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Report : Mr. Dawes

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IN THE SENATE OF THE UNITED STATES.

JUNE 14, 1880.—Ordered to be printed.

Mr. DAWES, from the Committee on Railroads, submitted the following

REPORT:

[To accompany S. Res. 85.]

The Committee on Railroads, to whom was referred the resolution (S. Res. 85) for the relief of the Kansas City, Fort Scott and Gulf Railroad Company, have had the same under consideration, and beg leave to submit the following report:

By chapter 241, Thirty-ninth Congress, dated July 25, 1866, a grant of lands was made to the State of Kansas for the purpose of aiding the Kansas and Neosho Valley Railroad Company to construct a railroad from the eastern terminus of the Union Pacific eastern division, at the line between Kansas and Missouri, at or near the mouth of the Kansas River, southward through the eastern tier of counties in Kansas, with a view of its extension so as to effect a junction at Red River with a railroad then being constructed from Galveston to Red River, at or near Preston, in Texas.

This grant was of every alternate section of land designated by odd numbers, to the extent of ten sections per mile on each side of the road, to be selected within twenty miles of the line of said road, with the usual provision for indemnity in case any of the lands granted should have been sold or reserved before the taking effect of the grant.

This grant was made upon the condition, among others, that said company after the construction of said road should keep it in repair, and that it should at all times be in readiness to transport troops, munitions of war, supplies, and public stores upon its road for the government, when required to do so by any department thereof, at the cost, charge, and expense of said company.

In 1868 said company commenced the construction of its road, and during the next two years completed it to the south boundary of the State of Kansas, a distance of about 160 miles. No public lands to which the grant of the company could attach were found until the road reached the line of Linn County, a distance of over 60 miles from its starting point. The last 50 miles of the road were built through the New York Indian and the Cherokee neutral lands, which were not and never had been public lands. The entire number of acres of public lands within the limits of the grant, and which could be made available to the railroad company under the granting act, did not exceed 28,000 acres. Of this about 18,000 acres had been patented to the railroad company prior to the 3d of March, 1877. On this latter date an act was passed, being chapter 125, Forty-fourth Congress, entitled "An act to secure the rights of settlers upon certain railroad lands and to repeal the first five sections of an act entitled 'An act granting lands to

the State of Kansas to aid in the construction of the Kansas and Neosho Valley Railroad and its extension to Red River," approved July 25, 1866.

This last act, in addition to repealing the five sections of the original granting act, prohibited the Secretary of the Interior from issuing any more patents to the said railroad company for the lands withdrawn under its grant, and also provided that upon the said railroad company accepting said conditions of said chapter 125, and reconveying to the United States the lands already patented to it, cancelling all uncompleted contracts for the sale of any portion of such lands, and paying into the Treasury of the United States the proceeds of the lands sold and conveyed prior to the passage of said chapter 125, that all of the lands withdrawn under said original granting act and undisposed of should be restored to market by proclamation of the President of the United States, and be open to settlement and purchase under the homestead laws of the United States.

The railroad company complied with the provisions of this last-mentioned act on the 25th of May, 1877, as shown by letter of the Secretary of the Interior, addressed to the Postmaster-General, dated July 2, 1878. Subsequently the President issued a proclamation restoring said lands to market, and opening them to settlement and purchase under the homestead laws of the United States.

It thus appears that the railroad company have relinquished to the United States Government all the benefit which they had received or were to receive by reason of the act of July 25, 1866, and that all of said act which related to said grant was repealed by the act of March 3, 1877. By this act of the railroad company the United States was placed in precisely the same position as if no grant of lands had ever been made to said railroad company prior to the passage of the act of March 3, 1877.

Said railroad company had performed transportation of military supplies to the amount of about \$22,000, and also services on account of the Post-Office Department to the amount of about \$3,000 prior to the passage of the act of March 3, 1877, these sums being withheld from the railroad company under the terms and conditions of the act containing the original grant of lands.

The joint resolution under consideration designs to restore the railroad company to that condition in its dealings with the general government that it would have occupied had no grant of lands been made, which will be fully accomplished by paying the sums above mentioned, amounting to something less than \$25,000.

Your committee believe that in view of the fact that said railroad company received no benefit whatever on account of said grant of lands, it is equitably entitled to be paid for services rendered to the government as though no grant had been made, and therefore recommend the passage of the joint resolution with an amendment.