

## TEXAS AND PACIFIC RAILROAD.

JANUARY —, 1877, Committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

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Mr. KASSON submitted the following as the

### VIEWS OF THE MINORITY.

[To accompany bill H. R. 4531.]

The Texas and Pacific Railroad Company was incorporated by act of Congress approved March 3, 1871, for the purpose of building a railroad from a point near Marshall, Tex., and near the thirty-second parallel, by the most direct and eligible road, via El Paso, to the Colorado River, near the southeast boundary of California, and thence to San Diego, with the privilege of building to the ship-channel in the Bay of San Diego, following "as near as may be the thirty-second parallel of north latitude."

To aid in the construction of this road the company received a large land-grant from the State of Texas, under authority granted by the act of Congress, and also was entitled to land directly granted by Congress, embracing the alternate sections in a width of eighty miles within the Territories, and forty miles in the State of California, with the privilege of going outside of those wide limits to supply the place of the public lands within the first-named limits, which might have been previously disposed of, or of which they were deprived by reason of the vicinity of their road to the Mexican boundary. In addition to these grants, a right of way was given them, through the public lands, four hundred feet wide, and forty acres for depot-grounds and stations.

Patents for land were to be issued for every completed section of twenty miles so far as the land lay opposite to such section.

The company was directed to designate its route within two years, namely, on or before March 3, 1873, and to file a map thereof in the Department of the Interior; and thereupon the lands within this wide belt of territory were to be withdrawn from pre-emption, private entry, and sale. The map was filed in 1871, and the lands withdrawn in October of the same year, and are still withdrawn from sale and occupation.

In further aid of the enterprise the company was by this act, and the supplemental acts approved May 2, 1872, and March 3, 1873, authorized to issue its bonds, payable either in gold or other lawful money, to the amount of \$40,000 per mile, secured by mortgage on their constructed or acquired railroad property, and further bonds, the aggregate of which should not exceed \$2.50 per acre, to be secured by a mortgage on their lands granted by Congress or otherwise acquired.

In consideration of these liberal grants and powers it was provided, by the acts hereinbefore referred to, that the construction of said Texas and Pacific Railway should proceed westerly from a point near Marshall, on the line authorized by the original act, and that one hundred consecu-

tive miles from said point should be completed and in running order by May 2, 1874, and a sufficient number of miles (not less than one hundred) should be completed every year thereafter, so as to complete the road to San Diego by May 2, 1882. It was also required that at least ten miles of the road should be completed from San Diego eastward before the close of the second year, and thereafter not less than twenty-five miles added thereto in a continuous line each year. It was also provided by the supplemental act of 1872, that on the failure of the Texas and Pacific Railroad to so complete the road according to the provisions of the act mentioned, "Congress may adopt such measures as it may deem necessary and proper to secure its speedy completion."

It was also provided by the last section of the act of 1871, that, for the purpose of connecting the Texas and Pacific Railroad with San Francisco, the Southern Pacific Railroad of California should be authorized to construct its road from near Tehachapa Pass, by way of Los Angeles, to meet the Texas and Pacific near the Colorado River.

Under these various acts the Texas and Pacific Railway has, up to this time, completed the main line of road from Marshall, Tex., westward about one hundred and seventy-nine miles, the provisions of the law having required that two hundred miles thereof should be completed west of Marshall by May 2, 1875. On the western end of the route, beginning at San Diego, no portion of the railway has been built, the law having required not less than thirty-five miles to be completed by May 2, 1875.

Under these conditions of the law, and with these facts in respect to the compliance therewith on the part of the Texas and Pacific Railroad, the committee have had under their consideration the bill (House file 472) amendatory of and supplementary to the above-recited acts of 1871 and 1872.

For this bill the majority of the Committee on the Pacific Railroad have recommended a substitute, which changes its provisions in many important respects, and for the most part advantageously to the public interest.

