

TERRITORY OF OKLAHOMA.

FEBRUARY 17, 1890.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. STREUBLE, from the Committee on the Territories, submitted the following

REPORT:

[To accompany bill S. 895.]

The Committee on the Territories, to whom was referred Senate bill (S. 895) to provide a temporary government for the Territory of Oklahoma, having had the same under consideration, have instructed me to report the same back with an amendment and recommend the passage of the bill as amended.

The amendment proposed by the committee is as follows:

Strike out all after the enacting clause of said bill, and insert in lieu of the parts stricken out the following:

That all that part of the United States included within the following limits, except such portions thereof as are hereinafter expressly exempted from the operations of this act, to wit: Bounded on the west by the State of Texas and the Territory of New Mexico; on the north by the State of Colorado and the State of Kansas; on the east by the country occupied by the Cherokee tribe of Indians east of the ninety-sixth meridian of west longitude, and by the Creek, Seminole, and Chickasaw countries; and on the south by the Creek, Seminole, and Chickasaw countries, and by the State of Texas, comprising what is known as the Public Land Strip, and all that part of the Indian Territory not actually occupied by the five civilized tribes, and by the Indian tribes within the Quapaw Indian Agency, is created into a temporary government by the name of the Territory of Oklahoma; and any other lands within the Indian Territory not embraced within these boundaries may hereafter become a part of the Territory of Oklahoma whenever the Indian tribe or nation owning such lands shall signify to the President of the United States, in legal manner, its assent that such lands should become a part of the said Territory of Oklahoma, and whenever the President shall make proclamation to that effect; and Congress may at any time hereafter change the boundaries of said Territory: *Provided*, That nothing in this act shall be construed to impair the rights of person or property, or to impair any patent to or right of occupancy of lands now pertaining to the Indians in said Territory under the laws, agreements, and treaties of the United States, or to include any territory occupied by any Indian tribe for which title has been conveyed by patent or otherwise from the United States, or to which such tribe may be entitled by law, agreement, or treaty, without consent of said tribe, or any territory which by treaty or agreement with any Indian tribe is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Oklahoma until said tribe shall signify its assent to the President of the United States that such territory be included in said Territory of Oklahoma, except for judicial purposes as provided herein, or to affect the authority of the Government of the United States to make any regulation, or to enact any law respecting such Indians, their lands, property, or other rights, which it would have been competent to make or enact if this act had never passed: *And provided further*, That the alleged claim of the Choctaw and Chickasaw Nations for additional compensation for the lands west of the ninety-eighth degree of west longitude, heretofore ceded to the United States by said nations, shall, in no wise, be impaired by the provisions of this act.

SEC. 2. That the Constitution and all of the laws of the United States which are not locally inapplicable shall have the same force and effect in said Territory of Oklahoma as elsewhere in the United States; but nothing in this act shall be construed to interfere with the local governments of any of the Indian tribes which may now be provided for by the laws and treaties of the United States, or which may exist in conformity thereto.

SEC. 3. That there shall be a governor, secretary, legislative assembly, supreme court, attorney, and marshal for said Territory, who shall be appointed and selected under the provisions of title twenty-three, chapter one, of the Revised Statutes of the United States, relating to the government of all the Territories. The provisions of said title and of sections one thousand nine hundred and nine, one thousand nine hundred and ten, one thousand nine hundred and twelve, one thousand nine hundred and fourteen, one thousand nine hundred and twenty, one thousand nine hundred and twenty-one, one thousand nine hundred and thirty-four, one thousand nine hundred and thirty-five, one thousand nine hundred and forty, one thousand nine hundred and forty-one, one thousand nine hundred and forty-two, and one thousand nine hundred and fifty-one of the Revised Statutes, and the provisions of the "act to prohibit the passage of local and special laws in the Territories of the United States, and to limit Territorial indebtedness, and for other purposes," approved July thirtieth, eighteen hundred and eighty-six, shall have the same force and effect in the Territory of Oklahoma as in the Territories therein named, and as in the other Territories of the United States: *Provided*, That the first legislative assembly and Delegate to the House of Representatives of the Fifty-first Congress shall be elected as soon after the passage of this act as the governor of said Territory shall order, and that no person shall be entitled to vote at the first election or to be elected to any office who has not been a bona fide resident of said Territory for sixty days previous to said election, and that the council in said Territory shall consist of thirteen members and the house of representatives shall consist of twenty-six members, which may be increased to thirty-nine: *Provided further*, That the first session of the legislative assembly may continue in session for a period not exceeding one hundred and twenty days.

SEC. 4. That for the purpose of facilitating the organization of a temporary government in the Territory of Oklahoma, six counties are hereby established therein, to be known, until after the first election in the Territory, as the First County, the Second County, the Third County, the Fourth County, the Fifth County, and the Sixth County, the boundaries of which shall be fixed by the governor of the Territory until otherwise provided by the legislative assembly thereof.

The county seat of the First County shall be at Guthrie. The county seat of the Second County shall be at Oklahoma City. The county seat of the Third County shall be at Norman. The county seat of the Fourth County, which shall embrace the Fort Reno military reservation, shall be fixed by the governor. The county seat of the Fifth County shall be at Lisbon or Kingfisher City, the place also to be fixed by the governor. The Sixth County shall embrace all that portion of the Territory lying west of the one hundredth meridian, known as the Public Land Strip, the county seat of which shall be at Beaver.

At the first election for members of the legislative assembly the people of each county may vote for a name for such county, and the name which receives the greatest number of votes shall be the name of such county. If two or more counties should select the same name, the county which casts the greatest number of votes for such name shall be entitled to the same, and the names receiving the next highest number of votes in the other counties shall be the names of such counties.

