

AUTHORIZING THE STATE OF MINNESOTA TO CONDEMN LANDS
OWNED BY THE UNITED STATES IN THE COUNTY OF CASS,
STATE OF MINNESOTA, FOR FISH PROPAGATION

MAY 17 (legislative day, MAY 10), 1948.—Ordered to be printed

Mr. BUTLER, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany S. 1413]

The Senate Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1413) to authorize the State of Minnesota to condemn lands owned by the United States in the county of Cass, State of Minnesota, for fish propagation, and for other purposes, having considered the same, report favorably thereon with the following amendments and with the recommendation that the bill, as amended, do pass:

On page 1, line 10, strike out "47" and insert "27".

On page 2, line 14, strike out "47" and insert "27"; and on line 24, strike out "47" and insert "27".

On page 3, line 16, strike out "War" and insert "the Army"; at the end of the bill insert the following new subsection:

(c) All expenses incurred as a result of such condemnation proceedings as may be instituted by the State of Minnesota under this Act shall be borne by the State.

The purpose of the bill is to authorize the State of Minnesota to obtain title to certain lands owned by the United States in Cass County, Minnesota, for the establishment thereon of a fish hatchery, fish rearing ponds, and other facilities for fish propagation.

The lands in question are described by Minnesota State conservation officials as ideal sites for fish propagation and culture. The lands are located in an uncultivated area and are held in trust for the Chippewa Indians. Approval of this legislation has been given by the Tribal Executive Committee and the Greater Leech Lake Council of the Chippewa Tribe, as set forth in the following resolutions:

Whereas H. R. 3785, Eightieth Congress, first session, being a bill to authorize the State of Minnesota to condemn lands owned by the United States in Cass

County, Minn., for fish propagation and for other purposes, is pending in Congress; and

Whereas the Minnesota Chippewa Indians are vitally interested in the passage of said bill because the lands proposed to be condemned are within the Greater Leech Lake Indian Reservation adjacent to the ancient fishing grounds of the Chippewa Indians; and

Whereas the Indians depend for their very existence upon fish which they are able to catch; and

Whereas since the advent of civilization in their midst fish are getting scarcer and scarcer every year, thus adding to the Indians' present destitute condition; and

Whereas it is the belief of the Indians that the propagation of fish by the establishment of rearing ponds as provided in said bill will be of greater benefit to the Indians than to the whites in that the lands adjacent to their homes be again stocked with fish: Now, therefore, be it

Resolved by the Tribal Executive Committee of the Minnesota Chippewa Tribe, That the passage of H. R. 3785 is urged and that request is respectfully made that this be done as soon as possible.

FRANK BROKER,
Committeeman, Tribal Executive Committee

Whereas H. R. 3785, Eightieth Congress, first session, being a bill to authorize the State of Minnesota to condemn lands owned by the United States in Cass County, Minn., for fish propagation and for other purposes, is pending in Congress; and

Whereas the Minnesota Chippewa Indians are vitally interested in the passage of said bill because the lands proposed to be condemned are within the Greater Leech Lake Indian Reservation adjacent to the ancient fishing grounds of the Chippewa Indians; and

Whereas the Indians depend for their very existence upon fish which they are able to catch; and

Whereas since the advent of civilization in their midst fish are getting scarcer and scarcer every year, thus adding to the Indians' present destitute condition; and

Whereas it is the belief of the Indian that the propagation of fish by the establishment of rearing ponds as provided in said bill will be of greater benefit to the Indians than to the whites in that the lakes adjacent to their homes be again stocked with fish: Now, therefore, be it

Resolved by the Greater Leech Lake Council of the Minnesota Chippewa Tribe, That the passage of H. R. 3785 is urged and that request is respectfully made that this be done as soon as possible.

MRS. SARA LYONS, *Chairman.*
JOE MANYPENNY, *Secretary.*

Approximately 100 acres of lands are involved in this proposed legislation. Under the condemnation proceedings authorized by this bill the lands will be appraised by a board appointed by the United States District Court for the District of Minnesota, and the amounts granted by the board will be paid by the State of Minnesota for the lands. No expense to the Federal Government is involved other than that connected with making appearances in the condemnation proceedings.

