

Postal telegraph,
etc.

the right of way across said bridge and its approaches for postal-telegraph purposes, and all telegraph or telephone companies shall have equal rights.

Use by other com-
panies.

SEC. 4. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains over the same, and over the approaches thereto, upon payment of a reasonable compensation to the owners of said bridge, and should the several railroad companies, or any one of them, desiring such use, fail to agree upon the sum or sums to be paid, and upon rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War upon a hearing of the allegations and proofs of the parties; and all telephone and telegraph companies shall have equal rights and privileges in constructing and operating their lines across said bridge.

Compensation.

Telephone and tele-
graph companies.

Commencement and
completion.

SEC. 5. That this Act shall be null and void if actual construction of the bridge herein authorized be not commenced within one year and completed within three years from the date hereof.

Changes.

SEC. 6. That such alterations or changes as may be required by the Secretary of War or Congress in the bridge constructed under the provisions of this Act shall be made by the said railroad company at its own expense, and at any time after the completion of the bridge; and the right to alter, amend, or repeal this Act is hereby expressly reserved; and the right to require the entire removal of the bridge constructed under the provisions of this Act, at the expense of the owners thereof, whenever Congress shall decide that the public interests require it, is also expressly reserved.

Amendment, etc.

Approved, January 27, 1897.

January 28, 1897.

CHAP. 106.—An Act To detach the county of Audrain from the western district of Missouri and to attach the same to the eastern district of said State of Missouri.

Audrain County, Mo.

Transferred from
western to eastern ju-
dicial district.

Vol. 25, p. 498.

Process, etc.

Pending suits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the county of Audrain, in the State of Missouri, be, and the same is hereby, detached from the western judicial district of the State of Missouri and attached to the eastern judicial district of said State of Missouri.

SEC. 2. That all process, civil and criminal, hereafter issued against persons residing in said county of Audrain shall be made returnable to the courts held at Saint Louis, in the State of Missouri, and all suits and prosecutions now pending in the circuit or district courts of the United States against persons residing in the said county of Audrain, at Jefferson City, in said State of Missouri, shall be determined in said courts.

Approved, January 28, 1897.

January 29, 1897.

CHAP. 108.—An Act To authorize the Muskogee, Oklahoma and Western Railroad Company to construct and operate a line of railway through Oklahoma and the Indian Territory, and for other purposes.

Muskogee, Oklaho-
ma and Western Rail-
road Company granted
right of way, Okla-
homa and Indian Ter-
ritories.

Location.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Muskogee, Oklahoma and Western Railroad Company, a corporation created and existing under the laws of the Territory of Oklahoma, 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 allotments in severalty in the Territory of Oklahoma along such line or route as may be granted it by the laws thereof, and through the Indian Territory, beginning at a point on the northern line of the Creek Nation, Indian Territory, at or near the mouth

of the Cimarron River, running thence by the most feasible and practicable route to the town of Muskogee, Creek Nation; thence in a northeasterly direction by the way of Fort Gibson and Tahlequah to such a point on the western boundary line of the State of Arkansas between the Arkansas River and the northern line of the State of Arkansas as said corporation may elect, with the right to construct, use, and maintain such tracks, bridges, and sidings as said company may deem it to their interests to construct along and upon the right of way and depot grounds herein provided for, with the right to construct two branch lines of road, one commencing at the town of Muskogee, in the Creek Nation, and running thence in a southeasterly direction on the south side of the Arkansas River to the west boundary line of the State of Arkansas, the other commencing at or near said town of Muskogee and running thence in a southwesterly direction by the most feasible and practicable route to such a point on the eastern boundary of Oklahoma Territory, south of the Canadian River, as said company may select; and the company shall have the same rights and privileges for its branch railway, telegraph, and telephone lines as for its main line.

Branchees.

SEC. 2. That said corporation is authorized to take and use for all purposes of a railway, telegraph, and telephone line, and for no other purpose, a right of way one hundred feet in width through said allotted lands and through said Indian Territory, both for its main line and branches thereof, and to take and use a strip of land one hundred feet in width, with a length of two thousand feet in addition to the right of way, for stations for every ten miles of said railroad, 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 fifty feet in width, along said right of way, or as much thereof as may be included in said cuts or fills: *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 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 individual Indian or to the nation or tribe of Indians from which the same shall have been taken.

Width.

Stations, etc.

Provisos.
Limit for stations.
Reversion for non-user.