SEC. 5. That there shall be one session of the supreme court each year at the capital of the Territory, beginning on the second Monday in January. The supreme court shall have original jurisdiction in cases of mandamus and habeas corpus and appellate jurisdiction in all other cases, civil and criminal. The chief justice and associate justices shall preside over the district courts in the Territory of Oklahoma herein provided for. The supreme court shall divide the Territory of Oklahoma into three judicial districts, and it shall fix the times and places at each county seat in each district where the district court shall be held and designate the judge who shall preside therein, and each judge shall reside in the district to which he is assigned. Such district courts shall have exclusive original jurisdiction in the Territory of Oklahoma—

First. In all cases, civil and criminal, over which jurisdiction is conferred therein by this act or may hereafter be conferred by other acts of Congress;

Second. In all cases, civil and criminal, over which jurisdiction may be conferred by the legislative assembly of said Territory; and

Third. In all civil cases; and in all criminal cases, which may hereafter originate in the Territory of Oklahoma and over which jurisdiction has heretofore been conferred on United States courts held beyond the limits of said Territory.

All acts and parts of acts heretofore passed granting jurisdiction over Oklahoma Territory as herein defined to United States court held beyond the limits of the Territory of Oklahoma are hereby repealed, and such jurisdiction is hereby granted to

and conferred upon the said district courts and upon the supreme court of Oklahoma as herein provided, and shall be exercised hereafter in the Territory of Oklahoma; but crimes committed in said Territory prior to the passage of this act shall be prosecuted in the courts held beyond the limits of said Territory to their final disposition the same as if this act had not been passed.

SEC. 6. That criminal cases shall be instituted and tried in the district court held in said Territory in the county in which the offense was committed, unless the case shall be removed to another county by change of venue. Civil suits shall be instituted in the district court in the county in which the defendant resides, or where the contract was made or the cause of action accrued, or where the defendant may be found, and shall be tried therein, unless the case shall be removed to another county by change of venue.

Persons charged with any offense or crime in the Territory of Oklahoma, and for whose arrest a warrant has been issued, may be arrested by the United States marshal or any of his deputies, wherever found in said Territory, but in all cases the accused shall be taken for preliminary examination, before a United States commissioner, or a justice of the peace of the county, whose office is nearest to the place where the offense or crime was committed.

SEC. 7. That the general statutes of Nebraska, which are not locally inapplicable or in conflict with this act, or in conflict with any law of the United States, are hereby extended to and put in force in the Territory of Oklahoma until after the adjournment of the first session of the legislative assembly of said Territory. The governor of said Territory is authorized to divide each county into voting precincts and into such political subdivisions and school districts as may be required by the laws of the State of Nebraska; and he is hereby authorized to appoint all officers of such counties and subdivisions thereof, and all election officers until their election or appointment shall be provided for by the legislative assembly, but not more than two of the judges or inspectors of election in any voting precinct shall be members of the same political party, and the candidates of each political party, who may be voted for at such election, may designate one person who shall be present at the counting and canvassing of the votes cast in each precinct: *Provided*, That the supreme and district courts provided for in other sections of this act shall constitute the courts in said Territory in lieu of courts of like jurisdiction provided for by the laws of the State of Nebraska; and jurisdiction is hereby conferred upon said courts to enforce said laws.

SEC. 8. That jurisdiction is hereby conferred upon the district courts in the Territory of Oklahoma over all controversies arising between members or citizens of one tribe or nation of Indians and the members or citizens of other tribes or nations in the Territory of Oklahoma, and any citizen or member of one tribe or nation who may commit any offense or crime in said Territory against the person or property of a citizen or member of another tribe or nation shall be subject to the same punishment in the Territory of Oklahoma as he would be if both parties were citizens of the United States. And any member of any Indian tribe or nation in said Territory shall have the right to invoke the aid of the courts therein for the protection of his person and property as though he were a citizen of the United States.

SEC. 9. That the provisions of title sixty-two of the Revised Statutes of the United States relating to national banks, and all amendments thereto, shall have the same force and effect in the Territory of Oklahoma as elsewhere in the United States: *Provided*, That persons otherwise qualified to act as directors shall not be required to have resided in said Territory for more than three months immediately preceding their election as such.

SEC. 10. That the lands embraced in the section of country lying west of the one hundredth meridian and between the States of Kansas and Colorado on the north, the Territory of New Mexico on the west, and the State of Texas on the south, known as the Public Land Strip, are hereby declared a part of the public domain of the United States, and shall be open to settlement under the provisions of the homestead laws of the United States, and under the provisions of sections twelve, thirteen, and fourteen of "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June thirtieth, eighteen hundred and ninety, and for other purposes," approved March second, eighteen hundred and eighty-nine, and under the provisions of section two of "An act to ratify and confirm an agreement with the Muscogee (or Creek) nation of Indians in the Indian Territory, and for other purposes," approved March first, eighteen hundred and eighty-nine, and under the provisions of this act; but all actual and bona fide settlers upon and occupants of the lands in said Public Land Strip at the time of the passage of this act shall be entitled to have preference to and hold the lands upon which they have settled under the homestead laws of the United States, by virtue of their settlement and occupancy of said lands, and they shall be credited with the time they have actually occupied their homesteads, respectively, not exceeding two years, on the time required under said

laws to perfect title as homestead settlers. And all other lands in the Territory of Oklahoma which are not required by law, treaty stipulations, Executive orders, or right of occupancy for the use of any Indian tribe, or which may be relinquished as an Indian or military reservation, shall be a part of the public domain and shall thereupon be open to settlement under the provisions of the homestead laws of the United States, and under provisions of said acts of Congress approved March first and second, eighteen hundred and eighty-nine, and under the provisions of this act: *Provided*, That all tracts of land in Oklahoma Territory which have been set apart for school purposes, to educational societies, or missionary boards at work among the Indians, shall not be open for settlement, but are hereby granted to the respective educational societies or missionary boards for whose use the same has been set apart.