It has been testified that sportsmen and conservationists throughout the entire Central Lakes region strongly desire the enactment of this legislation and that there is no known opposition to it from any source.

The bill has been amended by the Senate committee to correct minor typographical errors and to provide that all expenses incurred as a result of condemnation proceedings shall be borne by the State of Minnesota.

The report of the Interior Department to the chairman of the Senate Committee on Interior and Insular Affairs, under date of February 12, 1948, is hereinbelow set forth in full and made a part of this report.

THE SECRETARY OF THE INTERIOR,
Washington, February 12, 1948.

Hon. HUGH BUTLER,
Chairman, Committee on Interior and Insular Affairs,
United States Senate.

MY DEAR SENATOR BUTLER: Reference is made to your request for a report on S. 1413, a bill to authorize the State of Minnesota to condemn lands owned by the United States in the county of Cass, State of Minnesota, for fish propagation, and for other purposes.

For the reasons hereinafter stated, I recommend that S. 1413 be enacted, if modified as recommended.

Section 1 of the bill, if enacted, would authorize the State of Minnesota to acquire by condemnation proceedings for fish propagation and other purposes certain lands owned by the United States and located in Cass County, Minn. Section 2 of the bill would place jurisdiction over the condemnation proceedings in the United States District Court for the District of Minnesota, provide the method of procedure for such condemnation proceeding, and provide also that the Secretary of War, the Secretary of the Interior, and the Secretary of Agriculture through appropriate pleadings may specify any rights, easements, or other interests in the lands which they deem advisable to reserve to the United States.

The Department of Conservation of the State of Minnesota desires to acquire the lands, title to which is held in trust for Chippewa Indians, for the purpose of establishing fish propagation units immediately below the Federal dam at the foot of Lake Winnibigoshish. All of the lands in question are tribal lands of the Minnesota Chippewa Tribe, except that portion located in lot 4, sec. 36, T. 146 N., R. 27 W., fifth principal meridian which is included in the trust allotment of Che zhanee, Chippewa allottee No. 802. Lots 6 and 7, sec. 25, and lot 2, sec. 36, were withdrawn for reservoir purposes under the act of June 7, 1897 (30 Stat. 67). The NE $\frac{1}{4}$ NE $\frac{1}{4}$, sec. 35, was also withdrawn for reservoir purposes, but was restored to entry subject to flowage rights.

It is understood that the department of conservation of the State of Minnesota cannot expend funds for the improvement of lands not owned by the State or secured through long-term permits. Under existing law, individual allotments cannot be leased for periods in excess of 5 years and tribal land cannot be leased for periods in excess of 10 years. It is, therefore, not possible under existing law for the department of conservation to obtain a satisfactory lease on the lands in question.

This Department is interested in the conservation and propagation of fish in the waters within the State of Minnesota for the use and enjoyment of the general public, as well as for the benefit of the Indians, some of whom obtain their livelihood from commercial fishing. In this case the Department is interested also in the protection of the property rights of the Indians owning equitable interests in the lands.

The policy of this Department and the Congress, as reflected by the act of June 18, 1934 (48 Stat. 984), is to discourage the alienation of Indian-owned lands if they can otherwise be fully utilized. In view of the fact that the State could utilize the lands as proposed under a long-term lease, the best solution of the problem would be to modify S. 1413 to authorize the Indian owners of the lands to execute long-term leases in favor of the State, such leases to be subject to the approval of the Secretary of the Interior. Accordingly, it is recommended that S. 1413 be modified by striking out lines 3 to 8, inclusive, page 1, and substituting therefor the following:

"That the Indian owners of the following-described lands, with the approval of the Secretary of the Interior, may lease the said lands for a maximum period of 25 years to the State of Minnesota for use in the construction, operation, and maintenance of fish-rearing ponds, a fish hatchery, and other facilities for fish propagation and culture, with an option to renew the lease for a like period."

