

IN THE SENATE OF THE UNITED STATES.

JANUARY 5, 1891.—Ordered to be printed.

Mr. PLATT, from the Committee on Territories, submitted the following

REPORT:

[To accompany S. 4598.]

The Committee on Territories, to whom was referred the bill (S. 4598) "to authorize Oklahoma City, in Oklahoma Territory, to issue bonds to provide a right of way for the Choctaw Coal and Railway Company through said city," having considered the same, submit the following report:

The bill provides for the issue of bonds by Oklahoma City for the purpose of providing a right of way for the Choctaw Coal and Railway Company through said city. The bonds are made payable in not less than ten nor more than twenty years, at 5 per cent. per annum, and are not to exceed in amount the sum of \$40,000.

It appears from the facts presented to the Committee that the Choctaw Coal and Railway Company, to which a right of way has been granted by act of Congress to construct its road through the Indian Territory, was located diagonally across the present town site of Oklahoma City previous to the settlement on said site on the 22d of April, 1889.

Under the decision of the Supreme Court of the United States in what is claimed to be a parallel case (103 U. S., p. 426), the railroad company claims that it has a superior title to the right of way through said city, though the ground claimed was at once platted into lots and blocks by the town-site settlers immediately after 12 o'clock m. on the 22d of April, 1889, and has been mostly covered with substantial improvements, consisting of business houses, hotels, private residences, and manufacturing establishments.

It appears that these town-site settlers believed, and were so advised, that the rights of the railroad company did not attach until the map of definite location was filed in the Department of the Interior, which did not occur until the 13th of July, 1889. In this state of affairs it is found to be impossible to adjust the controversy between the railroad company and the town-site settlers without such delay in litigation as will defeat the construction of the road within the time required by law.

As a practical solution of the difficulty, and with the unanimous concurrence of the people of the city, it has been agreed between the city authorities and the railroad company that the road may pass directly through the city on regular surveyed lines, corresponding to the streets and alleys, and it is for the purpose of paying for the property necessary to be purchased that this legislation is asked.

The road is now in course of construction and will soon be up to the city limits.

The committee recommend the passage of said bill, with the following amendments:

In line 12, after the word "election," insert "and assented to by a majority of said electors voting thereon."

After the word "same," in line 14, add the following proviso:

"*Provided further*, That neither said bonds nor the proceeds thereof shall be used for any other purpose than that hereinbefore set forth."

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