

# Calendar no. 391

77TH CONGRESS }  
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SENATE

{ REPORT  
No. 375

## COPPER RIVER & NORTHWESTERN RAILWAY CO.

JUNE 5 (legislative day, MAY 26), 1941.—Ordered to be printed

Mr. TYDINGS, from the Committee on Territories and Insular Affairs, submitted the following

### REPORT

[To accompany S. 1289]

The Committee on Territories and Insular Affairs, to whom was referred the bill (S. 1289) authorizing the Copper River & Northwestern Railway Co. to convey to the United States its railroad right-of-way and other railroad properties in Alaska for use as a public highway, tramroad, or tramway, and for other purposes, having considered the same, recommend that the bill be amended as follows:

Page 2, line 12, strike the comma after the word "contrary" and insert a period in lieu thereof; strike the remainder of said line 12 and all of lines 13 to 20, inclusive.

And that as so amended the said bill do pass.

The bill, the principal purpose of which is to authorize the Copper River & Northwestern Railway Co., a corporation, to convey to the United States its railroad right-of-way and other railroad properties in Alaska for public uses, and particularly for use as a highway, and to authorize the acceptance of such transfer on behalf of the United States, was introduced at the instance of the Acting Secretary of the Interior as will appear from a letter, dated March 13, 1941, addressed to the President of the Senate, as follows:

THE SECRETARY OF THE INTERIOR,  
Washington, March 13, 1941.

The PRESIDENT OF THE SENATE,  
United States Senate.

SIR: I enclose a draft of a bill "Authorizing the Copper River & Northwestern Railway Co. to convey to the United States its railroad right-of-way and other railroad properties in Alaska, for use as a public highway, tramroad, or tramway, and for other purposes." The bill, if enacted into law, would permit the Copper River & Northwestern Railway Co. to convey to the United States its right-of-way and other properties in Alaska and would authorize the Secretary of the Interior, on behalf of the United States, to accept the properties transferred for use as a public highway or tramway. In case portions of the properties acquired under the proposed legislation do not prove essential for highway purposes, the bill would allow the disposition of such properties under rules and regulations promulgated

by the Secretary of the Interior, the proceeds therefrom to be available until expended under the provisions of the act of June 30, 1932 (47 Stat. 446).

The railroad was constructed from Cordova to Kennecott by the Copper River & Northwestern Railway Co. during the period 1906 to 1911. In all there are 195.2 miles of right-of-way. Pursuant to authorization granted to the company by the Interstate Commerce Commission on April 21, 1939, service upon the entire line has been discontinued. However, there has been no voluntary relinquishment of the right-of-way by the company; nor has the abandonment or forfeiture of the right-of-way been declared or decreed by a court of competent jurisdiction.

The company has indicated its willingness to transfer to the Government without cost, its right-of-way, including bridges and other appurtenant structures. Upon the conveyance of this right-of-way by the company to the United States, it is planned to utilize as a tramway that portion extending from Copper River Crossing to McCarthy. The length of this portion of the right-of-way is approximately 60 miles. The right-of-way between Copper River Crossing and Chitina will be used as a highway. For the time being no highway or tramway is contemplated on the portion of the right-of-way between Chitina and Cordova. The area which would be served by the combined highway-tramway running from Chitina to Kennecott is of great scenic attraction and is also the location of a number of operating mines. It is considered essential that the proposed transportation facilities be provided.

A portion of the railroad right-of-way to be conveyed originally traversed public lands and was acquired from the United States under the granting act of May 14, 1898 (30 Stat. 409). Such portions of the right-of-way as traverse lands the title to which still remains in the United States would, upon abandonment or forfeiture, revert to the Federal Government and would be available for the purposes contemplated without further legislation. However, portions of the right-of-way traverse lands which were part of the public domain at the time of the grant but which have since been patented. Under the provisions of the act of March 8, 1922 (42 Stat. 414), upon abandonment or forfeiture of the right-of-way, the right, title, and interest of the United States in those portions of the right-of-way would vest in the patentees of said lands, except the portions of the right-of-way within the limits of a municipality, the title to which would vest in such municipality.

The said act of March 8, 1922, excepts from the operation thereof (1) such parts of a forfeited or abandoned railroad right-of-way as may be embraced in a public "highway" legally established within 1 year after the date of forfeiture or abandonment, and (2) such portions of its right-of-way as may be conveyed by a railroad if the conveyance is validated and confirmed by act of Congress prior to forfeiture or abandonment of the right-of-way by the railroad.

Inasmuch as the right-of-way from the Copper River Crossing to McCarthy is proposed to be used as a tramway rather than as a highway, it is arguable that such use would not except that portion of the right-of-way from the act of March 8, 1922. Therefore, in order to prevent the taking effect of said act with respect to any portion of the right-of-way of the Copper River & Northwestern Railway Co., upon abandonment or forfeiture thereof, and thus avoid the necessity and cost of acquiring, for the purposes contemplated, portions of the right-of-way from the municipalities and patentees in whom title to such portions would otherwise vest, the enactment of the attached draft of bill is deemed necessary and is recommended.

The Director of the Bureau of the Budget informs me that there is no objection to the presentation of this report to the Congress.