It is also recommended that section 2 of the bill be stricken and the following section substituted in lieu thereof:

"Sec. 2. Any lease approved subject to the authority contained in section 1 of this Act shall be subject to any rights, easements, or other interests in said lands which the Secretary of the Army or the Secretary of the Interior may deem advisable to reserve to the United States for any purpose."

If the bill is modified as recommended, the tribal officials of the Minnesota Chippewa Tribe and the individual owner or owners of sec. 4, T. 146 N., R. 27

W., could, with the approval of the Secretary of the Interior, enter into a 25-year lease with the State of Minnesota with option for renewal for the same period.

It is noted that the bill erroneously describes the land as being located in T. 146 N., R. 47 W., whereas it is actually located in R. 27 W. Therefore, the number "47" wherever it appears in the bill should be changed to "27".

In view of my understanding that you desire an immediate report on S. 1413, this letter has not been submitted to the Bureau of the Budget for consideration. Therefore, no commitment can be made concerning the relationship of the foregoing views to the program of the President.

Sincerely yours,

J. A. KRUG, *Secretary of the Interior.*

Further detailed information with regard to this matter is carried in the reports of the Department of Agriculture and the Department of the Army to the chairman of the House Committee on Public Lands on a companion bill, H. R. 3785, stating there is no objection to the enactment of the bill.

DEPARTMENT OF AGRICULTURE,
Washington, July 1, 1947.

HON. RICHARD J. WELCH,
*Chairman, Committee on Public Lands,
House of Representatives.*

DEAR MR. WELCH: This is in response to your letter of June 13 requesting a report from this Department on H. R. 3785, a bill to authorize the State of Minnesota to condemn lands owned by the United States in the county of Cass, State of Minnesota, for fish propagation, and for other purposes.

This bill would authorize the State of Minnesota to acquire through condemnation proceedings to be had in the United States District Court for the District of Minnesota certain lands or interests in lands owned or controlled by the United States. The Secretaries of War, Interior, and Agriculture, respectively, may specify in the condemnation proceeding the rights, easements, or other interests in the described lands which it is deemed should be reserved by the United States for any purpose under authority pertaining to the lands as prescribed by existing laws, and the condemnation shall thereupon be subject to such reservations. It is presumed that the State will pay the fair value of the lands as established by the court.

The bill describes the lands as being in R. 47 W. whereas the records of this Department show that the lands which the State desires lie in R. 27 W. It therefore appears that the number "47" in line 10 on page 1 and in lines 14 and 24 on page 2 should be "27".

The lands desired by the State form an irregular parcel comprising portions of lot 6 of sec. 25, NE $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 35, and lots 2, 3, and 4 of sec. 36, all T. 146 N., R. 27 W., third principal meridian. A considerable part of the area apparently lies between the meander lines of these lots and the main channel of the Mississippi River. Those portions of the described land in lot 6 of sec. 25 and lot 2 of sec. 36 were withdrawn and reserved for use by the War Department for reservoir purposes on May 29, 1905, pursuant to the act of June 7, 1897 (30 Stat. 67). They were later made a part of the Chippewa National Forest but the reservation for reservoir purposes still exists. The portions of the described tracts in NE $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 35 and in lot 3 of sec. 36 are national forest lands not included in other type reservations or withdrawals. Lot 4 of sec. 36, within which some of the described land is situated, is apparently included in an Indian allotment and so is within the jurisdiction of the Department of the Interior.

It is our understanding that the State needs to have title to the land in order legally to expend its funds thereon. We also understand that the State is very desirous of starting its project soon, for budgetary and financial reasons.

Under these circumstances, and relative to the interests of the Department of Agriculture in the lands to be affected, this Department has no objection to legislation which would enable the State to acquire title to the lands it needs. However, we feel that insofar as the reserved public lands are concerned an authorization to the State to institute condemnation proceedings would be unnecessary and would place an added burden on the courts. As to such land, we suggest that the bill be amended to authorize the Secretary of the Interior to issue a patent therefor to the State, upon the payment by the State of the fair

value of the land as determined by the Secretary of Agriculture, with a provision that such patent should reserve to the United States such easements and other interests as are deemed necessary by the Secretary of War and the Secretary of Agriculture.

