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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.

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 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 herein 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 used such portion shall revert to the nation or tribe of Indians from which the same shall have been taken.

Right of way.

Addition for stations.

Provisos.
Limit.

To be used solely for purposes granted.

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 judgement 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.

Referees.

Appeal.

Work may begin on depositing double award.

Payment to referees.

Fees and costs.

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

Freight charges.

Passenger rates. 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.

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

Provisos.

Additional taxes.

Appeal by general council.

Award to be in lieu of compensation.

Taxation.

Payment to allottees.

way passing over or through any allotted lands until the compensation herein provided for shall be fixed and paid.

Maps to be filed.

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.

Proviso. Work may commence on filing map.

Employees may 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 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 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 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.