Very truly yours,

A. J. WIRTS,  
*Acting Secretary of the Interior.*

Shortly after introduction, the bill was referred to the Interstate Commerce Commission for an expression of the views of the Commission with respect thereto. Following is a letter dated April 11, 1941, addressed to the chairman of the committee by Hon. Joseph B.

Eastman, chairman of the legislative committee, Interstate Commerce Commission:

INTERSTATE COMMERCE COMMISSION,  
Washington, April 11, 1941.

HON. MILLARD E. TYDINGS,

Chairman, Committee on Territories and Insular Affairs,  
United States Senate, Washington, D. C.

MY DEAR CHAIRMAN TYDINGS: Your letter of April 8, addressed to the Chairman of the Commission and requesting comments on S. 1289, introduced by you (by request), "Authorizing the Copper River & Northwestern Railway Co. to convey to the United States its railroad right-of-way and other railroad properties in Alaska, for use as a public highway, tramroad, or tramway, and for other purposes," has been referred to our legislative committee. After careful consideration by that committee I am authorized to submit the following comments in its behalf:

On April 21, 1939, Division Four of the Commission issued a certificate of public convenience and necessity authorizing the Copper River & Northwestern Railway Co. to abandon its entire line, *Copper River & N. W. Ry. Co. Abandonment*, 233 I. C. C. 109. A copy of Division Four's report is enclosed. Operation was discontinued a few months later.

The subject matter of S. 1289 is not directly related to the jurisdiction of this Commission, but, since the object of the proposed legislation apparently is to utilize the property of this railroad, so far as possible, to furnish transportation in the region formerly served by the railroad, we are inclined to believe that passage of the bill would be desirable.

Respectfully submitted.

JOSEPH B. EASTMAN,  
Chairman, Legislative Committee.

The objects and purposes of the bill, which has Bureau of the Budget clearance, are adequately stated in the foregoing letters of the Acting Secretary of the Interior and the chairman of the legislative committee of the Interstate Commerce Commission.

The operation of the Copper River & Northwestern Railway was discontinued several years ago, and there is no probability that such operation will be resumed. The corporation owning the railroad is willing to transfer to the Government without cost its right-of-way including bridges and other pertinent structures. A part of the right-of-way of the railroad, extending from Copper River Crossing to McCarthy, a distance of 60 miles, would be highly useful for highway purposes.

As drawn, the bill contains a provision which would authorize the Secretary of the Interior to dispose of the properties so acquired, or parts thereof not needed for highway purposes. The committee believes it unwise to grant such power to the Secretary and recommends that the bill be amended accordingly. The Delegate from Alaska appeared before the committee at the hearings on the bill and indicated that it was desired to transfer some of the property to the city of Cordova, Alaska, for municipal purposes, but the committee believes that such a transfer can be readily accomplished through special legislation rather than giving blanket authority to the Secretary of the Interior to dispose of all or any part of the railroad property.

No tax loss will be suffered by the Federal Government or the Territory by reason of the enactment of this measure. Under the act of July 18, 1914 (38 Stat. 157), railroad corporations doing business in Alaska, in addition to the normal income tax on net income, are required to pay 1 percent on their gross annual income on business done in Alaska. This tax, when collected, is paid to the Treasurer of Alaska and applicable to general Territorial purposes. Since the Copper

River & Northwestern Railroad is not now being operated and will not be operated in the future, it is obvious that in no event will any tax income be derived from this source.

Reference is made in the bill to the act of June 30, 1932 (47 Stat. 446). By that act authority and jurisdiction over public roads in Alaska was transferred from the Secretary of War to the Secretary of the Interior.

Section 3 of the bill states that the provisions of the act of March 8, 1922 (42 Stat. 414) "shall not affect the right-of-way, or any portion thereof, or any other lands or properties donated, granted, or conveyed to the United States pursuant to the authorization contained in this Act."

The purpose of section 3 is to insure the possession of the United States of the property so to be acquired for use for public highway purposes. For convenience of reference, the act of March 8, 1922, is hereinafter set out:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever public lands of the United States have been or may be granted to any railroad company for use as a right-of-way for its railroad or as sites for railroad structures of any kind, and use and occupancy of said lands for such purposes has ceased or shall hereafter cease, whether by forfeiture or by abandonment by said railroad company declared or decreed by a court of competent jurisdiction or by Act of Congress, then and thereupon all right, title, interest, and estate of the United States in said lands shall, except such part thereof as may be embraced in a public highway legally established within one year after the date of said decree or forfeiture or abandonment be transferred to and vested in any person, firm, or corporation, assigns, or successors in title and interest to whom or to which title of the United States may have been or may be granted, conveying or purporting to convey the whole of the legal subdivision or subdivisions traversed or occupied by such railroad or railroad structures of any kind as aforesaid, except lands within a municipality the title to which, upon forfeiture, or abandonment, as herein provided, shall vest in such municipality, and this by virtue of the patent thereto and without the necessity of any other or further conveyance or assurance of any kind or nature whatsoever: *Provided*, That this Act shall not affect conveyances made by any railroad company of portions of its right-of-way if such conveyance be among those which have been or may hereafter and before such forfeiture or abandonment be validated and confirmed by any Act of Congress; nor shall this Act affect any public highway now on said right-of-way: *Provided further*, That the transfer of such lands shall be subject to and contain reservations in favor of the United States of all oil, gas, and other minerals in the land so transferred and conveyed, with the right to prospect for, mine, and remove same.*