In view of the time limitation, we have not had an opportunity to obtain from the Bureau of the Budget advice as to the relationship of this proposed legislation or the report thereon to the program of the President.

Sincerely,

N. E. DODD, *Under Secretary.*

DEPARTMENT OF THE ARMY,
Washington, D. C., February 3, 1948.

HON. RICHARD J. WELCH,

Chairman, Committee on Public Landds, House of Representatives.

DEAR MR. WELCH: The Department of the Army has considered H. R. 3785, a bill to authorize the State of Minnesota to condemn lands owned by the United States in the county of Cass, State of Minnesota, for fish propagation, and other purposes.

Under the provisions of H. R. 3785, the State of Minnesota is authorized to acquire by condemnation under judicial process certain described lands in Cass County, Minn., owned by the United States, for use in the construction, operation, and maintenance of fish-rearing ponds, a fish hatchery, and other facilities for fish propagation and culture. The bill further provides that the United States District Court for the District of Minnesota shall have jurisdiction of the condemnation proceedings and that the Secretary of War, the Secretary of the Interior, and the Secretary of Agriculture may, respectively, by appropriate pleadings in the condemnation proceedings, specify any rights, easements, or other interests in said lands which they deem advisable to reserve to the United States for any purpose under authority pertaining to said lands as prescribed by laws now in force, and that thereupon the condemnation shall be subject to such reservations.

The fee simple title to the lands described in the bill appears to be held by the Secretary of the Interior in trust for the Chippewa Indians, subject to the reservation of flowage rights in connection with reservoir operations and with the additional reservation, with respect to those lands in section 25, that they be used " * * * for a site for reservoir dams, buildings, and so forth."

The lands lie on the downstream side of the Winnibigoshish Dam and Reservoir in Cass County, Minn. In connection with the operation and maintenance of this dam, the Department of the Army will require the continuance of certain rights it has in these lands including, in addition to flowage rights, rights for the disposal of spoil on a 100-foot strip of land along the right bank of the Mississippi River and those connected with the regulation of navigation in that area. In addition to the interests of the Department of the Army there are, as indicated in the bill, certain other outstanding interests in the lands pertaining to the Department of the Interior and the Department of Agriculture. It is assumed in this connection that the Secretaries of those Departments will be afforded an opportunity to furnish their views with regard to this measure.

Since the bill allows the Secretary of War, together with the Secretary of the Interior and the Secretary of Agriculture, to make appropriate pleadings in the condemnation proceedings, this Department has no objection to the enactment of H. R. 3785 so long as this provision is retained in the bill upon its enactment into law, thereby giving assurance that the activities of the Department of the Army in that area will not suffer interference. However, this Department knows of no reason why the lands should not be conveyed to the State by deed, subject to such reservations as desired, under special legislative authority, if necessary.

In the event the enactment into law of H. R. 3785 is viewed with favor by the Congress, it is recommended that it be amended by the addition of section 2 (c), to read as follows:

"All expenses incurred as a result of such condemnation proceedings as may be instituted by the State of Minnesota under this act shall be borne by the State."

In view of the enactment of Public Law 253, Eightieth Congress, National Security Act of 1947, it is suggested that in line 17, page 3, the word "War" be deleted and the word "Army" be inserted in place thereof.

It appears that there is an error in the land description in line 10 on page 1 and in lines 14 and 24 on page 2 of the bill. In each case, range "47" should be changed to range "27."

The enactment of H. R. 3785 will not involve the expenditure of any Federal funds other than those connected with making appearance and pleadings in the condemnation proceedings.

Inasmuch as the committee has requested that this report be expedited, it is submitted without a determination by the Bureau of the Budget as to whether it conforms to the program of the President.

Sincerely yours,

KENNETH C. ROYALL,
Secretary of the Army.