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reservation for the purpose of surveying and locating its line of railroad: *Provided*, That said railroad shall be located and constructed with due regard to the rights of the Indians, and under such rules and regulations as the Secretary of the Interior shall prescribe. *Proviso.* Location.

SEC. 5. That the right herein granted shall be forfeited by said company unless the road shall be constructed through the said reservation within three years after the passage of this Act. Completion.

SEC. 6. That Congress reserves the right to alter, amend, or repeal this Act, or any part thereof. Amendment, etc.

Received by the President, February 12, 1896.

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the house of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

CHAP. 30.—An Act To authorize the Arkansas and Choctaw Railway Company to construct and operate a railway through the Choctaw Nation, in the Indian Territory, and for other purposes. February 24, 1896.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Arkansas and Choctaw Railway Company, 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, owning, equipping, operating, using, and maintaining a railway and telegraph and telephone line through the Choctaw Nation, in the Indian Territory, beginning at the point on the boundary line between the said Choctaw Nation and the county of Little River, in the State of Arkansas, where the said railway may run, when constructed in the State of Arkansas, thence running, by the most feasible and practicable route, in a northwesterly direction through the said Choctaw Nation, to such point at or near the town of Atoka, in said nation, as said corporation may select, 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 herein provided for. Arkansas and Choctaw Railway Company granted right of way, Indian Territory. Location.

SEC. 2. That said corporation is authorized to take and use for all purposes of a railway and telegraph and telephone line, and for no other purpose, a right of way one hundred feet in width through the said Choctaw Nation, for the said Arkansas and Choctaw Railway Company, the same to be fifty feet on either side of the track of said railway from the center thereof, and, in addition to the above right of way, to take and use a strip of land one hundred feet in width, with a length of two thousand feet, for stations at such points as the said railway company may deem to their interest to erect, 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 and track, not exceeding fifty feet in width on each side of the 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 Choctaw Nation. Width. Stations, etc. *Provisos.* Limit. Reversion, etc.

SEC. 3. That before said railway and telegraph and telephone line shall be constructed through any lands held by individual occupants, according to the laws, usages, and custom of the Choctaw Nation, full compensation shall be made to such occupants for all property to be Damages.

taken or damage done by reason of the construction of such railway and telegraph and telephone line. In case of failure to make amicable settlement with any occupant, such compensation shall be determined by the appraisement of disinterested referees, to be appointed, one (who shall act as chairman) by the President, one by the principal chief of the Choctaw Nation, and one by said railway company, who, before entering upon the duties of their appointment, shall take and subscribe, before a judge or clerk of a United States 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 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 for the central district of the Indian Territory upon the application of the other party. A majority of said referees shall be competent to act in case of the absence of a member, after due notice. The chairman of such board shall appoint the time and place for all hearings: *Provided*, That the hearings shall be within the county where the property is situated for which compensation is being assessed for the taking thereof or damage thereto, and at a place as convenient as may be for said occupant, unless the said occupant and said railway company agree to have the hearing at another place. Each of said referees shall receive for his services the sum of four dollars per day for each day he is engaged in assessing compensation, with mileage of five cents per mile for each mile necessarily traveled in the discharge of his duties. Said board of referees shall have power to call for and examine witnesses under oath, and said witnesses shall receive the usual fees allowed witnesses by the laws of the Choctaw Nation. Costs, including compensation of the referees, shall be made a part of the award and be paid by the said railway company. In case the referees can not agree, then any two of them are authorized to make the award.

Appraisal. Referees.

Oath.

Vacancies, etc.

Proviso. Hearings.

Compensation, etc.

Costs, etc.

Appeal to district court.

SEC. 4. That either party being dissatisfied with the findings and award of the referees shall have the right, within sixty days after the filing of the award, as hereinbefore provided, and notice of the same, to appeal by original petition to the United States district court for the central district of the Indian Territory sitting at the place nearest and most convenient to the land and property which is sought to be condemned; and said suit shall then proceed for determining the damage done to the property in the same and like manner as other civil actions in the said court. The said court shall have jurisdiction to hear and determine the subject-matter of said petition, and the same shall be heard and determined by said court in accordance with the laws now in force or hereafter enacted for the government of said court; and the measure of damages in condemning property authorized by this Act shall be that prescribed by the laws of the State of Arkansas, in so far as the same are not inconsistent with the laws now in force or hereafter enacted for the government of the United States courts in said Choctaw Nation in such cases. If the judgment of the court shall be for a larger sum than the award of the referees, the costs of the litigation shall be adjudged against the railway company, and if the judgment of the court shall be for the same 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 shall 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 shall have the right to enter upon the property sought to be condemned and proceed with the construction of the railroad and telegraph and telephone line. If such appeal is not taken as hereinbefore set forth, the award shall be conclusive and final, and shall have the same force and effect as a judgment of a court of competent jurisdiction.

