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Bridge across Arkansas River, Indian Territory.

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BRIDGE ACROSS ARKANSAS RIVER, INDIAN TERRITORY.

MARCH 11, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 9071.]

The Committee on Interstate and Foreign Commerce, to whom was referred House bill 6153, having had the same under consideration, return the same to the House with the recommendation that the following substitute be passed in lieu of said bill, to wit:

A BILL authorizing William W. Campbell and Susan F. Lynch to construct a bridge across the Arkansas River at or near Webbers Falls, Indian Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for William W. Campbell and Susan F. Lynch, of the Indian Territory, their heirs, successors, or assigns, to build, construct, and maintain a bridge and approaches thereto for the passage of wagons, cars, and vehicles of all kinds, for animals, horseback and foot passengers, across the Arkansas River at or near Webbers Falls, in said Cherokee Nation, Indian Territory, upon and from the land owned, claimed, and occupied by the said William W. Campbell and Susan F. Lynch, they being members and citizens of the Cherokee Tribe of Indians, and the owners, claimants, and occupants of the land on both sides of the Arkansas River at the point where said bridge is to be built.

SEC. 2. That said bridge shall be built with such length of spans and at such elevation as the Secretary of War may require, and the said parties shall, at their own expense, build and maintain such dikes, wing dams, booms, and other work as may, in the opinion of the Secretary of War, be necessary to maintain the channel of the river within the draw or main span of the bridge: *Provided,* That if said bridge be built as a drawbridge, it shall be opened promptly upon reasonable signal for the passage of boats and other water craft; and whatever kind of bridge is constructed, the owners thereof shall maintain thereon, at their own expense, such lights and other signals as the Light-House Board may prescribe: *Provided also,* That said bridge shall be recognized and known as a post route, upon which no higher charge shall be made for the transmission over the same of the mails, troops, and munitions of war of the United States than the rate per mile paid for their transportation over the railroads or highways leading to said bridge, and the United States shall have the right of way for a postal telegraph across said bridge: *And provided further,* That the parties availing themselves of the privilege of this act shall submit to the Secretary of War for his approval drawings showing the plan and location of the said bridge, and until he has approved the said plan and location the bridge shall not be commenced or built; and no change in the said plans, either before or after completion, shall be made without the consent of the Secretary of War; but any change whatever in said bridge that he may order in the interests of navigation, either during construction or after construction, shall be made by the owners thereof at their own cost and expense.

SEC. 3. That said William W. Campbell and Susan F. Lynch, their successors and assigns, are hereby authorized to take and use for all purposes of a highway or approaches to said bridge a right of way not exceeding one hundred feet in width on each side of the said Arkansas River, over the lands owned, occupied, and claimed by individuals under the laws and usages of the Cherokee Indians, or under the laws of the United States, and may contract for and obtain the same from such Indian or Indians by purchase: *Provided,* That no part of the lands herein author-

ized to be taken be leased or sold by the said William W. Campbell and Susan F. Lynch; 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 highway; and when any portion thereof shall cease to be used, such portion shall revert to the individual Indian or Indians from which the same shall have been taken.

SEC. 4. That before said highway shall be constructed through any lands held by individual occupants according to the laws, customs, and usages of the Cherokee Nation, full compensation shall be made to such occupants for all property to be taken or damage done by reason of the construction of such highway. In case of failure to make amicable settlement with any occupant, such compensation shall be determined by the appraisal of three disinterested referees, to be appointed, one, who shall act as chairman, by the President of the United States, one by the chief of the nation to which said occupant belongs, and one by the said William W. Campbell and Susan F. Lynch, who, before entering upon the duties of their appraisal, 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 appraisal, 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 days after the appointment made by the President, the vacancy shall be filled by the district judge of the United States court held at Muscogee, Indian Territory, upon the application of the other party. The chairman of said board shall appoint the time and place of 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 he is engaged in the trial of any cause submitted to him under this act, with mileage at five cents per mile. Witnesses shall receive the usual fees allowed by the court of said nation. Costs, including compensation of said referees, shall be made a part of the award, and be paid by the said William W. Campbell and Susan F. Lynch. In case the referees do 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 the making of the award and notice of the same, to appeal by original petition to the district court held at Fort Smith, Arkansas, which court shall have jurisdiction to hear and determine the subject-matter of the petition, according to the laws of the State of Arkansas 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 costs of said appeal shall be adjudged against the said William W. Campbell and Susan F. Lynch. If the judgment of the court shall be for the same or a less sum than the award made by the referees, then the costs shall be adjudged against the party claiming damages. When proceedings have been commenced in court the said William W. Campbell and Susan F. Lynch 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 said bridge.

SEC. 5. That the bridge authorized to be constructed under this act shall be built and located under and subject to such regulations for the security of the navigation of said river as the Secretary of War shall prescribe. The jurisdiction is hereby vested in the United States court at Muscogee or Tahlequah, or in any United States court which may hereafter be established nearer to said bridge, over all controversies between the owners of said bridge or between the owners and individuals, or between the members of any company which may hereafter be organized to own and operate said bridge, without regard to the race of the parties and the amount in controversy.

SEC. 6. That the owners of the said bridge may charge such reasonable rate of tolls for the transit or passage over the same of wagons and vehicles of every description, for animals, and foot passengers as shall be approved by the Secretary of War.

SEC. 7. That this act shall be null and void if actual construction of the bridge herein authorized be not commenced within one year and completed within three years from the date of its approval.

SEC. 8. That the right of Congress to alter, amend, or repeal this act is hereby expressly reserved.

The substitute so modifies the original bill as to conform to the recommendation of the Secretary of War.

Your committee therefore recommend that the substitute do pass, and that the original bill lie upon the table.