

SALE OF CONFEDERATED OTOE AND MISSOURIA INDIAN
RESERVATION.

JUNE 6, 1882.—Referred to the House Calendar and ordered to be printed.

MR. BLANCHARD, from the Committee on Indian Affairs, submitted
the following

REPORT:

[To accompany bill S. 930.]

BILL S. 930.

AN ACT to amend an act entitled "An act to provide for the sale of the remainder of the reservation of the confederated Otoe and Missouri tribes of Indians in the States of Nebraska and Kansas, and for other purposes," approved March third, eighteen hundred and eighty-one.

The Committee on Indian Affairs, to whom was referred the above-entitled bill, after full consideration thereof, report the same back with the recommendation that it do pass, amended, however, in the following respects, viz:

1st. In section 2 strike out all after the words "*Provided*, That none of said buildings or other improvements, or the lands upon which they are situated, shall be sold at less than the appraised value thereof."

The clause stricken out relates to the establishment of an agricultural school in Nebraska, "for the education of Indian youths in agriculture and other useful sciences and arts." The committee do not consider it judicious, at this time, to authorize the establishment of such a school in the locality indicated.

2d. At the end of the bill add another section, to be known as section 8, as follows:

"SEC. 8. That so much of the lands authorized to be sold by the said act of March third, eighteen hundred and eighty-one, as is embraced within the right of way heretofore granted by the said Indians, in accordance with the terms of their treaty with the United States, to the Republican Valley Railroad Company, said right of way being one hundred feet in width (unless a greater width is required to build and construct said road), and extending across said reservation in a north-westerly direction for a distance of eight and one-half miles, or thereabouts, as shown upon a plat thereof filed by said company in the office of the Secretary of the Interior on the eighteenth day of May, eighteen hundred and eighty-one, be, and the same hereby is, excepted from the provisions of said act in regard to appraisement and sale of said lands; and said right of way is hereby confirmed to said company, its successors and assigns."

The reasons for the amendment of the bill, by the addition of this eighth section, are shown in the accompanying letters and other papers

from the honorable Secretary of the Interior and Commissioner of Indian Affairs, forming Ex. Doc. No. 171.

[H. Ex. Doc., No. 171, 47th Congress, 1st session.]

Message from the President of the United States, transmitting a communication from the Secretary of the Interior in relation to right of way for the Republican Valley Railroad, through the Otoe and Missouri Indian Reservation, in Nebraska.

APRIL 14, 1882.—Referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives :

I transmit herewith a communication from the Secretary of the Interior, with correspondence relative to right of way of the Republican Valley Railroad across the Otoe and Missouri Indian Reservation, in the State of Nebraska, and draft of an amendment to S. 930, "A bill to amend an act to provide for the sale of the remainder of the reservation of the confederated Otoe and Missouri tribes of Indians, in the States of Nebraska and Kansas, and for other purposes," approved March 3, 1881.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, April 14, 1882.

DEPARTMENT OF THE INTERIOR,
Washington, April 8, 1882.

SIR: I have the honor to transmit herewith copy of communication from the Commissioner of Indian Affairs, dated 4th instant, in relation to the Republican Valley Railroad and its right of way across the Otoe and Missouri Reservation, in the State of Nebraska, with copies of correspondence relative thereto, and accompanying draft of an amendment to S. 930, "A bill to amend an act to provide for the sale of the remainder of the reservation of the confederated Otoe and Missouri tribes of Indians in the States of Nebraska and Kansas, and for other purposes," approved March 3, 1881.

The amendment has the approval of the department.

Very respectfully, your obedient servant,

S. J. KIRKWOOD,
Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 4, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 1st instant, returning the papers in the matter of the Republican Valley Railroad Company and its right of way across the Otoe and Missouri Reservation, in the State of Nebraska, which formed the subject of detailed reports by this office to the department on the 16th March and 2d December, 1881; also inclosing a letter from Hon. C. H. Van Wyck, United States Senate, dated the 29th ultimo, suggesting that steps be taken to protect the rights of said railway company in respect of the right of way purchased by it from the Indians, and instructing me to prepare, for presentation to Congress, an amendment to the bill (S. 930) now pending before the House in regard to the sale of the Otoe and Missouri Reservation, reserving from appraisement and sale so much of the lands of said reservation as is occupied by the said Republican Valley Railroad Company, with such brief history of the case as may be necessary to its proper understanding.