SEC. 11. That the procedure in applications, entries, contests, and adjudications in the Territory of Oklahoma shall be in form and manner prescribed under the homestead laws of the United States, and the general principles and provisions of the homestead laws, except as modified by the provisions of this act and the acts of Congress approved March first and second, eighteen hundred and eighty-nine, heretofore mentioned in this act, shall be applicable to all entries made in said Territory, and no patent shall be issued to any person who is not a citizen of the United States at the time he makes final proof: *Provided*, That where the final decision of the Secretary of the Interior in any land contest arising in the Territory of Oklahoma will, in his opinion, affect a class of cases, or furnish a precedent for the future action of the register and receiver of any land office therein, or of the Commissioner of the General Land Office, or of the Secretary of the Interior in relation thereto, the Secretary of the Interior shall, on application of the Attorney-General, on behalf of the United States, or of any party to such contest, if made within sixty days after the rendition of such decision, cause such case, with all the papers, proofs, and documents pertaining thereto, to be transmitted to the supreme court of the District of Columbia, and the case shall there be tried de novo on the record thus furnished as if originally commenced therein, with the right of appeal to the Supreme Court of the United States as in other cases, without regard to the value of the land in controversy.

SEC. 12. That it is hereby made the duty of the Commissioner of the General Land Office to carefully examine each claim before issuing a patent to the claimant; the entryman shall be required to make full proofs, and unless it shall appear that the claim was taken in good faith, and that there has been full performance of all the terms and requirements of law, he shall refuse a patent and declare all prior proceedings before had in such case to be null and void. All persons settling on lands under the provisions of this act shall be required to select the same in square form, as near as may be, and to maintain a continuous personal residence of five years on the land, and to improve and cultivate the same for that period in the manner required by the homestead laws, and that the provisions of section twenty-three hundred and five of the Revised Statutes of the United States, entitled "Homesteads," shall apply to this act: *Provided*, That registers and receivers of the land offices in the Territory of Oklahoma shall have the power to subpoena witnesses and to compel their attendance in all land contests instituted in their respective offices; but the party desiring the attendance of such witnesses shall advance the fees for one day's attendance, and for mileage to and from the residence of such witnesses at the same rates allowed in the courts of the Territory.

SEC. 13. That lands entered in the Territory of Oklahoma shall not be subject to any judgment or lien obtained upon indebtedness contracted or obligation incurred prior to the issue of patents therefor, nor shall such lands be sold or contracted to be sold, leased or contracted to be leased, conveyed, mortgaged, or in any manner incumbered prior to final proof and the record thereof made in the office of the register and receiver of the district where the land is located; and any sale, lease, conveyance, or mortgage made, executed, or contracted for prior to such final proof and record, shall be absolutely null and void; and all assignments, transfers, and mortgages of unpatented land entries shall be at the risk of the assignees, transferees, and mortgagees, who shall have no recourse against the United States for any failure of claimant's title before issue of patent. No entry shall be allowed of any homestead except to actual settlers thereon; and no preferred right of entry shall be given to any person by reason of claim of occupancy prior to the application to enter the land, except in cases of actual occupancy and continued residence upon the land to the date of the application to enter. And no right of an alleged settler as such shall attach to any land in the Territory until the date of his actual bona fide and continuous residence upon the tract he proposes to enter; and his declaratory statement shall contain a true and full statement of the date and facts of residence on the land and last place of residence prior thereto, and detailed description of improvements, all verified by oath of the applicant and at least one credible witness, made before the register or receiver of the proper land office, as to all facts, except that proof of the applicant's place of residence may be made before any officer authorized by law to administer oaths; but the use of such affidavit in the Territory

shall, in case of false swearing thereto, subject the party to the same penalty as though sworn to before the register or receiver of the proper office.

SEC. 14. That any person entitled by law to take a homestead in said Territory of Oklahoma, who may have located and filed upon a homestead therein, under and in pursuance of the land laws applicable to said Territory, and who has complied with such laws, may receive a patent therefor at the expiration of eighteen months from date of locating upon said homestead upon payment to the United States of one dollar and twenty-five cents per acre for land embraced in such homestead.

SEC. 15. That the Secretary of the Interior is hereby authorized to reserve on any public land in said Territory town sites for any existing or prospective town, city or village, in area not exceeding six hundred and forty acres each, in compact form, or such additional area in Government subdivisions as may be wholly or in part occupied as a town, city, or village site; and no application to enter any land shall be allowed of any tract upon which at the date of the application to enter is a town or village settlement; and no settlement in advance of survey by proper authority shall give any right as against the power to reserve town sites as hereby given, it being the object of this provision to secure to the inhabitants of all towns, cities, and villages in said Territory the benefits and profits arising from the sale of lots therein; and to that end where town sites shall be located upon any public lands in said Territory the provisions of chapter eight, title thirty-two, Revised Statutes, entitled "Reservation and sale of town sites on the public lands," shall apply, except as otherwise provided herein. The Secretary of the Interior shall cause the lots in any site now existing or to be located to be offered, sold, and conveyed as provided in sections twenty-three hundred and eighty two and twenty-three hundred and eighty-three of the Revised Statutes. The money so received from the sale of lots in each town site shall be held by the Secretary of the Interior as a separate school fund for the benefit of the inhabitants of such town, and shall be expended under his direction for the erection of school buildings and the support of public schools therein.