By the first section of the bill now reported by the committee, it is proposed that the Texas and Pacific Railway Company shall build its road from the east, beginning at Fort Worth, via El Paso, to a point one hundred miles west of El Paso, which is to be the point of junction with the Southern Pacific Railroad Company. The latter company is to build from the west, beginning at Fort Yuma, on the Colorado River, eastward to said point of junction, and to complete the unfinished links of its route continuously westward to San Diego. Each road is to construct at least one hundred miles of its trunk-line every two years from the acceptance of this act, and to complete its road to the point of junction within six years from said date, and to San Diego within three years from same date. The grants heretofore made to the Texas and Pacific Company covering the western portion of the route are transferred to the Southern Pacific Railroad Company, in consideration that it engages to complete that portion of the road from San Diego to the point of junction in New Mexico.

This section also provides for the connected operation of said lines and for the regulation by Congress of rates for transportation over said roads, and for general supervision and control thereof by the Government for the protection of its own interests. A reciprocal right is given to each of said companies, in case of the failure of the other to construct its road as required by this act, to itself complete the entire line and take the benefit of the grant.

This section also provides that the Atlantic and Pacific Railroad Com-

pany may change its route, as designated in a former law, so as to construct its line as a branch of the Texas and Pacific southwestwardly from Vinita to a point of junction with the Texas and Pacific between the 99th and 100th degree of longitude, and substitutes a grant of land on *this* line for the grant originally conferred along its *old* line and now forfeited. This branch is to be completed to the point of junction also within six years from the passage of this act. The failure to construct this branch within the time required involves a forfeiture of the grants. In the case of the two trunk-roads, such failure involves forfeiture of grants to each other, but not to the United States.

Section 2 provides for equal privileges to all connecting roads, without discrimination, and for equality of charges over the main line and branches.

Sections 3 and 4 provide for Government aid in the construction of said main line and branches, as follows :

Each company constructing a portion of the trunk-line between Fort Worth and Fort Yuma executes and deposits with the Secretary of the Treasury its bonds to the extent of \$40,000 per mile of its road, payable in gold, with 5% interest, also payable in gold. Each company constructing one of the eastern branches executes and deposits in like manner its bonds, payable, principal and interest, in gold to the extent of \$30,000 per mile, and the San Diego branch at \$35,000 per mile. All the bonds are made payable 50 years from their date, with interest payable semi-annually. The payment of the interest on all the bonds is guaranteed by the United States. Of these bonds an amount equal to \$5,000 per mile is to be retained in the Treasury of the United States pending the construction of the roads. The other bonds are to be delivered to the respective companies as the roads are constructed, and equipped up to the point of the actual cost of such construction and equipment, but the whole residue of said bonds may be issued for increased facilities after completion of the road.

A sinking-fund is also provided, to commence with the year 1886, at the rate of one per cent. per annum in gold.

Section 5 provides that these bonds shall have a first lien upon all the roads issuing them, and upon their rolling-stock and property of every kind, including the land-grants; and requires the execution of a mortgage to secure the bonds, interest, and sinking-fund. The net proceeds of sales of land covered by the mortgage, and the amount earned for Government transportation, shall be paid into the Treasury of the United States. From the earnings of the respective roads, each for itself, such further amount is to be paid in as may be necessary to provide for each interest-payment and for the sinking-fund on the bonds issued by each line.

Section 6 allows the Government, in case of the inadequacy of such railroad-funds to meet the interest on the bonds, to sell a sufficient amount of the reserved bonds, [\$5,000 per mile,] bearing its own guarantee, to make up such deficiency.

It also provides for the final delivery to the companies, after completion of the roads, of all reserved bonds remaining.

Section 7 requires of the companies to pay the expense of the service of clerks and commissioners incurred by the Government in the execution of this act.

Section 8 provides for an adjustment of rates for Government service, for bridging streams, and for the right of intersection by other roads.

Section 9 preserves unimpaired all obligations of the Texas and Pacific or the Atlantic and Pacific Companies under the laws of Missouri, Texas,

or Louisiana, and also preserves all powers, privileges, property, and franchises granted or acquired under the laws of said States, but does not define in any way such obligations or powers and privileges.

Section 10 designates the other branches which are to take the benefits of this act, including the bonds with guaranteed interest at the rate of \$30,000 per mile.