Without going into voluminous detail, it will, perhaps, for present purposes, suffice to state that on the 16th of March, 1881, this office transmitted to the department a communication from said railroad company, dated the 14th of the same month, inclosing for approval and confirmation a deed, dated December 28, 1880, purporting to be signed by certain head-chiefs of the Otoes and Missourias in Nebraska, granting, for a consideration of \$1,600 paid to said Indians, a right of way to said railroad company 100 feet in width (unless a greater width should be required to build and construct said road) through the Otoe and Missouri Reservation, in Nebraska, as located upon the several fractional sections therein more particularly described, said deed being executed by said chiefs and recorded in Gage County, Nebraska, January 6, 1881;

also an affidavit of J. W. Pearman, agent for said company, sworn at Washington, D. C., March 14, 1881, setting forth all the facts and circumstances in connection with the negotiations for the right of way, the arrangements made for the purchase thereof, and the payment of the consideration-money to the Indians on the 28th December, 1880.

While it did not appear that the company had taken any unfair advantage of the Indians, but had indeed honestly and in good faith paid the amount of purchase-money agreed upon, there were certain reasons which actuated this office in declining to recommend to the department the approval of the deed.

These reasons, briefly stated, were as follows:

1. The failure of the company on this and a previous occasion, when constructing another road through the same reservation, to file with the department proofs of its due organization and maps of definite location of its road, notwithstanding the fact that due notice had been given its attorneys and they had undertaken to do so.

2. The absence of usual stipulations and security by the company for payment of damages resulting to the Indians by reason of the construction and operation of the road, or for the erection of a fence on each side of the track, as originally proposed.

3. The fact that over 200 of the Indians interested in the land had lately removed to the Indian Territory and had never been consulted in the matter.

4. The imperfect character of the instrument tendered for approval.

5. The fact that, as reported by the agent in charge, negotiations with the Indians for the right of way had been conducted off the reservation, without reference to him, although he was subsequently present, by request of the company, upon the occasion of the payment of the consideration-money to the Indians, per capita.

It appears from the papers returned with your letter of the 1st instant that, in conformity with department instructions of the 20th March, 1880, the Republican Valley Railroad Company, on the 18th May following, filed in this department the original and amended articles of incorporation of the company; also a map (copy herewith) of the road as surveyed through the Otoe and Missouri Reservation, in respect of which the right of way was granted by the Indians on the 28th December, 1880, with an affidavit of Tobias Castor, right-of-way agent for the company, sworn May 9, 1881, verifying the payment of the \$1,600 consideration-money to the Indians, and their voluntary acceptance thereof, after a full explanatory statement made to them in the presence of the agent.

In view of this state of facts, and considering that the road in question has been constructed and is now in operation, that the Indians have all been removed to the Indian Territory, and that the entire reservation is now about to be offered for sale, pursuant to act of Congress, it seems but just and equitable that the said railroad company should be protected in the rights which it has acquired in the lands, and I have accordingly prepared an amendment to Senate bill No. 930, excepting from the provisions of the act of March 3, 1881, so much of the lauds thereby directed to be sold as is embraced in said right of way, which I herewith submit, with copies of the map and such papers as are material, for your approval and transmission to Congress.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

Amendment proposed to the bill (S. 930) to "Amend an act to provide for the sale of the remainder of the reservation of the confederated Otoe and Missouri tribes of Indians, in the States of Nebraska and Kansas, and for other purposes," approved March 3, 1881.