SEC. 3. That before said railroad, telegraph, and telephone line shall be constructed through any land in the Territory of Oklahoma allotted to an Indian in severalty, by authority of the United States, full compensation shall be paid such allottee for all property taken and damage done by reason of the construction of said railway, telegraph, and telephone line. And it shall be the duty of the Secretary of the Interior to fix, in such manner as he shall designate, the amount of compensation to be paid such allottees. And before said railway shall be constructed through any lands held by individual occupants, according to the laws, customs, and usages of any Indian nation or tribe, full compensation shall be paid to such occupants for all property to be taken or damage done by reason of the construction of the railway, telegraph, and telephone line. And 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 principal chief of the nation to which said occupant belongs, and one by said railroad company, who, before entering upon the duties of their appointment, shall take and subscribe before a judge, clerk, or commissioner of the United States court for the Indian Territory 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 be 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 of the United

Payments to individuals.
In Oklahoma.

In Indian Territory.

Appraisement.

Referees.

Substitution on failure to appoint.

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| Hearings. | States, the vacancy shall be filled by the Secretary of the Interior. The chairman of said board shall 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 the rate of five cents per mile. Witnesses shall receive the usual fees allowed by the United States courts for the Indian Territory. Costs, including compensation of referees, shall be made a part of the award, and shall be paid by said railroad 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 findings of the referees, shall have the right, within ninety days after the making of the award, and notice of the same to the Secretary of the Interior, to appeal by original petition to the United States district court for the Indian Territory having jurisdiction. |
| Compensation, etc. | |
| Costs. | SEC. 4. That the said railroad company shall not charge the inhabitants of said Territory a greater rate for freight than is authorized by the laws of the State of Arkansas for services or transportation of the same kinds: <i>Provided</i> , That passenger rates on said railroad 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 Territories, 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; 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: <i>Provided, however</i> , That the rate of such transportation of passengers, local or interstate, shall not exceed the rate above expressed: <i>And provided further</i> , That said railroad 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. |
| Appeal. | |
| Freight charges. | SEC. 5. That said railroad 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 seventy-five dollars, in addition to compensation provided in this Act, for property taken and damages done to individual occupants by reason of the construction of the railway, for each mile of railway that it may construct in the Indian Territory, said payments to be made in installments of seven hundred and fifty dollars as each ten miles of road is graded: <i>Provided</i> , That if the general council of either of the nations or tribes through whose lands the railway may be located, within four months after the filing of maps of definite location as set forth in section six of this Act, dissent from the allowance hereinbefore provided for, and shall certify the same to the Secretary of the Interior, then the compensation to be paid to such dissenting nation or tribe under the provisions of this Act for right of way shall be determined as provided in section three for the determination of the compensation to be paid to individual occupants of lands under tribal custom: <i>Provided further</i> , That the amount awarded or adjudged to be paid by said railroad company to said dissenting nation or tribe shall be in lieu of the compensation that said nation or tribe would be entitled to receive under the foregoing provision, except as to annual tax. Said company shall also pay, so long as said Indian Territory is owned and occupied by the Indians, to the Secretary of the Interior the sum of twenty 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 railroad company through their lands respectively: <i>Provided</i> , That |
| Provisos. Passenger rates. Regulations. | |
| Maximum rates. | Appeal by general councils. |
| Mails. | |
| Payment to tribes. | Amount in lieu of compensation. |
| Provisos. Appeal by general councils. | |
| Annual rental. | Taxation. |
| | |

Congress shall have the right, so long as said 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. 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 railroad company shall also have the right to survey and locate its railway immediately after the passage of this Act.

Survey, etc.

SEC. 6. That said company shall cause a map, upon a scale of not less than one inch to the mile, showing the entire route of its located line through said allotted lands and through the Indian Territory, both for its main line and branches, to be filed with and approved by the Secretary of the Interior, to be filed in the office of the principal chief of each of the nations or tribes through whose lands said railway, telegraph, and telephone line may be located, and also in the office of the United States Indian agent for the respective agencies, before any part of the line of road herein provided for shall be constructed; and after the filing and approval of said map by the Secretary of the Interior, no claim for a subsequent settlement and improvement upon the right of way as shown by said map shall be valid as against the company: *Provided*, That said railway, telegraph, and telephone line is located and constructed within the time herein limited: *And provided further*, That the chief engineer of the company shall certify, under oath, to the Secretary of the Interior, as to the date of the completion of each ten-mile section of the road by grading, immediately after such completion.

Map to be filed.

Proviso.
Time of construction.
Grading.

