

5-10-1892

Spokane and Pelouse Railway Co.

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Recommended Citation

S. Rep. No. 641, 52nd Cong., 1st Sess. (1892)

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IN THE SENATE OF THE UNITED STATES.

MAY 10, 1892.—Ordered to be printed.

Mr. SHOUP, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany S. 2999.]

The Committee on Indian Affairs, to whom was referred the bill (S. 2999) extending the time for the completion of the Spokane and Palouse Railway through the Nez Perces Indian Reservation in Idaho, propose the following amendment to the bill:

In lines 4 and 5 strike out the words "is hereby extended for the term of two years," and add the following: "Authorized by act of Congress approved May eighth, eighteen hundred and ninety, is hereby extended for the term of two years, conforming in all things else to the requirements of said act."

Section 4 of the act above referred to provides:

That said company shall not assign or transfer or mortgage this right of way for any purpose whatever until said road shall be completed: *Provided*, That the company may mortgage said franchise, together with the rolling stock, for money to construct and complete said road: *And provided further*, That the right granted herein shall be lost and forfeited by said company unless the road is constructed and in running order across said reservation within two years from the passage of this act.

Section 6 of this act provides:

That Congress may at any time amend, add to, alter, or repeal this act.

The cause of the failure of the company to build the road within the prescribed time is fully set forth in a statement made by the Interior Department, to which Department the bill was referred for information in regard to the facts in the case. This statement, which was prepared by the Acting Commissioner of Indian Affairs, is submitted as part of this report and is as follows:

* * * The map of definite location of the right of way and plats of station grounds was received by this office by Department reference of October 24, 1890, from Vice-President Williams of the company, and, as the grounds for one of the stations represented thereon had not been located in accordance with the requirements of the act, the map and plats were returned to Vice-President Williams on November 19, 1890, with a communication inviting his attention to the location of said station, and suggesting a correction of the same.

After the return of the corrected map and plats, they were on December 12, 1890, transmitted to Agent Robbins, of the Nez Perces Agency, with a copy of the right of way act, and a letter of instructions setting forth in detail the grants and requirements therein contained. He was directed to make a careful examination of the proposed line of road, and to report particularly with regard to said location, as it would probably affect the individual holdings of the Indians, the lands within what

is known as the "Langford claim," and the grounds and property now used for agency purposes; and also whether, in his opinion, a new survey could be executed along the general route authorized by the act, under which the proposed road might be constructed with less damage to individual occupants and to the agency grounds and property.

Under date of December 29, 1890, Agent Robbins submitted his report in response to office letter of December 12, in which he stated that he had examined the location of the road as represented on the map, and that in his judgment "as little damage is done to individual Indians and the agency grounds and property as would be done by any other survey that could be made."

On February 5, 1891, said map of definite location of right of way and station grounds was submitted to the Department for approval. The map was approved by the Secretary on April 2, 1891.

Under date of April 13, 1891, this office instructed Agent Robbins, pursuant to said act of Congress and in accordance with the direction of the Secretary of the Interior, to call together in council the Indians occupying the Nez Perces Reservation and submit for their consent the said right of way and also have them agree upon the amount of compensation per acre to be paid by the company for the common or tribal lands occupied by it within their reservation; also to ascertain and fix the amount of compensation to be paid individual members of the tribe for damages sustained by them severally by reason of construction of the road, and to fix the value of agency property that would be destroyed or injured by the construction of the road in accordance with the approved map of definite location.

The council of the Indians was convened by Agent Robbins in accordance with said office directions of April 13, 1891, on May 2 following, but his report of the proceedings was not made until August 21, 1891. The records of this office do not show any reason for the delay on the part of Agent Robbins in making his report of said council proceedings, further than that on July 27 he was given additional instructions relative to securing the consent of the company for the Indians to have free use of and access to that part of the Clearwater River where the road crosses the same, known as the "Boom."

Under date of January 22, 1892, said council proceedings and Agent Robbins's report respecting all matters that had been submitted to him were submitted to the Secretary of the Interior for his approval. This communication was replied to * * * on January 25, 1892, and on January 29, 1892, Agent Robbins was instructed to inform the company that they could proceed with the construction of the road across the reservation.

The delay in this office in reporting to the Department on Agent Robbins's report was occasioned by the sickness and death of a clerk over whose desk all matters pertaining to railroads passed.

The compensation to the tribe and to the individual Indians for right of way of said road and the damages resulting to the agency buildings by reason of the construction of the same have all been paid. The company throughout the entire transaction have shown a spirit of perfect fairness and good faith in dealing with the Indians and the agent, and this office is not aware of any reason why the time for completing the road should not be extended.

I accordingly recommend the passage of the bill embodying Senator Shoup's proposed amendment. * * *

Very respectfully, your obedient servant,

R. V. BELT,
Acting Commissioner.

It is clearly shown from the above statement that the railway company is in no way responsible for the cause of the delay in constructing the road across the reservation, and your committee believe that the prayer of the railway company for an extension of the time for the building of said road, of two years, should be granted, especially in view of the fact that the road was completed to the north boundary of the reservation July 31, 1891, and to the other side of the reservation long before the Department had done what was required of it under the law; and as the road would no doubt have been completed within the time specified if an earlier adjustment had been made by the Department of right of way with the Indians, your committee earnestly recommend the passage of the bill as amended.