SEC. 8. That so much of the lands authorized to be sold by the said act of March third, eighteen hundred and eighty-one, as is embraced within the right of way heretofore granted by the said Indians, in accordance with the terms of their treaty with the United States, to the Republican Valley Railroad Company, said right of way being one hundred feet in width (unless a greater width is required to build and construct said road) and extending across said reservation in a northwesterly direction for a distance of eight and one-half miles, or thereabouts, as shown upon a plat thereof filed by said company in the office of the Secretary of the Interior on the eighteenth day of May, eighteen hundred and eighty-one, be, and the same hereby is, excepted from the provisions of said act in regard to appraisement and sale of said lands; and said right of way is hereby confirmed to said company, its successors, and assigns.

UNITED STATES SENATE CHAMBER,
Washington, May 18, 1881.

SIR: In conformity with instructions of your department of March 20, 1880, I have the honor to transmit herewith additional papers touching the matter of right of way

purchased by the Republican Valley Railroad Company of the Otoe Indians through their reservation, in Gage County, Nebraska, and to ask your consideration of the same at as early day as possible.

The papers already filed bearing on the subject are (1) the deed from the Indians; (2) the affidavit of J. W. Pearman, setting forth the whole transaction, together with a brief statement by him, as agent of the company to treat with the Indians for said right of way.

I now file with you the map called for, showing the road as surveyed, together with the original and amended articles of incorporation of the Republican Valley Railroad Company, and a letter to the Hon. Hiram Price from the general manager of the company, referring to the same.

In this connection I beg to state that the company, in paying the Indians the money as they did, followed the precedent established by your predecessor, wherein he (the Hon. Carl Schurz, Secretary of the Interior) directed that the money paid by the Omaha and Republican Valley Railroad Company for right of way through said reservation be distributed pro rata among the Indians.

I beg further to state that the company has a force of men and teams at work on said line of road, and by direction of the Hon. Commissioner of Indian Affairs work must cease until the title to said right of way is confirmed by the Interior Department, and most respectfully ask that said instructions to cease work on the line before mentioned be rescinded while the matter is now under consideration, to the end that the company may be put to no more additional expense and waste of time than is actually necessary.

Respectfully,

J. W. PEARMAN,
For the Company.

Hon. S. J. KIRKWOOD,
Secretary of the Interior, Washington, D. C.

Know all men by these presents, that Harregarrow, Wahonnarysa, Munchabeuncha, Chadonnaryea, Muskagaka, Nochpewarra, Shungaski, Thingabuska, and Kagretha, head chiefs of the Otoe and Missouri confederated tribe of Indians, occupying their reservation in Gage County, Nebraska, and Marshall County, Kansas, for and in consideration of the sum of one thousand six hundred dollars to ourselves and our tribe in hand paid, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell, and convey unto the Republican Valley Railroad Company, its successors and assigns, the following-described real estate, situated in Gage County, State of Nebraska, to wit: The right of way one hundred feet (unless a greater width is required to build and construct said road), it being fifty feet on each side of the center of the railroad of said company, as located upon northwest quarter, southwest quarter, northeast quarter, and southeast quarter section twenty-seven (27), southwest of southwest section 26, north half of section thirty-five, northeast of southeast of section thirty-five (35), southwest quarter of section thirty-six, all in township two range 7 east; north half of section one, town one, range seven east; northwest quarter section six, town one N., range 8 east; south half and northeast quarter section thirty-one, west half and southeast quarter section (32) thirty-two, township two, range eight east; northeast quarter section five (5), north half and southeast quarter section four, and north half of section (3) three, town one north, range eight east, Gage County, Nebraska.

Providing further that there shall not be sold on said right of way any intoxicating liquors, arms, or ammunition of any kind or description whatever.

In witness whereof we have hereunto set our hands and seals this 28th day of December, A. D. 1880.

HARREGARROW, his x mark.
WAHOUNARYSA, his x mark.
MUNCHAHEUNCHA, his x mark.
CHADONNARYEA, his x mark.
MUSKAGAKA, his x mark.
NOCHPEWARRA, his x mark.
SHUNGASKI, his x mark.
THINGABUSKA, his x mark.
KAGRETHA, his x mark.

Signed in presence of—
BATTIST DERVIN, *Interpreter.*
REES PICKERING, *Agt. Clerk.*
FRANCIS M. BURNES, *Trader.*
TOBIAS CASTOR.
JOHN W. PEARMAN.