1st. A railway branch from New Orleans to Marshall, in Texas.

2d. A branch from Vicksburgh to Marshall.

3d. A branch from Memphis to Jefferson, in Texas.

In case of the failure of either of these branch companies to proceed within twelve months to their construction, or of their failure to complete the same within three years from the passage of this act, the Texas and Pacific Company is to construct the same, and to be subrogated to all the grants and rights conferred by this act upon such defaulting companies.

Section 11 prohibits any combination with any transcontinental line for the transportation of through freight, &c.

Sections 12 and 13 provide for the right of way through military reservations, and for the acceptance by each beneficiary railroad company of the provisions of this act.

The undersigned, members of the committee, without disputing the general desirableness and utility of the trunk-road and of some of the branches provided for in this bill, have given their attention to the propriety of the proposed grants on the part of the United States to aid in their construction. The scope of these proposed grants will appear from the following table, showing approximately the length of the various lines of railroad covered by said grants:

Guaranteed lands per mile.	Railroads.	Least estimated length.	Aggregate of bonds on first estimate.	Estimated length as authorized, unless restricted.	Aggregate of bonds on second estimate.
\$40,000	Texas and Pacific, west from Fort Worth, and Southern Pacific, east from Fort Yuma.....	1,187	\$47,489,000	1,187	\$47,580,000
35,000	San Diego branch.....	100	3,500,000	130	4,550,000
	{ Vinita branch.....	325	9,750,000	436	13,080,000
30,000	{ Memphis branch.....	260	7,800,000	305	9,150,000
	{ Vicksburgh branch.....	98	2,940,000	170	5,100,000
	{ New Orleans branch.....	337	10,110,000	337	10,110,000
		2,307	81,580,000	2,565	89,470,000

Interest per annum on first estimate .....	\$4,079,000
Interest per annum on second estimate.....	4,473,500
Aggregate interest, fifty years, on first estimate.....	203,950,000
Aggregate interest, fifty years, on second estimate.....	223,675,000

From this it appears that the proposed guarantee of the United States covers one thousand one hundred and eighty-seven miles, at the rate of \$40,000 per mile on the trunk-line, and, possibly, one thousand three hun-

dred and seventy-eight miles, at the rate of \$30,000 per mile on the branches, excepting the San Diego connection, which is at the rate of \$35,000 per mile. This length of branch lines may be diminished by building certain connections only, and utilizing leased or purchased lines; or increased by building an independent line and abandoning or reconstructing completed links of an existing road. The bill leaves an uncertainty in this respect which will only be determined by the profit to be realized by the company. Consequently, we assume the distances provided for upon the best estimates given to us. The liability of the United States, therefore, as provided for, is for the interest, at 5 per cent., on \$89,470,000, for fifty years.

The total payments involved in this guarantee amount to \$223,675,000.

The security proposed to be given by the several railway companies to the United States consists—

1st. Of the net proceeds of sales of lands granted by Congress and covered by the mortgage; and the Texas grant west of Fort Worth on the line of the Texas and Pacific.

2d. Of its railway and appurtenances.

3d. Of a portion of its earnings.

4th. Of a reservation by the Government of the cost of its own transportation over the railway.

5th. Of a reserve of each company's bonds bearing interest guaranteed by the United States to the amount of \$5,000 per mile.

6th. Of a sinking-fund, after 1886, at 1 per cent. per annum.

The congressional grant of land can hardly be regarded as security for the additional pecuniary liability proposed to be assumed by the United States as it is, in fact, a reservation by the United States of its own property rather than a grant by the railway companies, and is in large part of uncertain value.

The value of the railway property offered as security will, of course, depend on its ability to earn, on the entire line, a sum more than sufficient to pay its operating-expenses and to keep it in repair. Of its ability to earn enough to meet its expenses, we are not yet satisfied, owing to the unsettled problem of the ability of the interior country to furnish local business, and of the amount of the through traffic which may be obtained for the new line.

The element of security to be found in its net earnings depends wholly on the same considerations.

The fourth item of security is undoubtedly good so far as it goes, but its pecuniary value cannot be determined by any data presented to the committee, and cannot be large.

