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Cherokee and Arkansas River Railroad

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CHEROKEE AND ARKANSAS RIVER RAILROAD.

MAY 12, 1880.—Referred to the House Calendar and ordered to be printed.

Mr. SLEMONS, from the Committee on Railways and Canals, submitted the following

REPORT:

[To accompany bill H. R. 6061]

The Committee on Railways and Canals, to whom was referred the bill (H. R. 6061) providing for the incorporation of the Cherokee and Arkansas River Railroad Company, having had the same under consideration, respectfully report :

That said bill contemplates the construction of a railroad from Arkansas City, in the State of Kansas, along the general course of the Arkansas River, through the Indian Territory to Fort Smith, in the State of Arkansas.

The franchise or corporate powers asked for in said bill are such as are usually asked in similar cases, not asking any subsidy, land grant, or government aid whatever, and in the opinion of the committee are such as ought to be granted in all cases where it can be lawfully done by the Congress of the United States.

The committee find that this line of railway would connect the southern and central portions of Kansas over the Little Rock and Fort Smith, and Memphis and Little Rock roads, with the Mississippi River at Memphis, thereby reaching the most profitable and natural market for the grain products of that portion of Kansas; and, Memphis being the chief distributing point for the surrounding States, great benefit would be conferred by such a connection.

The committee find that the contemplated line would pass through the lands of four tribes of friendly Indians in the Territory, all of whom have, by special treaties, conceded the right to Congress to grant the right of way through and over their lands.

The committee present the several sections of the treaties referred to, as follows :

Article 11 of the treaty of July 9, 1866, with the Cherokees, provides as follows :

The Cherokee Nation hereby grant a right of way, not exceeding two hundred feet wide, except at stations, switches, water stations, or crossing of rivers, where more may be indispensable to the full enjoyment of the franchise herein granted, and then only two hundred additional feet shall be taken, and only for such length as may be absolutely necessary, through all their lands, to any company or corporation which shall be duly authorized by Congress to construct a railroad from any point north to any point south, and from any point east to any point west of, and which may pass through, the Cherokee Nation. Said companies or corporations, and their employes, laborers, while constructing and repairing the same and in operating said road or roads, including all necessary agents on the line at stations, switches, water-tank, and all others necessary to the successful operation of a railroad, shall be protected in

the discharge of their duties, and at all times subject to the Indian intercourse laws now or which may be hereafter enacted, and be in force in the Cherokee Nation.

Article 5 of the treaty with the Creeks, concluded June 14, 1866, provides as follows :

The Creek Nation hereby grant a right of way through their lands to the Choctaw and Chickasaw country, to any company which shall be duly authorized by Congress, and shall, with the express consent and approbation of the Secretary of the Interior, undertake to construct a railroad from any point north of, to any point in or south of the Creek country, and likewise from any point on their eastern to their western or southern boundary; but said railroad company, together with all its agents and employes shall be subject to the laws of the United States relating to intercourse with Indian tribes, and also to such rules and regulations as may be prescribed by the Secretary of the Interior for that purpose; and the Creeks agree to sell to the United States, or a company duly authorized as aforesaid, such lands not legally owned or occupied by member or members of the Creek Nation, lying along the line of said contemplated railroad, not exceeding on each side thereof a belt or strip of land three miles in width, at such price per acre as may be eventually agreed upon between said Creek Nation and the party or parties building said road, subject to the approval of the President of the United States: *Provided, however,* That said lands thus sold shall not be reconveyed, leased, or rented to, or be occupied by any one not a citizen of the Creek Nation according to its laws and recognized usages: *Provided, also,* That officers, servants, and employes of said railroad, necessary to its construction and management, shall not be excluded from such necessary occupancy, they being subject to the provisions of the Indian intercourse law and such rules and regulations as may be established by the Secretary of the Interior, nor shall any conveyance of any of said lands be made to the party building and managing said road until its completion as a first-class railroad, and its acceptance as such by the Secretary of the Interior.

Article 10 of the treaty with the Kansas Indians, concluded October 5, 1859, provides as follows :

It is agreed that all roads and highways laid out by authority of law shall have right of way through the lands within the reservation hereinbefore specified, on the same terms as are provided by law when roads and highways are made through lands of citizens of the United States; and railroad companies, when the lines pass through the lands of said Indians, shall have right of way on payment of a just compensation therefor in money.

Article 11 of the treaty with the Big and Little Osage Indians, concluded September 29, 1865, provides as follows :

It is agreed that all roads and highways laid out by the State or General government shall have right of way through the remaining lands of said Indians, on the same terms as are provided by law when made through the lands of citizens of the United States; and railroad companies, when the lines of their roads necessarily pass through the lands of said Indians, shall have right of way upon payment of a fair compensation therefor.

The foregoing sections are copied in full from the published treaties, and the committee are of opinion that the rights they confer are full and complete; the railroad to be constructed passing from the east to the west of the Cherokee and Creek Nations. The bill is drawn in accordance with the provisions of said several treaties, with the special proviso that the franchise is granted subject to existing treaties.

The committee are of opinion, and so report, that the granting of this franchise and the construction of the railroad will not only be of great public benefit to the sections connected thereby, but will also be of great benefit to the Indians themselves, by furnishing an efficient and speedy method for the pursuit and arrest of criminals taking refuge in their territory, and also by a cheaper and speedier method of delivering their supplies, mails, &c., as well as by giving them a market for their products, and stimulating their productive capacity, which is the surest and best incentive to civilization.

The citizens of Kansas at present find their best market in the States

in the Lower Mississippi Valley, and to reach it have to go around by way of a long all-rail route, whereas when this line is constructed the distance will be shortened fully one-half—being now nearly 1,000 miles—but by the proposed line would be less than 500 miles.

For these reasons the committee recommend the passage of the bill with amendments.