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Brainerd and Northern Minnesota Railway Company.

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BRAINERD AND NORTHERN MINNESOTA RAILWAY
COMPANY.

JANUARY 23, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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

REPORT:

[To accompany H. R. 3009.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 3009) entitled "A bill granting to the Brainerd and Northern Minnesota Railway Company a right of way through the Leech Lake Indian Reservation and Chippewa Indian Reservation, in Minnesota," hereby report the same back to the House of Representatives, with the recommendation that section 1 of said bill be amended as follows, to wit:

First. By striking out all of line 15, after the word "Reservation," and all of lines 16, 17, 18, 19, 20, 21, 22, and the word "thirty-one" in line 33, and inserting in lieu thereof the words, "in township one hundred and forty-two north, of range thirty-one west, and extending in a north-westerly direction from the terminus of the line as now constructed along the most feasible and practicable route, through said township, and through townships one hundred and forty-three north, of ranges thirty-one and thirty-two west."

Second. After the word "buildings," in line 32, of said section 1, by striking out all the remainder of the line, and the words "water stations" in line 33.

Third. After the word "said," in line 36, of said section 1, and before the word "Reservation," inserting the word "Chippewa."

And that as thus amended the bill do pass.

The amendments offered to this bill are in conformity with the request of the Commissioner of Indian Affairs, whose letter is hereto attached and made a part of this report.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 18, 1896.

SIR: I am in receipt of a communication from W. M. Griffith, esq., clerk of the Committee on Indian Affairs, House of Representatives, dated the 8th, instant, with which he submits for the views of this office several bills, among them H. R. 3009, "A bill granting to the Brainerd and Northern Minnesota Railway Company a right of way through the Leech Lake Indian Reservation and Chippewa Indian Reservation, in Minnesota." Mr. Griffith states that by resolution of the Committee on Indian Affairs the bills were referred to this office for report.

The bill grants the company a right of way through section 11, in township 141 north, of range 31 west, within the Leech Lake Reservation, and through certain sections in townships 142 and 143 north, of ranges 31 and 32 west, within the Chippewa Reservation, with the right to load logs on said railroad at the points in said reservations where the same may run adjacent to the waters of Leech Lake, such right of way to be 50 feet in width on each side of the central line of the road; also ground adjacent to the right of way for station purposes, to the extent of one station within the limits of the Chippewa Reservation.

In reporting upon the bill I desire, in the first place, to invite your attention to the fact that by act of Congress approved July 6, 1894 (28 Stat. L., 99), the Brainerd and Northern Minnesota Railway Company was granted right of way through sections 13, 12, 1, and 2, in township 141 north, of range 31 west, within the Leech Lake Reservation. When the company came to make its survey for the line of definite location, on account of the topography of the country, it found it necessary to pass through section 11 of said township and range also. This the said act did not give it a right to do; so it now seeks a right of way through said section, in the nature of an amendment to said act, giving it a right to go through sections 13, 12, 1, and 2. I am informally advised by Mr. Fletcher, Member of Congress from Minnesota, who introduced the bill, that the road is already constructed and in operation through the Leech Lake Reservation.

After constructing through the Leech Lake Reservation, the company now finds it desirable to construct through a portion of the Chippewa Reservation; so instead of merely asking for an amendment to the old act permitting it to pass through said section 11, in the Leech Lake Reservation, it seeks also a right of way from the present terminus of its line in a northwesterly direction through a portion of the Chippewa Reservation. To secure this object, the company has deemed it necessary to introduce a new bill.

The bill in question, after a description of the lands through which the company desires to pass, is substantially identical with the former act of Congress granting the company a right of way through the Leech Lake Indian Reservation.

In office letter of December 21, 1894, in reporting upon House bill 54, Fifty-fourth Congress, first session, a bill granting the Duluth and North Dakota Railroad Company a right of way through certain Indian reservations in Minnesota, and in office letter of the 15th instant, in reporting upon Senate bill 1035, a bill granting the Sioux City and Omaha Railway Company a right of way through the Omaha and Winnebago reservations, this office invited attention to certain veto messages of the President last year returning certain bills without his approval granting railroad companies rights of way through Indian reservations. These veto messages took exception to the liberality that has recently been manifested in granting companies rights of way through Indian lands. The President, judging from these messages, seems to think that companies should not receive such liberal grants as to side tracks, switches, turn-outs and water stations, and as to station privileges generally; that the consent of the Indians should be obtained, and that Indians should not be compelled to seek redress in controversies with the company in courts that are located long distances from their reservations.

As regards the bill in question, I think by slight amendments the objections which the President has raised to such bills can be obviated. As regards obtaining the consent of the Indians, I do not think it important in this instance, as the Chippewa Indians of Minnesota, under the provisions of the act of Congress of January 14, 1889 (25 Stat. L., 612), have ceded all their right, title, and interest in and to said reservation lands not allotted to them in severalty under the provisions of said act. So far as this office is aware, the line of road as proposed would not interfere with any of the allotted lands; but for fear it should, I deem it important that it should provide for this contingency. This it already does.

In an informal conference with Mr. Fletcher, he suggested that an amendment be made in the description of the line of route of the road through the Chippewa Reservation. Accordingly respectfully recommend that section 1 of the bill be amended as follows: Strike out all of line 15, after the word "reservation," all of lines 16, 17, 18, 19, 20, 21, 22, and the word "thirty-one," in line 23, and insert in lieu thereof the words: "in township one hundred and forty-two north of range thirty-one west, and extending in a northwesterly direction from the terminus of the line as now constructed along the most feasible and practicable route, through said township and through townships one hundred and forty-three north of ranges thirty one and thirty-two west."

After the word "buildings," in line 32, of said section 1, strike out all the remainder of the line, and the words "water stations" in line 38.

After the word "said," in line 36, of said section 1, and before the word "Reservation," insert the word "Chippewa."

Were it not that the company already has a right of way through a portion of the Leech Lake Reservation, as has been explained, I would suggest an amendment to section 2 of the bill regarding the method of determining the amount of compensation that shall be paid the Indians.

If the amendments herein suggested shall be made, this office will interpose no objections to the passage of the bill.

The copy of the bill submitted by Mr. Griffith and a copy of this report are inclosed herewith.

Very respectfully, your obedient servant,

The SECRETARY OF THE INTERIOR.

D. M. BROWNING, *Commissioner.*