The fifth tender of security is again a simple proposition to guarantee the Government by a bond, the value of which depends on the very guarantee it is proposed to secure, and which increases the burdens on the roads.

The sixth offer, of a sinking-fund, depends upon an excess of net earnings above expenses, including the interest on the bonds.

The whole appears to us to be a fabric of credit floated upon credit without capital.

In a word, the bill substantially proposes that the Government shall create a property by a definite and absolute liability of its own, and shall accept what it creates as security against its liability, there being no provision for any definite amount of capital stock to be furnished by private individuals, or by the corporations, which might contribute to the security of the Government.

The bill shows that the only security afforded to the United States



for re-imbursement is that which is created by its own grants and credits, except the Texas land-grant west of Fort Worth, and some property at San Diego.

The theory of the bill is that the bonds so issued under its guarantee will provide adequate means for the construction of the trunk-line and branches. At present prices this may be reasonably expected.

The holders of the bonds, however, when negotiated, become substantially the ultimate proprietors of the roads at the maturity of the bonds, and take possession of the roads in case of non-payment of the principal. Thus the United States, if the aggregate of this interest shall not have been refunded at that time in the manner proposed, will be compelled either to assume the principal of the bonds or lose the aggregate arrears of interest, as well as the interest which may accrue upon deferred payments. The whole question of security to the Government, therefore, turns upon the point of the sufficiency of the earnings for Government transportation and the proceeds of sales of mortgaged lands, combined with the surplus earnings of each road above operating-expenses and cost of repairs, to provide for the interest and the sinking-fund.

The earnings and the lands of these roads are embraced in this security only so far as they are constructed by the aid of these guaranteed bonds. That is to say, the land-grant and earnings of the Texas and Pacific Railroad on its completed and most profitable portion; of the Southern Pacific Railroad, from Fort Yuma to San Geronimo junction; and of the branches so far as any portion of the lines is now constructed, are all *excluded* from the operation of the bill providing for the security of the United States. This is done upon the theory that the United States is entitled to security only upon that portion of the several roads to which it advances its credit. But it leaves that security insufficient, in the opinion of the undersigned, to protect the Government against loss, and subjects the Government to embarrassment in computing the fragmentary portion of the earnings from through transportation to be paid into the Treasury. And should the Government ever be required to assume the road for its own protection, it would find itself in possession of only a fragmentary line, without control of a continuous route between important termini. Of the trunk-lines, the termini would be Fort Worth on the east, and Fort Yuma on the west, with a wholly detached link from San Geronimo junction to San Diego. Under the powers conferred by the tenth section, the rights of the United States may become yet more fragmentary and embarrassed by the power given to branches, either to construct new roads or to control and operate existing roads, and by the reservation of rights conferred, or to be conferred, by State legislatures upon the branch corporations.

Thus the rights of the United States would terminate on the Atlantic and Pacific branch at Vinita, in the Indian Territory; on the Memphis branch, at the Mississippi River, or at Little Rock, in Arkansas, or at some other connecting point with existing roads, and without control of the communication from its western terminus at Jefferson to Fort Worth, the beginning of its trunk-line; on the Vicksburgh branch, at the Mississippi River, or at Monroe, in Louisiana, with an alien intermediate link from Shreveport to Marshall, and without control from Marshall to the trunk-line at Fort Worth; and on the New Orleans branch, the like difficulties exist, the Texas and Pacific lines now built separating it from the trunk-line.

On the Texas and Pacific Railroad east of Fort Worth, and not a part of the trunk-line provided for by this bill, the value of the security

of the United States on the trunk-line might be seriously impaired by adverse action.

If Congress thought it wise to lend its credit in the manner proposed to any portion of these railways, we are of opinion it ought to be limited to the continuous portion of the trunk-line, leaving the special interests desiring branches to construct the proper connections by private enterprise.

We see no reason whatever for the proposed liability to construct the branch to Vinita. Already a railroad connection with Vinita exists, by the way of Fort Worth and Dallas, in Texas, which the new branch would only shorten by a few hours of time. The proposed route lies through a country in a large part of which settlement is prohibited by law, and in which remunerative traffic is impossible. It has been characterized as "a tunnel" several hundred miles long. In our opinion, there is no justification for the millions of Government credit asked for this branch.