This control of sites and proceeds of sales shall continue only until the legal incorporation of the respective towns, cities, or villages, when the title to the unsold portion of such sites shall vest in the municipality, and the proceeds thereof, as well as any balance in the hands of the Secretary of the Interior, shall be paid over to local authorities, all to be devoted to public purposes within the corporate limits. All needed regulations to carry out the details hereof shall be provided by the Secretary of the Interior: *Provided*, That hereafter all surveys of town sites in the Territory shall contain reservations for parks, of substantially equal area, if more than one park, and for schools, churches, and other public purposes, embracing in the aggregate not less than ten nor more than twenty acres; and patents for such reservations to be maintained for such public purposes shall be issued to the towns, respectively, when organized as municipalities: *And provided further*, That this section shall not apply to that portion of the Territory of Oklahoma which was opened to settlement on the twenty-second day of April, eighteen hundred and eighty-nine, by proclamation of the President.

SEC. 16. That in case more than one half section of land is required for a town site, or application has been made for town sites which are contiguous to each other, the Secretary of the Interior shall include such additional lands as may be required for town-site purposes, or such contiguous town sites, in one patent; but before issuing patent therefor, in such cases, the inhabitants upon the entire tract embraced in such patent shall organize and establish a town or city government and elect a mayor and council for such city or town.

SEC. 17. That in case any lands in said Territory of Oklahoma, which may be occupied and filed upon as a homestead under the provisions of law applicable to said Territory by a person who is entitled to perfect his title thereto under such laws, are required for town-site purposes, it shall be lawful for such person to apply to the Secretary of the Interior to purchase the lands embraced in said homestead or any part thereof for town-site purposes. He shall file with the application a plat for such proposed town-site; and if such plat shall be approved by the Secretary of the Interior he shall issue a patent to such person for land embraced in said town-site upon payment of the sum of ten dollars per acre for all the lands embraced in such town-site, including the streets and alleys, and the Secretary of the Interior may reserve any portion of the lands embraced in such town-sites for public purposes without requiring payment therefor.

The streets and alleys, parks and public reservations shall be indicated on such plat, and shall be donated or reserved for the purposes so indicated. The sums received by the Secretary of the Interior for town-sites under this section shall be paid over to the proper authorities of such cities or towns when organized, to be used by them for school purposes. The Secretary of the Interior shall make all needful rules and regulations for the purpose of carrying this section into operation.

SEC. 18. That there shall be reserved public highways four rods wide between each section of land in said Territory, the section lines being the center of said highways;

but no deduction shall be made, where cash payments are provided for, in the amount to be paid for each quarter section of land by reason of such reservation. But if the said highway shall be vacated by any competent authority, the title to the respective strips shall inure to the then owner of the tract of which it formed a part by the original survey.

SEC. 19. That the President may, at such times as he may deem it necessary, direct land offices to be opened in the Territory of Oklahoma, not to exceed four in number, including those already established, and may nominate, and by and with the advice and with the consent of the Senate appoint, the usual officers to conduct the business of said land offices; and the Commissioner of the General Land Office shall, when directed by the President, cause the various portions of said lands to be properly surveyed and subdivided, where the same has not already been done.

SEC. 20. That it shall be unlawful for any person, for himself or any company, association, or corporation, to directly or indirectly procure any person to settle upon any lands open to settlement in the Territory of Oklahoma, with intent thereafter of acquiring title thereto; and any title thus acquired shall be void; and the parties to such fraudulent settlement shall severally be guilty of a misdemeanor, and shall be punished upon indictment, by imprisonment not exceeding twelve months or by fine not exceeding one thousand dollars, or by both such fine and imprisonment, in the discretion of the court.

SEC. 21. That inasmuch as there is a controversy between the United States and the State of Texas as to the ownership of what is known as Greer County, it is hereby expressly provided that nothing in this act shall be construed to apply to said county of Greer until said controversy shall be determined in favor of the United States by the board of arbitration provided for herein, and to provide for a speedy and final settlement of the controversy relating to said Greer County, a board of arbitration is hereby created for the purpose of deciding said controversy and finally determining the ownership of said territory.

That said board of arbitration shall consist of three persons, who shall be learned in the law, one of whom shall be appointed by the President of the United States, one by the governor of Texas, and the third, who shall be the chief-justice of some one of the States other than Texas, shall be agreed upon and appointed by the President of the United States and the governor of Texas.

The said board of arbitration shall meet at such place or places as may be designated by a majority of its members, and shall have full authority to send for persons and papers, to administer oaths, and to hear and receive testimony in behalf of the respective claims of the United States and the State of Texas; including any evidence heretofore taken and received by the Joint Boundary Commission under the act of Congress approved January thirty-first, eighteen hundred and eighty-five, and to thoroughly investigate and decide said controversy to the end that it may be definitely settled and determined whether said territory belongs to the United States or the State of Texas.

That said board of arbitration shall be appointed and enter upon the work hereby assigned them as early as practicable, and shall render their decision as soon as the importance of the issue and a proper investigation thereof will justify, and when said decision is rendered, the same shall be by said board of arbitration certified to the President of the United States and the governor of Texas, and shall be recorded in the respective general land offices of the United States and the State of Texas, and said decision shall be final and decisive of said controversy.

