

for persons and papers, administer oaths to witnesses, and require affidavits from applicants; and any such person making a false oath or affidavit in the premises shall be deemed guilty of perjury, and, upon conviction, subject to all the pains and penalties of perjury under the statutes of the United States; and whenever, either at the time of leasing or other time it appears to the satisfaction of the said Secretary that such interest in other bath-house, lease, interest, or privilege exists, or at any time any pool or combination exists between any two or more bath-houses or he deems it for the best interests of the management of the Hot Springs Reservation and waters, or for the public interest he may refuse such lease, license, permit or other privilege, or forfeit any lease or privilege wherein the parties interested have become otherwise interested as aforesaid.

Forfeiture for pooling, etc.

Taxation of personal property under State law.

SEC. 5. That the consent of the United States is hereby given for the taxation, under the authority of the laws of the State of Arkansas applicable to the equal taxation of personal property in that State, as personal property of all structures and other property in private ownership on the Hot Springs Reservation.

Collection of water.

SEC. 6. That the authority heretofore conferred upon the Secretary of the Interior to collect the hot water upon said reservation shall be so construed as to require water to be collected only where, such collection is necessary for its proper distribution, and not where by gravity the same can be properly utilized.

Sale of lots authorized.

SEC. 7 That the Secretary of the Interior may direct the public sale of all unsold Government lots on the Hot Springs Reservation, and not now permanently reserved at the city of Hot Springs, after having had the same reappraised, and also advertised as now required by law, and no lot shall be sold at less than the appraised price.

Hotels may operate bath-houses.

SEC. 8. Nothing in this act shall be so construed as to prevent the stockholders of any Hotel from operating a bath-house in connection with such Hotel as a part thereof.

Approved, March 3, 1891.

March 3, 1891.

CHAP. 534.—An act relating to the treaty of reciprocity with the Hawaiian Islands.

Hawaiian Islands. Tariff act not to impair reciprocity treaty.

Ante, p. 567.

Vol. 19, p. 625; Vol. 25, p. 1399.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That nothing in the act approved October first, eighteen hundred and ninety, entitled "An act to reduce the revenue and equalize duties on imports, and for other purposes," shall be held to repeal or impair the provisions of the convention respecting commercial reciprocity concluded January thirtieth, eighteen hundred and seventy-five, with the King of the Hawaiian Islands, and extended by the convention proclaimed November ninth, eighteen hundred and eighty-seven; and the provisions of said convention shall be in full force and effect as if said act had not passed.

Approved, March 3, 1891.

March 3, 1891.

CHAP. 535.—An act to authorize the Fort Gibson, Tahlequah and Great Northeastern Railway Company to construct and operate a railway through the Indian Territory, and for other purposes.

Fort Gibson, Tahlequah and Great Northeastern Railway Company may build railway, etc., line in Indian Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Fort Gibson, Tahlequah and Great Northeastern 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, equipping, operating, using, and

maintaining a railway, telegraph, and telephone line through the Indian Territory, beginning at the town of Rogers, in Benton County, Arkansas, and running thence in a westerly direction by way of Bentonville, Benton County, Arkansas, to the eastern boundary of the Cherokee Nation, Indian Territory, at or near mile post twenty-two; thence by way of Tahlequah, Cherokee Nation, to Fort Gibson, in said Territory, with the right to construct and maintain such tracks, turnouts, and sidings as said company may deem it to its interests to construct along and upon said right of way and depot grounds herein provided for.

SEC. 2. That said corporation 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 Indian Territory for said line of its railway, 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 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 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: *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 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, custom, 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 one (who shall act as chairman) by the President, one by the 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 district judge, clerk of a district 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 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 after the appointment made by the President, the vacancy shall be filled by the district judge of the court held at Muscogee, Indian Territory, upon the application of the other party. The chairman of said board shall appoint the time and place for all hearings, within the nation to which such 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 nations. Costs, including compensation of the referees, shall be made a part of the award, and be paid by such 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 finding of the referees shall have the right, within ninety days after

Location.

Width.

Stations.

Cuts, etc.

Provisos.

Limitation.

Lands not to be sold, etc.