SEC. 7. That the officers, servants, and employees of said company necessary to the construction and management of said railway, telegraph, and telephone line shall be allowed to reside, while so engaged, upon such right of way, but subject to the provision of the Indian intercourse laws, and subject also to such rules and regulations as may be established by the Secretary of the Interior in accordance with said intercourse laws.

Employees may reside on right of way.

SEC. 8. That said company shall build at least one hundred miles of its railway in the Indian Territory within three years after the passage of this Act, and complete the main line and branches thereof within three years thereafter, or the rights herein granted shall be forfeited as to that portion not built, and that without any declaration of forfeiture on the part of any officer or employee of the Government. And said company shall also construct and continuously maintain all roads, highway crossings, and necessary bridges over said railway wherever said roads and highways do now or may hereafter cross said company's right of way or may be by the proper authorities laid out across the same. And said railroad company is also hereby authorized, in case it so elects, for the greater accommodation of the public, to so construct its bridge across the Arkansas River as to make it a suitable and safe structure for the crossing of vehicles of all kinds, animal and foot travelers, as well as railroad trains: *Provided*, That the plans of construction of all bridges across navigable streams, along and upon the right of way herein provided for, shall be subject to the approval of the Secretary of War. But if said bridge across the Arkansas River is constructed for said additional use, then the said railroad company shall have the right to construct and maintain the necessary wagon-road approaches to the nearest public highway at each end of the bridge: *Provided further*, That said railroad company, in case of the construction of said bridge for the additional uses herein named, shall be authorized to collect tolls from all who may use said bridge, but the toll fees charged shall not be greater than the toll fees allowed by the laws of the State of Arkansas for like services on toll bridges across the Arkansas River in that State: *Provided further*, That this Act shall not be so construed as to give or grant said company any right, title, or interest in or to the wagon-road approaches to the nearest public highways which it is authorized to construct from the ends of the

Commencement and completion.

Crossings, etc.

May bridge Arkansas River.

Proviso.
Secretary of War to approve plans, etc.

Toll.

Approaches to bridge.

bridge, or to charge or collect toll fees for traveling over said wagon-road approaches.

Condition of acceptance.

SEC. 9. That said Muskogee, Oklahoma and Western Railroad 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 toward the changing or extinguishing of the present tenure of the Indians in their lands, and will not attempt to secure from the Indians or Indian nations and tribes any further grant of land or its occupancy than is hereinbefore provided for; and the acceptance of the provisions of this section shall be made by the proper authority of the company under the corporate seal before the commencement of the construction of the road: *Provided*, That any violation of the conditions of this section shall operate as a forfeiture of all rights granted by this Act.

Proviso.
Forfeiture.

Record of mortgages.

SEC. 10. That all mortgages executed by said railroad company conveying any portion of its railroad that may be constructed in said Indian Territory shall be recorded in the office of the Secretary of the Interior and also in the office of the clerk of the United States district court for the Indian Territory having jurisdiction, and the record thereof shall be evidence and notice of their execution and shall convey all rights and property of said company therein expressed.

Assignment forbidden.

SEC. 11. 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 mortgage or other liens that may be given or secured thereon to aid in the construction thereof.

Amendment, etc.

SEC. 12. That Congress may at any time amend, add to, alter, or repeal this Act.

Received by the President, January 18, 1897.

[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.]

January 30, 1897.

CHAP. 109.—An Act To prohibit the sale of intoxicating drinks to Indians, providing penalties therefor, and for other purposes.

Indians.
Sale, etc., of intoxicating drinks to, prohibited.
R. S., sec. 2139, p. 373, amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who shall sell, give away, dispose of, exchange, or barter any malt, spirituous, or vinous liquor, including beer, ale, and wine, or any ardent or other intoxicating liquor of any kind whatsoever, or any essence, extract, bitters, preparation, compound, composition, or any article whatsoever, under any name, label, or brand, which produces intoxication, to any Indian to whom allotment of land has been made while the title to the same shall be held in trust by the Government, or to any Indian a ward of the Government under charge of any Indian superintendent or agent, or any Indian, including mixed bloods, over whom the Government, through its departments, exercises guardianship, and any person who shall introduce or attempt to introduce any malt, spirituous, or vinous liquor, including beer, ale, and wine, or any ardent or intoxicating liquor of any kind whatsoever into the Indian country, which term shall include any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be punished by imprisonment for not less than sixty days, and by a fine of not less than one hundred dollars for the first offense and not less than two hundred dollars for each offense thereafter: *Provided however*, That the person convicted shall be committed until fine and costs are

Penalty.

Proviso.
Imprisonment for fine, etc.