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CERTAIN LEASES MADE TO CHOCTAW COAL AND RAIL-
WAY COMPANY.

AUGUST 30, 1890.—Referred to the House Calendar and ordered to be printed.

Mr. PEEL, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. Res. 219.]

Your committee having had under consideration House joint resolution 206, to ratify certain leases made by the individual citizens of the Choctaw nation to the Choctaw Coal and Railway Company, beg leave to submit the following report:

Section 8, article 7, Choctaw constitution provides:

Any citizen of this nation who may find any mine or mines or mineral waters shall have exclusive right and privilege to work the same so long as he may choose within one mile in any direction from his work or improvement; *provided, however*, he does not interfere with the rights of a former settler.

The lands of the Choctaw Nation were conveyed to them by the United States in fee simple and patented to them in regular way. The leases sought to be ratified are sixty-two in number, all made in due form and properly acknowledged. The lessees agree in said leases to pay to the lessor one-fourth of a cent for each bushel of coal mined under said lease; they also agree to pay to the Choctaw Nation one-half cent for each bushel of coal mined.

It appears from the Choctaw constitution that the individual finder is the sole and exclusive owner of the coal; yet by act of the Choctaw national council they exercise a national control over the privilege of operating any mines in their country, and for that privilege charge national revenue. The permit in this case runs for only six years, at one-half cent per bushel for all coal mined, but as to the individual the leases run for ninety-nine years at one-fourth cent per bushel, making the entire royalty to citizen and to the nation three-fourths of a cent per bushel.

The evidence before the Indian Office, to whom this was referred, shows that these lessees have invested a very large sum of money under these leases building railroad lines for the better transportation of their product and the operating of said mines, and that they are shipping large amounts of coal regularly to different parts of the country.

It also appears that the company, in order to give them greater facilities for shipping, are desirous of extending their railroad lines east through Arkansas and west to connect with the Pacific coast, also north and south, and, as this will require large sums of money, they claim that the time has come for them to bond their road and other franchises under these leases; and while it is generally believed and believed by your committee that these leases are legal and valid both under the

constitution and laws of the Choctaw Nation and the laws of the United States, but as that question is in some doubt the object of this resolution is to place the question beyond dispute as far as Congress is concerned, so that said company may be able to place their bonds at the best advantage, and thereby enable them to fully execute their enterprise and develop the coal beds deposited under the land embraced in said leases with some modifications made by the Indian Office which your committee approves.

Said office finds no good or valid reason why said resolution should not pass, but the Secretary makes objections to its adoption upon the grounds of public policy—the full force of that your committee can not see. His first reason is that it will establish a gross monopoly in the interest of the railroad company. Your committee must confess that they can not well see how a railroad company can make a monopoly by carrying their own property, especially in this case.

When it is remembered that this company was first organized as a coal company, and after they procured their coal interest came to Congress and asked right of way through Indian territory for their road bearing the very name of their original coal company for the purpose of carrying their coal to market, Congress granted this right and under it the road was built, Congress would not hesitate to protect the company in its railroad rights under their own grant. If this is true and these leases are legal under the laws of the Choctaw Nation, what reason can there be assigned for not confirming them. It would be very foolish to allow parties to contract and withhold from them the protection of the law that they might execute them; for when this whole thing is properly understood it is only lending the aid of the Government to enable the lessees to execute their contracts to the extent of exhausting the coal underlying the lands leased.

It is admitted that the lessees are paying these Indians the largest royalty paid in this country for coal mining. Then, as guardians of these people, should we not aid both parties in all legitimate ways to execute the contracts that the Indians may receive the benefits resulting therefrom; for surely if the leases are to be declared void, or if the aid or sanction of the Government is needed, and we withhold it, the coal remains dead capital and worthless to them. The honorable Secretary again says:

It will cripple the Indian nation now, and greatly interfere with the policy of the United States to lead the Indian tribes to lives of industry and support.

Your committee has been led to believe that the greatest desire of the Government is and has been to encourage these people to come in closer contact with our own people in commercial as well as social matters, and therefore before refusing to allow a contract made with them to be executed which is certainly to their interest if it is true that the royalty paid them is the largest paid anywhere in this country, it might be well to consider what would a prudent business white man do with such property if he owned these coal fields and did not have capital to operate them. Would not every good business man say lease them out to capitalists for a good royalty, and thereby realize out of them all their market value will allow?

The honorable Secretary urges another objection that does not seem to your committee sufficient to refuse to recognize these contracts. He says:

When the United States endeavors hereafter to deal with these tribes in the interest of our own people the great value of the lands will be found in the hands of third parties then sanctioned.

We confess that we do not understand that it is the object of the Government to enforce its wards to hold their property *in statu quo*, refusing to allow it to earn anything for them for the purpose of benefiting our own people at their expense.

We have always felt that the guardian should so manage the estate of his ward as to make it realize all it would or could for him. Should the Government refuse to allow these people to lease out this valuable property and realize its full worth, and compel them to hold it in a wild state of nature until compelled to sell it to us at the usual rate of \$1.25 per acre, they would realize but a small amount compared to the royalty now being paid under these leases, which amounts, as your committee are advised, to \$50,000 or \$60,000 per annum.

This large sum, if promptly paid, would enable these people to educate all their children in splendid style, and thereby fit them to enter the race of life on equal footing with the white man. And why not allow them to do this? The property is theirs, not ours. To prevent another from making profit out of his own is certainly wrong. And again, should the time come to allot these lands in severalty before the coal is exhausted no trouble could arise, from the fact that coal or mineral lands would not be allotted; the agricultural lands only would properly be allotted, and the proceeds arising from these leases could still go to the Choctaw treasury for all their people.

Your committee having examined the resolution as modified by the honorable Commissioner, recommend that it do pass, believing that a faithful execution of these leases will prove a mutual benefit to both parties and to the country at large, for our own people need the coal. The resolution, as modified, we report as a substitute for the original.