That the sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Interior, to defray the expenses and for compensation of those members of said board of arbitration appointed by the President: *Provided*, That the State of Texas shall pay a sum equal to that paid by the United States as compensation for that member of said board jointly appointed by the President and governor of Texas: *And provided further*, That should the decision of said board of arbitration be in favor of the United States, then, and in that event, all actual and bona fide settlers upon and occupants of the lands in said county on the first day of January, eighteen hundred and ninety, shall be entitled to have preference to and hold the lands upon which they have settled under the homestead laws of the United States by virtue of their settlement and occupancy of said lands, and they shall be credited with the time they have actually occupied their homesteads, respectively, not exceeding two years, on the time required under said land laws to perfect title as homestead settlers.

SEC. 22. That the following sums, or so much thereof as may be necessary, are hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be disbursed under the direction of the Secretary of the Interior, in the same manner that similar appropriations are disbursed in the other Territories of the United States, namely: To pay the expenses of the first legislative assembly of said Territory, including the printing of the session laws thereof, the sum of forty thousand dollars.

To pay the salaries of the governor, the judges of the supreme court, the secretary of the Territory, the marshal, the attorney, and other officers whose appointment is provided for in this act, for the remainder of the fiscal year ending June thirtieth, eighteen hundred and ninety, the sum of twenty thousand dollars.

To pay for the rent of buildings for the legislative and executive offices, and for the supreme and district courts; to provide jails, and support prisoners; to pay mileage and per diem of jurors and witnesses; to provide books, records, and stationery for the executive and judicial offices for the remainder of the fiscal year ending June thirtieth, eighteen hundred and ninety, the sum of fifteen thousand dollars.

To enable the governor to take a census of the inhabitants of said Territory, as required by law, the sum of ten thousand dollars.

To enable the governor to carry into effect the laws of Nebraska put in force by this act in the Territory of Oklahoma and other laws relating to public schools; to pay the salaries of school officers and school teachers, and for the rent of buildings and for fuel and fixtures therefor, and for the expenses of their care and preservation, the sum of one hundred thousand dollars.

SEC. 23. That so much of the lands embraced in the Territory of Oklahoma as have not yet been surveyed shall be surveyed, and the incomplete surveys of the lands in the tract commonly known as the "Public Land Strip" or "No Man's Land," shall be completed, as soon as practicable after the passage of this act, according to the terms of existing laws for the survey of the public lands of the United States, and to enable the Secretary of the Interior to carry out the provisions of this section, at the rates now allowed by law for the survey of such lands, the sum of fifty thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the surveys to be executed under the direction of the Commissioner of the General Land Office.

SEC. 24. That section eighteen hundred and fifty of the Revised Statutes of the United States shall not be applicable to the Territory of Oklahoma, and all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 25. That all that part of the United States which is bounded on the north by the State of Kansas, on the east by the States of Arkansas and Missouri, on the south by the State of Texas, and on the west and north by the Territory of Oklahoma as defined in the first section of this act, shall, for the purposes of this act, be known as the Indian Territory; and that the provisions of this act hereinafter set forth shall apply to said Indian Territory only.

SEC. 26. That one supreme court and three district courts are hereby established in the Indian Territory. The supreme court shall consist of the judge appointed under and by virtue of "An act to establish a United States court in the Indian Territory, and for other purposes," approved March first, eighteen hundred and eighty-nine, who shall be the chief justice, and two other judges to be appointed by the President, by and with the advice and consent of the Senate, as in other Territories, and each of said judges shall receive a salary of three thousand five hundred dollars per annum. The attorney and marshal of the United States court in the Indian Territory shall be the attorney and marshal for the courts established by this section; and the Attorney-General of the United States may appoint two assistant attorneys for said courts, in his discretion.

SEC. 27. That there shall be annually one session of the supreme court of the Indian Territory held at Muscogee, beginning on the second Monday in January; and there shall be a special session of said court at said place, beginning on the first Monday of May, eighteen hundred and ninety. The supreme court shall have original jurisdiction in cases of mandamus and habeas corpus, and appellate jurisdiction in all other cases, civil and criminal, as provided in this act.

SEC. 28. That the Indian Territory shall be, and is hereby, divided into three judicial districts, as follows:

The first district shall consist of the country occupied by the Indian tribes in the Quapaw Indian Agency and all that part of the Cherokee country east of the ninety-sixth meridian, and all of the Creek country.

The second district shall consist of the Choctaw country.

The third district shall consist of the Chickasaw and Seminole countries.

The district courts for the first district shall be held at Muscogee and Vinita, for the second district at Atoka, and for the third district at Ardmore and Purcell. At least two terms of court in each year shall be held at the places for holding court in each district, at such times as the supreme court may fix and determine, and one of the judges of the supreme court shall preside over the district court in each district; and the supreme court shall designate the judge who shall preside over each of such courts, and the judge shall reside in the district to which he is assigned: *Provided*, That the supreme court of the Indian Territory may order, if the interests of the people should hereafter require it, and if suitable accommodations are provided for the use of the court, that two terms of the district court for the second judicial district shall be held each year at McAllister or South McAllister, as the court may determine.

SEC. 29. That the district courts of the Indian Territory shall have exclusive original jurisdiction in their respective districts, except as hereinafter provided, in the following cases:

First. In all cases, civil and criminal, over which jurisdiction was conferred upon the United States court held at Muscogee, under and by virtue of "An act to establish a United States court in the Indian Territory, and for other purposes," approved March first, eighteen hundred and eighty-nine.

Second. In all civil cases in the Indian Territory, over which the tribal courts have no jurisdiction; and in all cases on contracts entered into by citizens of any tribe or nation with citizens of the United States in good faith and for valuable consideration, and in accordance with the laws of such tribe or nation, and such contracts shall be deemed valid and enforced by such courts.

Third. In all cases, civil and criminal, over which jurisdiction may be conferred by this act or by other acts of Congress.

