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Billings, Clarks Fork and Cooke City Railroad Company

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BILLINGS, CLARK'S FORK AND COOKE CITY RAILROAD
COMPANY.

MARCH 1, 1888.—Committed to the Committee of the Whole House and ordered to be
printed.

Mr. COBB, from the Committee on Indian Affairs, submitted the fol-
lowing

REPORT:

[To accompany bill H. R. 4786.]

The Committee on Indian Affairs, to whom was referred a bill grant-
ing to the Billings, Clark's Fork and Cooke City Railroad Company the
right of way through the Crow Indian Reservation (H. R. 4786), have
considered the same, and report favorably thereon and recommend that
the bill pass.

The attention of Congress has been heretofore directed to the legis-
lation proposed by this bill. Bills in all respects similar in their pro-
visions to this one were introduced in the Senate and House of Repre-
sentatives of the last Congress. The Senate bill was passed by that
body after it had been scrutinized and favorably reported by the Senate
Committee on Indian Affairs. Both this and the House bill received a
unanimous and favorable report from the House Committee on Indian
Affairs and were placed on the Calendar, but were not reached.

The following is from the report of this committee of the Forty-ninth
Congress:

The great commercial necessity for this road is well known to those acquainted
with the country and its resources. The terminus of said road is Cooke City, in Mont-
ana, around which are valuable deposits of gold, silver, lead, iron, copper, and other
ores, with no outlet whatever. On the line of said road, between Billings and Cooke
City, are large coal and oil fields. This right of way is petitioned for by some two
hundred citizens of the town of Billings, including all the county official and busi-
ness men of the place, also by citizens and miners of Cooke City. The route has been
thoroughly surveyed by Mr. Gallaher, a gentleman who is strongly indorsed by many
of the best citizens of Billings as a reliable and competent surveyor, the maps of which
have been filed and approved by the Secretary of the Interior. From his report the
route is certainly a practicable one, and one of great utility to the entire country
when constructed.

The right of way granted by this bill is subject to the prior consent of the Crow
Indians, to be obtained in such manner as the President of the United States may
direct, and the right of way to be forfeited unless said road is constructed and com-
pleted within two years from the passage of the bill. The bill also contains the usual
safeguards and protection to said Indians in regard to improvements on said right of
way, together with just compensation for the lands condemned for said right of way,
as other bills do granting rights of way through Indian territory, passed by Forty-
eighth and Forty-ninth Congresses. After full and due consideration your committee
recommend that said bill pass.

It may be added that your committee have no reason to doubt the
ability or purpose of the company mentioned in the bill to speedily
construct the road, nor to suppose that the interests of the Indians on
the reservation will be prejudiced by its construction.

VIEWS OF THE MINORITY.

This bill proposes to grant to said railroad company a right of way 150 feet in width and the usual areas for station purposes, etc., through the Crow Indian Reservation, running up the Clark's Fork River, in Montana Territory.

In its general provisions the bill follows the form of the act passed at the last session of Congress, approved March 3, 1887 (25 Stats., 545), entitled "An act granting to the Rocky Fork and Cooke City Railway Company the right of way through part of the Crow Indian Reservation, in Montana Territory," the requirements of which act, so far as the Indians occupying said reservation are concerned, have hitherto been fully complied with by said company.

By the terms of this act the Rocky Fork and Cooke City Railway Company was required to have its road constructed and in running order through the reservation, on the located line, within two years from the passage of this act, or forfeit its franchise.

In the light of the conditions attached to the bill passed at the last session, granting the right of way across said reservation to the Rocky Fork and Cooke City Railway Company, the committee are of the opinion that it will not be just or equitable to grant a similar license at this time to a parallel and competing line for the following reasons:

(1) Congress, to guard against granting privileges for speculative purposes, limited the Rocky Fork Company to two years in which to comply with all the provisions of the bill and construct its road.

(2) The conditions in the matter of procuring Indian consent, making surveys, getting maps approved, and assessing damages were such as necessarily consumed seven months of the two years allowed, or until October 6, 1887.

(3) After these preliminary requirements were accomplished and authority was given the Rocky Fork Company, it proceeded promptly with the work, located its line to Cooke City, and had the first section of 46 miles to the coal mines graded, ties out, bridges built, etc., costing over \$150,000, when it was compelled to quit operations on account of bad weather.

(4) In addition to the amount of money expended on their railroad, the parties interested in the Rocky Fork Company have expended \$100,000 in developing their coal mines. This expenditure was necessary in order to be ready on the completion of the road to supply the present limited demand for coal and furnish business for its road. All these expenditures have been made on the faith of the implied guaranty of Congress for protection for the two years named in their charter.

(5) The requirement that the road must be completed within two years was an implied guaranty of Congress that, if during the two years the company showed good faith in its efforts to complete the road during the two years its work and enterprise should not be hampered and discouraged by Congress granting and encouraging a competing line to the same points and nearly on the same route.

By comparing the location of the Rocky Fork Company's right of way, as shown by maps duly accepted and on file in the Department, with the one asked for by this bill, it will be seen that they are substantially parallel lines, and the fact is that the country is so broken that this new proposed line must, if ever built, adopt in part substantially the line selected and now partly improved by the Rocky Fork Company.

The undisputed fact is, that one road is badly needed, but there is not and will not be (the country being wild and unsettled) business for two roads for years to come; a second grant by Congress at this time of a similar right over the same ground must necessarily lead to a strife and conflict between the two companies, in which the Billings and Clarke Fork Company have no investment to lose and everything to gain.

(6) The granting of a second right of way by Congress now would force the Rocky Fork Company to buy up the charter of the Billings and Clarke Fork Company, or to sell to it at a sacrifice. In fact it would put a legitimate business enterprise, entered upon in good faith, with a large amount now invested, at the mercy of this opposition company which has no work done and no money invested.

There being no possible use for two roads, the granting by Congress of an opposition and parallel right of way would work a great injustice to parties who have made investments in the Rocky Fork Company, and is liable to defeat the construction of any road.

In either case it must work great damage to the Rocky Fork Company, which has invested a large amount of money in good faith, under the belief that Congress, having granted it a privilege under which public interests were strongly guarded, would certainly protect it, at least during the two years allowed within which to construct its road. It accepted the privilege from Congress as a legitimate one, entirely non-speculative, and the protection asked for and expected for the two years named in its charter can in no way be regarded as a monopoly. All these things are appreciated and taken account of by investors, and as the Rocky Fork Company has to go into the market for financial aid, a menace of this nature adds other obstacles and hinderances to the large number of natural difficulties that beset such an enterprise in a new and unsettled country.

It also appears that the Crow Indians, through their agent, have forwarded to the Indian Department a protest against the passage of this bill.

We are therefore of the opinion that Congress should not, by passing this bill, precipitate this unequal and unfair conflict at this time between these two railroad companies, and that no public interests or commercial demands can be served thereby, and for foregoing reasons recommend that it do not pass.

KNUTE NELSON.
B. W. PERKINS.
JOHN A. McSHANE.