lands said line may be located, the sum of fifty dollars per mile for each mile of road constructed and maintained in said Indian reservation, in addition to the compensation provided for in this act for property taken or damages done individual occupants by the construction of said road, to be paid as each five miles of the railroad is graded, and also fifteen dollars per mile per annum, so long as such reservation shall be used and occupied as a reservation by said tribes. If, however, the general council of the Menominee tribe of Indians through whose lands said railroad may be located shall, within four months after the filing of maps of definite location as set forth in section five 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 court upon the same terms, conditions, and requirements as therein provided: *Provided*, That the amount awarded or adjudged to be paid by said railroad company for such dissenting nation or tribe shall be in lieu of the compensation the said nation or tribe would be entitled to receive under the foregoing provision: *Provided*, That the title to all timber on the right of way herein granted shall remain in the Menominee tribe of Indians, and shall be sold and disposed of for the benefit of said Indians, under the direction of the

Secretary of the Interior, all such timber to be removed within a reasonable time after the filing of maps of definite location of the right of way by said company, and the approval thereof by the Secretary of the Interior, to the end that the company shall not be hindered or delayed in the construction of its road: *Provided*, That all merchantable pine timber on the right of way and depot grounds shall be carefully estimated and appraised by a competent person appointed by the Secretary of the Interior, and said railroad company shall pay or cause to be paid the sum of not less than six dollars per thousand feet, board measure, for each and every thousand feet, together with the expense of estimate and appraisal, said money to be paid to the Secretary of the Interior before the building of said road has been commenced: And *Provided*, That after paying the expense of the estimate and appraisal, the balance of the money derived from the sale of said timber shall be expended by the Secretary of the Interior for the benefit of the Menominee tribe of Indians.

Payment for pine timber.

Proceeds from timber sales.

SEC. 5. 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 chief or chiefs of said Menominee tribe of Indians through whose lands said railroad may be located, and after the filing of said maps no claim for subsequent settlement or improvement upon the right of way shown by said maps shall be valid against said company: *Provided*, That when a map showing any portion of said railroad's located line is filed as herein provided for, said company shall commence grading said located line within one year thereafter or such location shall be void.

Maps to be filed with Secretary of the Interior and chiefs.

Proviso.

Grading to begin in one year from filing map.

SEC. 6. 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 conformity with said intercourse laws.

Employees may reside on right of way.

SEC. 7. That said railway company shall construct and maintain continually all road and highway crossings and necessary bridges over said railroad, wherever such roads and highways do now or may hereafter cross said railway's right of way or may be by the proper authorities laid across the same.

Crossings and bridges.

SEC. 8. That said Marinette and Western 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 extinguishing or changing the present tenure of the Indians to their lands in said reservation, and will not attempt to secure from the said Indians 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 rights and privileges of said railroad under this act.

Condition of acceptance.

Proviso.

Violation to forfeit.

SEC. 9. That all mortgages executed by said railroad company conveying any portion of its railroad, with its franchises, that may be constructed in said Indian reservation, shall be recorded in the Department of the Interior, and the record thereof shall be prima facie evidence and notice of their execution, and shall convey all rights and property of said company as therein expressed.

Record of mortgages.

SEC. 10. That Congress may at any time amend, add to, 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 or completion of said road, except as to mortgage or other lien that may be given or secured thereon to aid in the construction thereof.

Amendment, etc.

Not assignable prior to construction.

SEC. 11. That said railroad company shall not charge more for the transportation of freight or passengers through said reservation than for like services outside of same.

Charges.