STATE OF NEBRASKA,
County of Gage:

Be it known that on the 28th day of December, A. D. 1880, before the undersigned, C. M. Murdock, a notary public in and for said county, personally came Harregarrow, Wahounarysa, Muskagaka, Chadonnaryea, Munchaheuncha, Nohpewarra, Shungaski, Thingabuska, and Kagretha, head chiefs of the Otoe and Missouri confederate tribe of Indians, to me known to be the identical persons described in and who executed the foregoing instrument, and acknowledged the said instrument to be their voluntary act and deed.

Witness my hand and notarial seal this 28th day of December, A. D. 1880.

[SEAL.]

C. M. MURDOCK,
Notary Public.

UNITED STATES SENATE CHAMBER,
Washington, March 29, 1882.

SIR: The Republican Valley Railroad Company, a corporation organized in accordance with the laws of the State of Nebraska, having purchased the right of way from the Otoe Indians through their reservation in Gage County, Nebraska, built the road, and trains now passing over the same; and having filed all the papers required by your department setting forth the facts as to how it became possessed of said right of way, respectfully ask what steps are necessary, if any, to have its rights recognized. This question is asked for the reason, under an act of Congress now being passed, the entire reservation is to be sold, and when the sale takes place the necessary instruction should be given to the local land-office to reserve that portion of land now occupied for road-bed, side-tracks, &c., as set forth in the deed of transfer by said Indians to the railroad company.

Very respectfully,

C. H. VAN WYCK,
United States Senator.

HON. SECRETARY OF DEPARTMENT OF THE INTERIOR.

STATE OF NEBRASKA,
County of Saline:

Tobias Castor, of said county and State, being first duly sworn by me, says he is now and was on the 28th of December, 1880, the duly appointed and lawful right-of-way agent for the Republican Valley Railroad Company, and on the 28th of December aforesaid paid the Otoe Indians \$1,600 for the right of way for said company, as then surveyed and mapped; and said payment was made in the presence of their agent, L. E. Woodin, who counted the money and handed it to each Indian as his or her name was called by the agency clerk, Mr. Pickering.

That before payment was tendered or the deed signed and witnessed, Mr. J. W. Pearman, whom the company had employed to negotiate with the Indians for said right of way in Gage County, Nebraska, had the Indians assembled together at the agency building, and in the presence of their agent, Mr. Woodin, made the following statement, or words to that effect:

"My friends, four or five days ago I came here for the purpose of making you an offer for the right of way through your lands to the Republican Valley Railroad Company. On my arrival your agent left for Maryville, Kans., and at your own suggestion we met at the store of Mr. F. M. Barnes, your post-trader, where we talked the matter over, and you agreed to take \$1,600, the amount I was instructed to offer you. That meeting and understanding was of an informal character, as your agent, Mr. Woodin, was not present. I now make you the same offer in presence of your agent, L. E. Woodin; your post-trader, F. M. Barnes; the agency clerk, Mr. Pickering; and ask you will you accept the offer and sign the necessary papers transferring the same; and when you go to Washington, which I understand will be in a few days, tell your Great Father of the sale thus made and ask him to confirm the same?" To this offer of Mr. Pearman the Indians assented, and the money was paid, deed executed and witnessed in the presence of the officials of the agency and at least two or three hundred Indians.

TOBIAS CASTOR.

Subscribed in my presence and sworn to before me this 9th day of May, A. D. 1881

[SEAL.]

JOSEPH H. GRIMM,
Notary Public.

H. Rep. 1305—2

STATE OF NEBRASKA,
County of Gage, ss:

C. M. Murdock, of said county and State, being first duly sworn, says: I was present when the Indians were paid, and took their acknowledgment of the same; that I have read the affidavit of Tobias Castor, and the facts set forth therein are substantially true in every respect.

C. M. MURDOCK.

Subscribed and sworn to by C. M. Murdock, in my presence and before me, this 10th day of May, A. D. 1881.

[SEAL.]

E. O. KRETZINGER,
Notary Public.