

## IN THE SENATE OF THE UNITED STATES.

FEBRUARY 15, 1886.—Ordered to be printed.

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

## REPORT:

[To accompany bill S. 1484.]

*The Committee on Indian Affairs, to whom was referred the bill (S. 90) "to grant to the Kansas and Arkansas Valley Railway the right of way through the Indian Territory, and for other purposes," have considered the same, and submit the following report:*

In the passage by Congress on the 5th of July, 1884, of the act "to grant to the Gulf, Colorado and Santa Fé Railway Company a right of way through the Indian Territory, and for other purposes," and also the act "to grant a right of way through the Indian Territory to the Southern Kansas Railway Company, and for other purposes," Congress asserted the right to make such grant without the consent of the Indians, through whose territory such railways were authorized to construct their roads. The committee, therefore, without waiving individual opinion upon the right of Congress to make such grants without the consent of the Indians, have considered that question settled by Congress, and have not deemed it of any practical value to consider it here. They have considered the question whether there is any public exigency for the construction of the railroad contemplated in this bill, and what are the provisions proper for securing to the Indians through whose territory it is to be constructed such protection to their rights and compensation for their property taken as will be fair and just.

The railroad contemplated by this bill leads from Fort Smith, in the State of Arkansas, across a small portion of the reservation belonging to the Choctaws, and a considerable distance through that belonging to the Cherokees, in a northwesterly direction to the southern line of Kansas, at or near Arkansas City, with a branch designed to make connection with existing railroads at or near Coffeyville, in the State of Kansas. The length of the road from Fort Smith to the Kansas line, at or near Arkansas City, is 245 miles; and of the branch to Coffeyville, 70 miles. The line will form a direct connection between the railroad system of Kansas and that of the Southwest and make a direct and shorter line from the headwaters of the Colorado to New Orleans and the Gulf States. These two systems of railway are now separated for want of this connecting link. With it a most important through line from the Upper Missouri to the Gulf would be completed.

The road is proposed by an association formed under the laws of the State of Arkansas by responsible men, able to build the line and di-

rectly interested in both the upper and lower connections. It seems to the committee to be not only a very important link in this great system of railways, but to be also in the hands of such responsible men as will be sure to build and run it in the manner that will most contribute to the advancement of the public interest.

The committee have endeavored to guard in the best way possible the interest of all parties in the Indian Territory likely to be affected by the construction of this railway. The bill provides, in case of failure to make amicable settlement with any occupant of lands through which the road may pass, that the amount of damage shall be determined by three disinterested referees, to be appointed, one by the President, one by the tribe to whom such occupant belongs, and one by the railroad company, with an appeal to the United States district court, at Fort Smith, Ark., or at Wichita, Kans., by either party feeling aggrieved by the award of the referees.

The bill also provides for a stipulated sum of \$50 per mile to be paid to the tribe of Indians for the right of way through their land, and the right of appeal to the courts at Fort Smith, Ark., and Wichita, Kans., by the tribe if they shall not be satisfied with this sum. The bill also provides for the payment of an additional sum of \$15 per annum for each mile of railway during the continuance of the railway, to be paid to the tribe in conformity with treaty stipulations on the part of the United States. There are provisions also in the bill for proper police regulations and the protection of the Indians of the Territory under the non-intercourse laws.

In the opinion of the committee the rights of the Indians and the public are as well guarded as it is possible to protect them by enactment, and the bill contains a provision that Congress may at any time amend, add to, alter, or repeal the provisions of the bill itself.

The committee therefore recommend the passage of the bill in a new draft.