

LAKE OF THE WOODS

APRIL 16, 1926.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. VAILE, from the Committee on Foreign Affairs, submitted the following

REPORT

[To accompany H. R. 9872]

The Committee on Foreign Affairs, to which was referred H. R. 9872, having considered the same, reports it to the House herewith, with the recommendation that it do pass, with the following amendments.

Page 2, line 9, after the period, add the following:

In proceeding by condemnation for acquiring such flowage easements on any tract of land any benefit to the remainder of the tract or the property thereon derived from such easement shall be considered and damages shall be awarded accordingly.

Page 2, line 25, strike out the word "just."

Page 3, line 5, strike out the word "to" and insert in lieu thereof the word "shall," and strike out the words "and award the annual" and insert in lieu thereof the word "the."

Page 3, line 9, after the word "claimants," insert the following: "together with a statement in each case of the substantial facts upon which the conclusion is based."

The bill in its present form is the result of correspondence with the State Department, the Secretary of State having written to the chairman of this committee as follows, in response to the chairman's request for a recommendation on H. R. 439, which was designed to accomplish the same results and was similar in its provisions.

DEPARTMENT OF STATE,
Washington, January 27, 1926.

HON. STEPHEN G. PORTER,
House of Representatives.

SIR: Referring to your letter of December 17, 1925, inclosing a copy of H. R. 439 and requesting a report from this department thereon, I have the honor to reply as follows:

This department is in sympathy with the purpose of the bill, which is to carry into effect certain provisions of the convention between the United States and Great Britain to regulate the level of Lake of the Woods, concluded February 24,

1925. In the opinion of the department the bill would, if enacted into law in its present form, effect that purpose, and I should be glad to see it become a law.

In matter of detail I would suggest first that the word "annual," in line 2 of page 3, is likely to restrict the Secretary of War as to the method of computing loss or injury in circumstances in which a choice of methods might be left to his discretion. As the determination of the annual loss or injury is in at least some situations an unnecessary detail in the determination of the total loss or injury, I suggest that the word "annual" be eliminated.

The date on line 6 of page 2 will, of course, be made complete by the insertion of "February 24" in the blank space.

The following other points of somewhat less importance are brought to your attention:

(1) Another treaty, namely, a treaty regarding the boundary between the United States and Canada, was signed with Great Britain on the same day that the convention to regulate the level of Lake of the Woods was signed. I suggest, therefore, that in order to avoid uncertainty in the reference to the treaty, words descriptive of the convention to which H. R. 439 relates, namely, "to regulate the level of Lake of the Woods," be inserted in the second line of the title immediately after the words "Great Britain."

(2) It is noted that section 2 of H. R. 439 provides that "The protective works and measures, * * * shall be constructed, etc." As the words "be constructed," in line 13, page 2, seem not to be applicable to "measures," I suggest that the words "or carried out" be inserted immediately thereafter, so that the expression will read "be constructed or carried out." To complete the same thought where it again occurs I suggest that the words "and the carrying out of such measures" be inserted after the word "works" in line 18 on page 2.

I inclose a copy of H. R. 439 with the foregoing suggestions edited thereon.

I am, sir, your obedient servant,

FRANK B. KELLOGG.

The first of the amendments above proposed to the pending bill was drawn by Mr. Hackworth, a solicitor of the State Department, who represented the department at the hearings, in order to comply with a suggestion of the chairman of the committee that the United States should be permitted to offset benefits against damages, in case benefits should appear in any case to have resulted from the flowage.

The second and third amendments were inserted the better to carry out the suggestions of the State Department as embodied in the foregoing letter.

The last amendment was inserted by the committee in order more fully to reserve to Congress an opportunity to review any particular determination of damages by the War Department and guard against any possible erroneous method of computing damages, to the prejudice of the Government.

The situation which has resulted in the introduction of this bill is an involved one, which has continued in varying phases for many years. The treaty of February, 1925, referred to in the foregoing letter, and this bill, in aid of that treaty, are intended to finally adjust the controversies arising from the use of waters on the Canadian side of the line injuring riparian lands of the Lake of the Woods on the American side.

The lake is located principally in Canada and drains north through the Winnipeg River. Farmers and others on the American side have complained for years that their lands have been flooded by obstructions placed in this river outlet by power interests on the Canadian side operating under the license of the Dominion Government.

The attitude of our own Government has changed from time to time in regard to these obstructions. At first it was supposed that they did not actually have the effect of raising the lake levels, and

farmers' complaints were disregarded by reason of that view of the facts, later found by careful surveys to be erroneous. At other times our Government has insisted on the maintenance of the lake at not less than certain levels in the interest of navigation.

By the treaty referred to, an accord has been reached between the two Governments in regard to the maintenance of a specified level, together with a level of flowage rights to protect it. Canada has agreed to pay \$275,000 for the construction of protective works and acquisition of easements on the American side together with half the balance of any greater expense for such purpose, and our Government has agreed to pay the damages heretofore caused to citizens of the United States by the outlet dam.

This bill is to enable our War Department to determine those damages, but the department is required to report to Congress the basis of its findings in each particular case.



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