Damages.

Appraisalment.
Referees.

Oath.

Substitution on failure to appoint.

Hearings.

Compensation.

Witnesses' fees.

Costs.

Award.

Appeal. the making of the award and notice of the same, to appeal by original petition to the district court held at Muscogee, Indian Territory, which court shall have jurisdiction to hear and determine the subject matter of said petition, according to the laws of the said State provided 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 cost of said appeal shall be adjudged against the railway company. If the judgment of the court shall be for the same sum 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 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.

Costs on appeal.

Work may proceed on depositing double award.

Freight charges. 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 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 Territory 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 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 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, and said railway company shall transport troops and property of the United States free of charge.

Provisos.

Passenger rates Regulation.

Maximum.

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 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 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 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 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 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 or tribe shall be in lieu of the compensation that said nation or tribe would be entitled to receive under the foregoing provision. Said company shall also pay,

Appeal by general councils.

Award to be in lieu of compensation.

so 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 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 railway company shall have the right to survey and locate its railway immediately after the passage of this act.

Annual rental.

Taxation.

SEC. 6. That said company shall cause maps showing the route of its located lines 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 railway may be located; and after the filing of 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: *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; 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.

Maps to be filed.

Proviso.

Grading to begin on filing maps.

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 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.

Employees to reside on right of way.

SEC. 8. That the United States circuit and district courts for the western district of Arkansas 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 Fort Gibson, Tahlequah and Great Northeastern 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.

Litigation.

SEC. 9. That said railway company shall build at least fifty miles of its railway in said Territory 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 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.

Commencement and completion.

Crossings.

SEC. 10. That the said Fort Gibson, Tahlequah and Great Northeastern 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, or assist in any effort looking towards the changing or extinguishing the present tenure of the Indians in their land, and will not attempt to secure from the Indian

Condition of acceptance.

- nations 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. 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.
- Right not assignable except in aid of construction.**
SEC. 13. 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.
- Approved, March 3, 1891.

March 3, 1891.

CHAP. 536.—An act to define the jurisdiction of the police court of the District of Columbia.

Police court, D. C.
R. S., D. C., sec. 1049,
p. 122.

Jurisdiction extended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section ten hundred and forty-nine of the Revised Statutes of the United States relating to the District of Columbia be, and is hereby, amended so as to read as follows: The police court of the District of Columbia shall have original jurisdiction concurrently with the supreme court of the District of Columbia, of all crimes and offences hereafter committed against the United States, not capital or otherwise infamous, and not punishable by imprisonment in a penitentiary, committed within the District of Columbia, except libel conspiracy, and violations of the post office and pension laws of the United States; and also of all offences hereafter committed against the laws, ordinances, and regulations of the District of Columbia, and shall have power to examine and commit or hold to bail, either for trial or further examination, in all cases whether cognizable therein or in the supreme court of the District of Columbia.

Prosecutions.

SEC. 2. That prosecutions in the police court shall be on information by the proper prosecuting officer. In all prosecutions within the jurisdiction of said court in which according to the Constitution of the United States, the accused would be entitled to a jury trial the trial shall be by jury. And also in all prosecutions in which such persons would not be by force of the Constitution of the United States entitled to a trial by jury, but in which the fine or penalty may be fifty dollars or more or imprisonment for thirty days or more, the trial shall be by jury unless the accused shall, in open court, expressly waive such trial by jury and consent to a trial by the judge in which case the trial shall be by such judge, and the judgment and sentence shall have the same force and effect in all respects as if the same had been entered and pronounced on the verdict of a jury.

Jury trials.

Waiving jury.

Trials by judge.

In all cases not hereinbefore in this section provided for, the trial shall be by a judge.

Selection of jury.

SEC. 3. That the jury for service in said court shall consist of twelve men, who shall possess the legal qualifications necessary for jurors in the Supreme court of the District of Columbia, and such jurors shall be drawn and selected under and in pursuance of the laws concerning the drawing and selection of jurors for service in said supreme court. The term of service of jurors drawn for service in said police court shall be for three successive monthly terms of said court, and, in any case on trial at the expiration of such time,

Service of jurors.