SEC. 30. That certain general laws of the State of Arkansas in force at the close of the session of the general assembly of that State of eighteen hundred and eighty-three, as published in eighteen hundred and eighty-four in the volume known as Mansfield's Digest of the Statutes of Arkansas, which are not locally inapplicable or in conflict with this act or with any law of Congress, relating to the subjects specially mentioned in this section, are hereby extended over and put in force in the Indian Territory until Congress shall otherwise provide, that is to say, the provisions of the said general statutes of Arkansas relating to administration, chapter one, and the district courts of the Indian Territory shall have and exercise the powers of courts of probate under said laws; to public administrators, chapter two, and the United States marshal of the Indian Territory shall perform the duties imposed by said chapter on the sheriffs in said State; to arrest and bail, civil, chapter seven; to assignment for benefit of creditors, chapter eight; to attachments, chapter nine; to attorneys at law, chapter eleven; to bills of exchange and promissory notes, chapter fourteen; to civil rights, chapter eighteen; to common and statute law of England, chapter twenty; to contempt, chapter twenty-six; to municipal corporations, chapter twenty-nine, division one; to costs, chapter thirty; to descents and distributions, chapter forty-nine; to divorce, chapter fifty-two, and the district courts of the Indian Territory shall exercise the powers of the circuit courts of Arkansas under this chapter; to dower, chapter fifty-two; to evidence, chapter fifty-nine; to execution, chapter sixty; to fees, chapter sixty-three; to forcible entry and detainer, chapter sixty-seven; to frauds, statute of, chapter sixty-eight; to fugitives from justice, chapter sixty-nine; to gaming contracts, chapter seventy; to guardians, curators, and wards, chapter seventy-three, and the district courts of the Indian Territory shall appoint guardians and curators; to habeas corpus, chapter seventy-four; to injunction, chapter eighty-one; to insane persons and drunkards, chapter eighty-two, and the district courts of the Indian Territory shall exercise the powers of the probate courts of Arkansas, under this chapter; to joint and several obligations and contracts, chapter eighty-seven; to judgments and decrees, chapter eighty-eight; to judgments summary, chapter eighty-nine; to jury, chapter ninety; to landlord and tenant, chapter ninety-two; to legal notices and advertisements, chapter ninety-four; to liens, chapter ninety-six; to limitations, chapter ninety-seven; to mandamus and prohibition, chapter one hundred; to marriage contracts, chapter one hundred and two; to marriages, chapter one hundred and three; to married women, chapter one hundred and four; to money and interest, chapter one hundred and nine; to mortgages, chapter one hundred and ten; to notaries public, chapter one hundred and eleven, and the district courts of the Indian Territory shall appoint notaries public under this chapter; to partition and sale of lands, chapter one hundred and fifteen; to pleadings and practice, chapter one hundred and nineteen; to recorders, chapter one hundred and twenty-six, and the clerks of the district courts of the Indian Territory shall be ex officio recorders for their respective districts; to replevin, chapter one hundred and twenty-eight; to venue, change of, chapter one hundred and fifty-three; and to wills and testaments, chapter one hundred and fifty-five; and wherever in any of said laws of Arkansas the supreme court of that State is mentioned the supreme court of the Indian Territory shall be substituted therefor; and wherever in said laws the courts of record of said State, inferior to the supreme court, are mentioned the district courts of the Indian Territory shall be substituted therefor; and wherever the clerks of said courts are mentioned in said laws the clerks of the supreme and district courts in the Indian Territory, respectively, shall be substituted therefor; and wherever the sheriff of the county is mentioned in said laws the United States marshal of the Indian Territory shall be substituted therefor, for the purpose, in each of the cases mentioned, of making said laws of Arkansas applicable to the Indian Territory.

That no attachment shall issue against improvements on real estate while the title to the land is vested in any Indian nation, except where such improvements have been made by persons, companies, or corporations operating coal or other mines,

railroads, or other industries under lease or permission of law of an Indian national council, or charter, or law of the United States.

That executions upon judgments obtained in any other than Indian courts shall not be valid for the sale or conveyance of title to improvements made upon lands owned by an Indian nation, except in cases wherein attachments are provided for.

The Constitution of the United States and all general laws of the United States which prohibit crimes and misdemeanors in any place within the sole and exclusive jurisdiction of the United States, except in the District of Columbia, and all laws relating to national banking associations shall have the same force and effect in the Indian Territory as elsewhere in the United States; but nothing in this act shall be so construed as to deprive any of the civilized nations of jurisdiction over all cases arising wherein members of said nations, whether by treaty, blood, or adoption, are the sole parties, nor so as to interfere with the right and power of said civilized nations to punish said members for violation of the statutes and laws enacted by their national councils where such laws are not contrary to the treaties and laws of the United States; or be construed to establish a State or Territorial government in said Indian Territory, or any government therein except for judicial purposes as provided in this act.

SEC. 31. That the word "county," as used in any of the laws of Arkansas which are put in force in the Indian Territory by the provisions of this act, shall be construed to embrace the territory within the limits of a judicial district in said Indian Territory; and whenever, in said laws of Arkansas, the word "county" is used, the word "district" or the words "judicial district" may be substituted therefor, in said Indian Territory, for the purposes of this act. And whenever in said laws of Arkansas the word "State," or the words "State of Arkansas" are used the word "Territory," or the words "Indian Territory" may be substituted therefor, for the purposes of this act, and for the purpose of making said laws of Arkansas applicable to the said Indian Territory; but all prosecutions therein shall run in the name of the "United States."