Determination.

Costs on appeal.

Work to begin on paying double award.

Crossings, etc.

SEC. 5. That said railway company is authorized and hereby given

the right to connect or cross with its tracks the tracks and railroad of any other company or person owning or operating a railway in the said Choctaw Nation. In case of failure to make amicable settlement with any such corporation or person for such crossing, such compensation shall be determined in the same manner as hereinbefore provided for determining the compensation for land and other property taken and damaged.

Freight charges.

SEC. 6. That said railway company shall not charge the inhabitants of said nation a greater rate of freight than the rate authorized by the laws of the State of Arkansas 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 nation 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 of 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, etc.
Regulation, etc.

Limit.

Mails.

Additional to Choctaw Nation.

SEC. 7. That said railway company shall pay to the Secretary of the Interior, for the benefit of the Choctaw Nation, the sum of fifty dollars, in addition to the 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 nation, 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 the Choctaw Nation, within four months after the filing of maps of definite location, as hereinafter set forth, dissents from the allowance hereinbefore provided for, and shall certify the same to the Secretary of the Interior, then all compensation to be paid to said nation 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 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 shall be in lieu of the compensation said nation would be entitled to receive under the foregoing provision. Said company shall also pay, so long as said Territory is owned and occupied by the Choctaw 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 nation. The money paid to the Secretary of the Interior under the provisions of this Act shall be disbursed by him in accordance with the laws and treaties now in force within said nation: *Provided*, That Congress shall have the right, so long as said lands are occupied and possessed by said nation, to impose such additional taxes upon said railway as it may deem just and proper for the benefit of said nation, 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 to Secretary of the Interior.

Award to be in lieu of compensation.

Annual rental.

Taxes.

Surveys.

SEC. 8. That said company shall cause maps showing the route of its located lines through said nation 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 said nation; and after the filing of said maps no claim for

Maps.

a subsequent settlement and improvement upon the right of way shown by said maps shall be valid as against said company: *Provided*, That a map showing the entire line of the road in the Indian Territory shall be filed with and approved by the Secretary of the Interior before the construction of the same shall be commenced.

Proviso. Construction.

Employees may reside on right of way.

SEC. 9. That the officers, servants, and employees of said company necessary to the construction and management of said railroad 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.

Construction.

SEC. 10. That said railway company shall build at least seventy-five miles of its railway in said nation within three years after the passage of this Act, or the rights herein granted shall be forfeited as to that portion not built; that said railway company shall construct and maintain continually all 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.

Condition of acceptance.

SEC. 11. That the said Arkansas and Choctaw 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 any effort looking toward the changing or extinguishing the present tenure of the Choctaw Indians in their land, and will not attempt to secure from the Choctaw Nation 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. 12. That all mortgages, deeds of trust, and other conveyances executed by said railway company, conveying any portion of its railroad, telegraph and telephone lines, with its franchises, that may be constructed in said Choctaw Nation 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. 13. That Congress may at any time amend, add to, alter, or repeal this Act.

Not assignable prior to construction.

SEC. 14. 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.

Received by the President, February 12, 1896.

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the house of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

February 26, 1896.

CHAP. 31.—An Act Granting leave of absence for one year to homestead settlers upon the Yankton Indian Reservation, in the State of South Dakota, and for other purposes.

Yankton Reservation, S. Dak. Homestead settlers granted leave of absence.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all settlers who made settlement under the homestead laws upon lands in the Yankton Indian Reservation, in the State of South Dakota, during the year eighteen hundred and ninety-five are hereby granted leave of absence from such homestead for one year from and after the date of this Act, and that by such absence such homestead settler shall not lose nor forfeit any right whatever: *Provided*, That the settler shall not receive credit upon the period of actual residence required by law for the time he is absent hereunder.

Proviso. No credit for time lost.