There is a similar want of justification for the millions of credit asked for a new branch to Memphis. Already all-rail communication exists from Fort Worth, via Texarkana, and Little Rock, to Memphis, and the proposed line would be but few miles shorter, with an existing competitor for the business.

The contribution to aid the Vicksburgh branch will be unnecessary if the trunk-line shall be built; for private enterprise, engaged east and west in long lines, will speedily supply the gap of less than one hundred miles required to secure a short and continuous route.

The New Orleans branch to Shreveport seems to us more pressing for local business than for the Pacific traffic. Already a corporation has built 171 miles between Houston and New Orleans, and proposes to build the remaining 164 miles. By this route, without Government aid, New Orleans will have established all-rail communication with Fort Worth, via Houston. The line will be yet more shortened by the completion of the Waco branch, from Houston to a junction near Fort Worth.

It is the avowed intention of the Southern Pacific to build a branch to San Diego from San Geronio Pass without Government aid, and we do not therefore find good reason, at present, for incurring this liability on the part of the United States for that branch; nor is its construction necessary to connect the trunk-line with the Pacific Ocean, that connection being already secured by the Southern Pacific at Wilmington and at San Francisco; unless an additional connection is shown to be required by a more direct line.

For these reasons we believe all the branches should be excluded from the bill.

But the undersigned have been further unwilling to concur in the report of the majority of the committee, because it involves a departure from the policy heretofore applied to the three transcontinental lines, which limited the aid of Federal credit to the middle line, aiding the northern and southern lines by the grant of a portion of the neighboring lands, the value of which is largely increased by the construction of the work which they are given to aid. This aid rests upon the principle of local and fully reciprocal benefits. The precedent in the case of the central line to the Pacific Ocean was justified in principle by the urgent and pressing necessity to the Government itself of at least one line of rapid transit to its distant boundaries on the Pacific Coast. That necessity has been satisfied. Other lines must be brought within the scope of the same principle, or else advocated upon some other

theory arising from local interests and local advantage, rather than national benefit. In the mean time we are warned, by our experience of the difficulties in securing protection to the United States for its credits loaned to the central line, to hesitate before embarking in another enterprise of the like kind, and attended with even greater embarrassments in respect to the security to the Government. The location of this line and the character of the country through which its trunk passes forbid the hope of large local traffic to be realized in time to meet the liabilities assumed; while its through traffic can at most be divided with the existing line. There is no subscribed capital required on which Government security is to rest. It is substantially a proposition to build this road and the branches on Government credit without making them the property of the Government when built. If there be profit, the corporations may take it; if there be loss, the Government must bear it.

It is also worthy of the consideration of the House, in view of the large possible responsibility of the United States proposed by the bill, whether the object so much sought for, of cheap transportation between the Pacific and Atlantic coasts, may not be accomplished with less ultimate expense to the Government by the opening of a ship-canal across the isthmus on one of the routes recommended by the officers of the United States Navy, and which can be completed for much less than the aggregate sum involved in the interest on the bonds proposed to be guaranteed by the United States. Such a water-route of transportation would not only furnish a cheaper line of communication than that over land, but would be open to individual competition in the carrying trade to such an extent as to preclude all possibility of effectual combination.

We are also of the opinion that it might affect injuriously the credit of the United States to create at this time, when our revenues are so largely diminished, the vast aggregate liability proposed by the bill under consideration; and we fear that the offering of this security at five per cent. might embarrass the existing negotiation of the four and one-half per cent. refunding securities of the Government.

If with returning prosperity private enterprise proves inadequate to the construction of the trunk-road, the question of further aid might be again presented under more favorable auspices than at this time, when the condition of the Treasury warns us to prudence and economy. When the proposition for national aid shall be limited to the connecting trunk between Forts Yuma and Worth, it will unquestionably better commend itself to national consideration, if the importance of the connection shall not have already led private capital to complete it.

Respectfully submitted.

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