SEC. 32. That the provisions of chapter forty-five of the said general laws of Arkansas entitled "Criminal Law," except as to the crimes and misdemeanors mentioned in the proviso to this section, and the provisions of chapter forty-six of said general laws of Arkansas, entitled "Criminal Procedure," as far as they are applicable, are hereby extended over and put in force in the Indian Territory, and jurisdiction to enforce said provisions is hereby conferred upon the courts therein: *Provided*, That the United States circuit and district courts, respectively, for the western district of Arkansas and the eastern district of Texas, respectively, shall continue to exercise exclusive jurisdiction as now provided by law in the Indian Territory as defined in this act, in their respective districts as heretofore established, over all crimes and misdemeanors against the laws of the United States applicable to the said Territory, which are punishable by said laws of the United States by death or by imprisonment at hard labor, except as otherwise provided in the other sections of this act.

SEC. 33. That original jurisdiction is hereby conferred upon the district courts in the Indian Territory to enforce the provisions of title twenty-eight, chapters three and four, of the Revised Statutes of the United States in said Territory, except the offenses defined and embraced in sections twenty-one hundred and forty-two and twenty-one hundred and forty-three: *Provided*, That as to the violations of the provisions of section twenty-one hundred and thirty-nine of said Revised Statutes, the jurisdiction of said district courts in the Indian Territory shall be concurrent in their respective districts with the jurisdiction exercised in the enforcement of such provisions by the United States courts for the western district of Arkansas and the eastern district of Texas: *Provided*, That all violations of said chapters three and four, prior to the passage of this act, shall be prosecuted in the said United States courts, respectively, the same as if this act had not been passed.

SEC. 34. That exclusive original jurisdiction is hereby conferred upon the district courts in the Indian Territory to enforce the provisions of chapter four, title seventy, of the Revised Statutes of the United States entitled "Crimes against justice," in all cases where the crimes mentioned therein were committed in any judicial proceeding in the Indian Territory and where such crimes affected or impeded the enforcement of the laws in the courts established in said Territory: *Provided*, That all violations of the provisions of said chapter prior to the passage of this act shall be prosecuted in the United States courts for the western district of Arkansas and the eastern district of Texas, respectively, the same as if this act had not been passed.

SEC. 35. That the district judges shall not charge juries in regard to matters of fact, but shall declare the law, and in jury trials shall reduce their charge or instructions to writing at the request of either party.

SEC. 36. That jurisdiction is hereby conferred upon the district courts in the Indian Territory over all controversies arising between members or citizens of one tribe or nation of Indians and the members or citizens of other tribes or nations in the Indian Territory, and any citizen or member of one tribe or nation who may com-

mit any offense or crime against the person or property of a citizen or member of another tribe or nation shall be subject to the same punishment in the Indian Territory as he would be if both parties were citizens of the United States. And any member or citizen or any Indian tribe or nation in the Indian Territory shall have the right to invoke the aid of the courts therein for the protection of his person and property as though he were a citizen of the United States.

SEC. 37. That jurisdiction is hereby conferred upon the district courts in the Indian Territory to hear and determine all cases which may arise in their respective districts affecting or involving the rights of citizenship in any Indian tribe or nation therein, which may arise under any treaty between such tribe and the United States. All cases under this section shall be begun by petition, and shall be heard and determined by the court. The defendant shall be the principal chief or governor of the tribe or nation of which the petitioner claims to be a citizen, and service shall be made and other proceedings taken as in other cases. Appeals may be taken and writs of error prosecuted, as in other cases, to the supreme court of the Indian Territory, with the right of either party to appeal to the Supreme Court of the United States, unless the principal involved in the case has already been decided by said Supreme Court in another case, but in all other cases under this section the decision of the supreme court of the Indian Territory shall be final and conclusive of the matter in controversy.

SEC. 38. That the supreme court of the Indian Territory shall appoint one clerk for each of the districts into which the Territory is divided for judicial purposes by the provisions of this act, and a clerk of the supreme court, who may also be the clerk of the court for the first district, as defined herein. The clerk of the court for the first district shall have his office at Muscogee; of the second district, at Atoka; and of the third district, at Purcell; but deputy clerks may be appointed and have offices at the other places where courts are held, for the convenience of the courts provided for herein. The clerks and deputy clerks of district courts shall have the power to issue marriage licenses or certificates and to solemnize marriages in their districts. They shall keep copies of all marriage licenses or certificates issued by them, and a record book in which shall be recorded all licenses or certificates after the marriage has been solemnized, and all persons authorized by law to solemnize marriages shall return the license or certificate, after executing the same, to the clerk who issued it, together with his return thereon. They shall also be ex officio recorders, and as such they shall perform such duties as are required of recorders of deeds under the said laws of Arkansas, and receive the fees and compensation therefor which are provided in said laws of Arkansas for like service: *Provided*, That all marriages heretofore contracted under the laws or tribal customs of any Indian nation now located in the Indian Territory are hereby declared valid, and the issue of such marriages shall be deemed legitimate and entitled to all inheritances of property or other rights, the same as in the case of the issue of other forms of lawful marriage: *Provided further*, That said chapter one hundred and three of said laws of Arkansas shall not be construed so as to interfere with the operation of the laws governing marriage enacted by any of the civilized tribes, nor to confer any authority upon any officer of any court of the United States to unite a citizen of the United States in marriage with a member of any of the civilized nations until the preliminaries to such marriage shall have first been arranged according to the law of the nation of which said Indian person is a member: *And provided further*, That where such marriage is required by law of an Indian nation to be of record, the certificate of such marriage shall be sent for record to the proper officer, as provided in such law enacted by the Indian nation.

