DAM ACROSS POTEAU RIVER

MAY 26 (calendar day, MAY 27), 1926.—Ordered to be printed

Mr. Stephens, from the Committee on Commerce, submitted the following

REPORT

[To accompany S. 2164]

The Committee on Commerce, to whom was referred the bill (S. 2164) to permit the city of Fort Smith, Sebastian County, Ark., to erect or cause to be erected a dam across the Poteau River, have considered the same and report thereon, with amendments, and as so amended, recommend that the bill do pass.

Amend the bill as follows:

In line 3, page 1, after the word "that" insert the following: "the consent of Congress is hereby granted to."

In line 4, page 1, after the word "Arkansas," strike out everything down to the letter "a" on page 2, line 1, and insert in lieu thereof the following: "to construct, maintain, and operate."

In line 2, page 2, after the word "River," insert the following: "at a point suitable to the interest of navigation."

In lines 4, page 2, insert the following after the word "Creek":

Provided. That the crest of such dam shall not exceed an elevation of six feet above the low water stage of the Poteau River and that the city of Fort Smith shall be responsible and pay for all damage which may accrue to the Choctaw and Chickasaw Indians as a result of the construction of the dam or the use by the city of Fort Smith of the Poteau River for water supply purposes: Provided further, That the work shall not be commenced until the plans therefor have been submitted to and approved by the Chief of Engineers, United States Army, and by the Secretary of War: Provided further, That in approving the plans for said dam such conditions and stipulations may be imposed as the Chief of Engineers and the Secretary of War may deem necessary to protect the present and future interests of the United States, which may include the condition that the said city shall construct, maintain, and operate, without expense to the United States in connection with said dam, a lock, boom, sluice or any other structure or structures which the Secretary of War, and the Chief of Engineers or Congress at any time may deem necessary in the interests of navigation, in accordance with such plans as they may approve: And provided further, That this act shall not be construed to authorize the use of such dam to develop water power or generate hydroelectric energy.
Sec. 2. That the authority granted by this act shall cease and be null and void unless the actual construction of the dam hereby authorized is commenced within one year and completed within three years from the date of approval of this act: Provided, That from and after thirty days' notice from the Federal Power Commission, or other authorized agency of the United States, to said city or their successors that desirable water power development will be interfered with by the existence of said dam, the authority hereby granted to construct, maintain, and operate said dam shall terminate and be at an end; and any grantee or licensee of the United States proposing to develop a power project at or near said dam shall have authority to remove, submerge, or utilize said dam under such conditions as said commission or other agency may determine, but such conditions shall not include compensation for the removal, submergence, or utilization of said dam.

In line 5, page 2, after the word "Sec." strike out the figure "2" and substitute in lieu thereof the figure "3."

Amend the title so as to read as follows:

Granting the consent of Congress to the city of Fort Smith, Sebastian County, Arkansas, to construct, maintain, and operate a dam across the Poteau River.

The bill has the approval of the Departments of War, Agriculture, Interior, and Federal Power Commission, as will appear by the annexed communications.

War Department, January 16, 1926.

Respectfully returned to the chairman Committee on Commerce, United States Senate.

The purpose of the accompanying bill, S. 2164, Sixty-ninth Congress, first session, is to permit the city of Fort Smith, Ark., to erect a dam across the Poteau River.

A recent investigation on this matter shows that an increase in traffic on the Poteau River in the near future is probable. However, I am convinced that if the bill be amended as indicated in red thereon, to provide for possible commercial development in the future, navigation interests will not be unreasonably prejudiced by its enactment.

The suggested amendments include a provision for installation of a lock or other navigation facilities in the structure at any time they may become necessary. Other amendments indicated are suggested with a view to making the bill conform to recent acts of Congress authorizing similar structures.

As thus amended, I know of no reasonable objection to the favorable consideration of the bill so far as the interests committed to this department are concerned.

Dwight F. Davis,
Secretary of War.

Federal Power Commission,
Washington, January 14, 1926.

Hon. W. L. Jones,
Chairman Committee on Commerce,
United States Senate.

Dear Senator Jones: I return herewith Senate bill 2164, a bill to permit the city of Fort Smith, Ark., to erect or cause to be erected a dam across the Poteau River, which bill is substantially identical with Senate bill 601 (68th Cong., 1st sess.). The latter bill was amended as recommended by the Senate Committee on Commerce in Senate Report No. 662 (68th Cong., 1st sess.) and passed by the Senate. I see no objection to the passage of the bill, if amended as recommended in the said Senate report.

Very truly yours,

O. C. Merrill, Executive Secretary.
Hon. W. L. JONES,
Chairman Committee on Commerce,
United States Senate.

DEAR SENATOR: Receipt is acknowledged of your letter of January 7, inclosing a copy of Senate bill 2164, with request for a report thereon and such suggestions as to the merits of the bill as the department might deem appropriate.

This bill would authorize the city of Fort Smith, Sebastian County, Ark., to erect or cause to be erected a dam across the Poteau River in Oklahoma. Several Oklahoma Federal-aid projects, constructed jointly with funds provided by the State and by the Federal Government, are located along the Poteau River. However, the district engineer of the United States Bureau of Public Roads having charge of the Federal-aid highway work in the State of Oklahoma advises that no flooding of these highways would be likely to result from the construction of the proposed dam. The bill, therefore, is without objection from the standpoint of this department.

Sincerely,

R. W. DUNLAP, Acting Secretary.

DEPARTMENT OF THE INTERIOR,
Washington, April 9, 1926.

Hon. WESLEY L. JONES,
Chairman Committee on Commerce, United States Senate.

MY DEAR SENATOR JONES: Again referring to your letter of March 2, 1926, requesting a report on S. 2164, entitled "A bill to permit the city of Fort Smith, Sebastian County, Ark., to erect or cause to be erected a dam across the Poteau River," it may be said that the information we have indicates that the proposed dam will be placed between the mouth of Mill Creek and the present intake of the Fort Smith water supply and that the crest of the dam will not exceed 6 feet in elevation above the low-water stage of the Poteau River.

Provided these limits as regards location and elevation are not exceeded, it is our opinion that the erection of the proposed dam will not result in serious damage to the segregated coal lands of the Choctaw and Chickasaw Indians. However, there may be elements of damage not definitely ascertainable at this time, and in order that the interests of the Indians may be fully protected it is suggested that S. 2164 be amended by changing the period after the word "Creek," line 4, page 2, to a colon, and thereafter adding the following clause:

"Provided, That the crest of such dam shall not exceed an elevation of six feet above the low-water stage of the Poteau River and that the city of Fort Smith shall be responsible and pay for all damage which may accrue to the Choctaw and Chickasaw Indians as a result of the construction of the dam or the use by the city of Fort Smith of the Poteau River for water-supply purposes."

If S. 2164 is amended as above suggested, we will have no objection to its enactment.

Very truly yours,

HUBERT WORK.