

June 21, 1890.

**CHAP. 479.**—An act to grant the right of way to the Galena Guthrie and Western Railway Company through the Indian Territory, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Galena, Guthrie and Western Railway Company, a corporation created under and by virtue of the laws of the State of Kansas, 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 any point to be selected by said railway company on the south line of the State of Kansas, in the county of Cherokee, at or near the southwest corner of lot number three, section number fourteen, township number thirty-five, range number twenty-four east, of the sixth principal meridian, and running thence by the most practicable route through the Indian Territory to the west line thereof, via, at, or near Guthrie and Kingfisher, or Lisbon, Indian Territory, with the right to construct, use, and maintain such tracks, turnouts, sidings, and extensions as said company may deem to their interest to construct along and upon the right of way and depot grounds herein provided for.

**SEC. 2.** That said company is authorized to take and use, for all purposes of a railway and for no other purpose, a right of way one hundred feet in width through said Territory, and to take and use a strip of land two hundred 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 ground where there are heavy cuts or fills as may be necessary for the construction and maintenance of the road-bed, 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 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 railway, telegraph and telephone lines, 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.

**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 tribe of the Indians, nations, or tribes through which it may be constructed, full and complete compensation shall be made to such occupant for all property to be taken or damage done by reason of the construction of said 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 of the United States, one by the chief of the nation to which such occupant belongs, 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 court, or United States commissioner, an oath that they will faithfully and impartially discharge the duties of their appointment, which oaths duly certified shall be returned with their award to, and filed with, the Secretary of the Interior within sixty days from the completion thereof, and a majority of said referees shall be competent to act in case of the absence of a member, after due notice, and upon the failure of either party to make such appointment within thirty days after the appointment made by the President, the vacancy shall be filled by the judge of the United States court of the district of Muscogee; upon the application of the other party the chairman of said board shall

Galena, Guthrie and Western Railway Company may build railroad, telegraph, and telephone line through Indian Territory.

Location.

Sidings, etc.

Right of way.

Width.

Stations, etc.

*Provisos.*

Limitation.

Lands not to be sold, etc.

Damages.

Appraisement.

Referees.

Oath.

Substitution on failure to appoint.

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 nation; costs, including compensation of the referees, shall be made a part of the award and be paid by said railway company. In case the referees can not agree, then any two of them are authorized to make the award; either party being dissatisfied with the finding of the referees shall have the right, within ninety days after making of the award, and notice of the same, to appeal by original petition to the courts of the Indian Territory at Moscokee, which court shall have jurisdiction to hear and determine the subject-matter of said petition according to the laws of the State of Kansas providing 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 costs of said appeal shall be adjudged against the railway company. If the judgment of the court shall be for the same sum or less than the award of the referees, then the cost shall be adjudged against the appellant; 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.

SEC. 4. That said railway company shall not charge the inhabitants of said Territory a greater rate of freight than the rates authorized by laws of Kansas for services or transportation of the same kind: *Provided*, That passenger rates on said railway shall not exceed three cents per mile, Congress reserving 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 shall be authorized to fix and regulate the cost of transportation of persons and freight within its respective limits by said railway company, but Congress expressly reserves the right to fix and regulate at all times the cost of such transportation by said railway 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 rates 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.

SEC. 5. That said railway company shall pay to the Secretary of the Interior, for the benefit of the particular nation or tribe 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 railway for each mile of railway 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 lands said railway may be located shall, within four months after filing of the maps of definite location as set forth in section six of this act, dissent from the allowance 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 for 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*,

Hearings.

Compensation.

Witnesses' fees.

Costs.

Disagreement.

Award.

Appeal.

Costs on appeal.

Work may proceed on depositing double award.

Freight charges.

*Providos.*

Passenger rates, etc.

Regulation.

Maximum.

Mails.

Additional compensation to tribes.

*Providos.*

Appeal by general councils.

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| Award to be in lieu of compensation.           | That the amount of the award adjudged to be paid by said railway company for such 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 fifty 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: <i>Provided</i> , That Congress shall have the right, as long as said lands are occupied and possessed by said nations or tribes, to impose such additional taxes upon said railway 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 powers as to such part of said railway as may be within its limits. Said railway company shall have the right to survey and locate its railway immediately after the passage of this act. |
| Annual rental.                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Apportionment.                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Additional taxes.                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Survey and location.                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 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 the nations or tribes through whose lands said railway 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: <i>Provided</i> , 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 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <i>Proviso.</i>                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Grading to begin within one year after filing. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Location to be first approved.                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Employees, etc., 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. Jurisdiction of courts.            | SEC. 8. That the United States courts having jurisdiction in respect of the Indian Territory, 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 Galena, Guthrie and Western Railway Company and the nations or tribes through whose territory said railway company shall construct its lines; said court shall have like jurisdiction, without reference to the amount in controversy, over all controversies arising between the inhabitants of said nation or tribe 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Commencement and completion.                   | SEC. 9. That the 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, and complete main line of the same within one year thereafter, or the right herein granted shall be forfeited as to that portion not built. That said railway company shall construct and maintain continually all fences, roads, 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.                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

SEC. 10. That the said Galena, Guthrie and Western Railway Company shall accept this right of way upon the expressed 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 Nation any further grant of lands or their 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 railway company under this act.

Condition of acceptance.

Proviso.  
Forfeiture.

SEC. 11. That all mortgages executed by said company conveying any portion of its railway 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 properties of said company as therein expressed subject to the provisions of this act.

Record of mortgages.

SEC. 12. That Congress may at any time amend, alter, or repeal this act, and the rights herein granted shall not be assigned or transferred in any way or form whatever except as to mortgages or other liens that may be given or secured thereon to aid in the construction thereof.

Amendment, etc.  
Rights not assignable except to aid construction.

Approved, June 21, 1890.

**CHAP. 480.**—An act to increase the limit of cost of site and public building at Duluth, Minnesota.

June 21, 1890.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act of Congress approved March fourteenth, eighteen hundred and eighty-eight, be, and the same is hereby, amended so as to extend the limit of cost of the site and a commodious, substantial building, including fire-proof vaults, heating and ventilating apparatus, elevators, and approaches, complete, to be erected thereon, for the use and accommodation of the United States court-house, custom-house, and post-office, in Duluth, Minnesota, from one hundred and fifty thousand dollars to two hundred and seventy thousand dollars.

Duluth, Minn.  
Public building, etc.  
Vol. 25, pp. 149, 150,  
amended.  
Limit of cost extended.

Approved, June 21, 1890.

**CHAP. 540.**—An act for the relief of the Michigan Military Academy.

June 24, 1890.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be and he is hereby, authorized and directed to relieve the Michigan Military Academy at Orchard Lake, Michigan, from all money responsibility for so much of the ordnance and ordnance stores issued to said college under its bonds dated November twenty-sixth, eighteen hundred and seventy-seven, March thirteenth, eighteen hundred and seventy-eight, February first, eighteen hundred and eighty-six, and December fifteenth, eighteen hundred and eighty-eight, as was destroyed by fire on April twenty-first, eighteen hundred and eighty-nine.

Michigan Military Academy, Orchard Lake, Mich.  
Relieved of responsibility for ordnance, etc., destroyed by fire.

Approved, June 24, 1890.