SEC. 39. That the district courts of the Indian Territory shall have all the powers of United States circuit courts or circuit court judges to appoint commissioners within their districts, respectively, who shall be known as United States commissioners; but not exceeding three commissioners shall be appointed for any one judicial district, and such commissioners when appointed shall have, within the district or territory to be designated in the order appointing them, all the powers of commissioners of circuit courts of the United States. They shall be ex-officio notaries public, and shall have power to solemnize marriages. The provisions of chapter ninety-one of the said laws of Arkansas, regulating the jurisdiction and procedure before justices of the peace are hereby extended over the Indian Territory; and said commissioners shall exercise all the powers conferred by the laws of Arkansas upon justices of the peace within their districts; but they shall have no jurisdiction to try any cause where the value of the thing or the amount in controversy exceeds one hundred dollars.

Appeals may be taken from the final judgment of said commissioners to the district courts in all cases, and in the same manner that appeals may be taken from the final judgments of justices of the peace under the provisions of said chapter ninety-one. The district court may appoint a constable for each of the commissioner's districts designated by the court, and the constable so appointed shall perform all the duties required of constables under the provision of chapter twenty-four and other

laws of the State of Arkansas. Each commissioner and constable shall execute to the United States, for the security of the public, a good and sufficient bond, in the sum of five thousand dollars, to be approved by the judge appointing him, conditioned that he will faithfully discharge the duties of his office and account for all moneys coming into his hands, and he shall take an oath to support the Constitution of the United States and to faithfully perform the duties required of him.

The appointments of United States commissioners by the court held at Muscogee, in the Indian Territory, heretofore made, and all acts in pursuance of law and in good faith performed by them, are hereby ratified and validated.

SEC. 40. That persons charged with any offense or crime in the Indian Territory, and for whose arrest a warrant has been issued, may be arrested by the United States marshal or any of his deputies, wherever found in said Territory, but in all cases the accused shall be taken, for preliminary examination, before the commissioner in the judicial district whose office or place of business is nearest by the route usually traveled to the place where the offense or crime was committed; but this section shall apply only to crimes or offenses over which the courts located in the Indian Territory have jurisdiction: *Provided*, That in all cases where persons have been brought before a United States commissioner in the Indian Territory for preliminary examination, charged with the commission of any crime therein, and where it appears from the evidence that a crime has been committed, and that there is probable cause to believe the accused guilty thereof, but that the crime is one over which the courts in the Indian Territory have no jurisdiction, the accused shall not, on that account, be discharged, but the case shall be proceeded with as provided in section ten hundred and fourteen of the Revised Statutes of the United States.

SEC. 41. That the chief-justice of the supreme court of the Indian Territory shall have the same power to extradite persons who have taken refuge in the Indian Territory, charged with crime in the States or other Territories of the United States, that may now be exercised by the governor of Arkansas in that State, and he may issue requisitions upon governors of States and other Territories for persons who have committed offenses in the Indian Territory, and who have taken refuge in such States or Territories.

SEC. 42. That appeals and writs of error may be taken and prosecuted from the decisions of the district courts to the supreme court of the Indian Territory in the same manner and under like conditions and provisions as appeals are taken and writs of error prosecuted at the time of the passage of this act from the decisions of courts of like jurisdiction in the State of Arkansas to the supreme court of that State. And the supreme court of the Indian Territory shall dispose of such appeals and writs of error in the same manner and under like conditions and provisions as the supreme court of Arkansas now disposes of such cases.

That every opinion of the supreme court of the Indian Territory shall be reduced to writing and be filed among the papers in the cause to which it relates. The provisions of this section shall apply as well to motions that shall dispose of a cause as to final decisions on the merits. It shall always appear, in the opinion of the court, which of the judges delivered the same and who concurred or dissented.

Writs of error and appeals from the final decision of the supreme court of the Indian Territory shall be allowed to the Supreme Court of the United States in the same manner and under the same regulations as from the supreme court of the Territory of Oklahoma, except as otherwise provided in this act.

SEC. 43. That any member of any Indian tribe or nation residing in the Indian Territory may apply to the district courts therein, or to any other court having jurisdiction of naturalization cases, to become a citizen of the United States, and such courts shall hear and determine such application as provided in the statutes of the United States; and the Indians residing in the Quapaw Indian Agency, who have heretofore or who may hereafter accept their land in severalty under any of the allotment laws of the United States, shall be deemed to be and are declared to be citizens of the United States, and entitled to all the rights, privileges, and benefits as such: *Provided*, That the Indians who become citizens of the United States under the provisions of this act do not forfeit or lose any rights or privileges they enjoy or are entitled to as members of the tribe or nation to which they belong.

SEC. 44. The following sums, or so much thereof as may be necessary, are hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be disbursed under the direction of the Attorney-General of the United States in the same manner that similar appropriations are disbursed in the other Territories of the United States, namely:

To pay the salaries of the judges of the supreme court, and the fees and compensation of the marshal, the attorney, the assistant attorneys, and other officers whose appointment is provided for in the Indian Territory, for the remainder of the fiscal year ending June thirtieth, eighteen hundred and ninety, the sum of twenty thousand dollars.

To pay for the rent of buildings for the supreme and district courts; to provide

jails and support prisoners; to pay mileage and per diem of jurors and witnesses; to provide books, records, and stationery for the judicial offices for the remainder of the fiscal year ending June thirtieth, eighteen hundred and ninety, the sum of twenty thousand dollars.

Your committee submit as their reasons for proposing this amendment the conclusions and recommendations of this committee as will be found in House Report No. 66 of this session in reference to the passage of House bill No. 6786, entitled "A bill to organize the Territory of Oklahoma, to establish courts in the Indian Territory, and for other purposes."

