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7-7-1886

Message from the President of the United States, returning Senate bill 2281, granting to railroads right of way through the Indian reservation in Northern Montana, with his objections thereto.

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Recommended Citation

S. Exec. Doc. No. 204, 49th Cong., 1st Sess. (1886)

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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

RETURNING

Senate bill 2281, granting to railroads right of way through the Indian reservation in Northern Montana, with his objections thereto.

JULY 7, 1886.—Read and referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate of the United States :

I return without approval Senate bill number twenty-two hundred and eighty-one, entitled "An act granting to railroads the right of way through the Indian reservation in Northern Montana."

The reservation referred to stretches across the extreme northern part of Montana Territory, with British America for its northern boundary. It contains an area of over thirty thousand square miles. It is dedicated to Indian occupancy by treaty of October 17, 1855, and act of Congress of April 15, 1874. No railroads are within immediate approach to its boundaries, and only one, as shown on recent maps, is under construction in the neighborhood leading in its direction. The surrounding country is sparsely settled, and I have been unable to ascertain that the necessities of commerce or any public exigencies demand this legislation which would affect so seriously the rights and interests of the Indians occupying the reservation.

The bill is in the nature of a general right of way for railroads through this Indian reservation. The Indian occupants have not given their consent to it, neither have they been consulted regarding it, nor is there any provision in it for securing their consent or agreement to the location or construction of railroads upon their lands. No routes are described, and no general directions on which the line of any railroad will be constructed are given.

No particular organized railway company engaged in constructing a railroad towards the reservation and ready or desirous to build its road through the Indian lands to meet the needs and requirements of trade and commerce is named. The bill gives the right to any railroad in the country, duly organized under the laws of any Territory, of any State, or of the United States, except those of the District of Columbia, to

enter this Indian country, prospect for routes of travel, survey them, and construct routes of travel wherever it may please, with no check save possible disapproval by the Secretary of the Interior of its maps of location, and no limitation upon its acts except such rules and regulations as he may prescribe.

This power vested in the Secretary of the Interior might itself be improvidently exercised and subject to abuse.

No limit of time is fixed within which the construction of railroads should begin or be completed. Without such limitations, speculating corporations would be enabled to seek out and secure the right of way over the natural and most feasible routes, with no present intention of constructing railroads along such lines, but with the view of holding their advantageous easements for disposal at some future time to some other corporation for a valuable consideration. In this way the construction of needed railroad facilities in that country could be hereafter greatly obstructed and retarded.

If the United States must exercise its right of eminent domain over the Indian Territories for the general welfare of the whole country, it should be done cautiously, with due regard for the interests of the Indians, and to no greater extent than the exigencies of the public service require.

Bills tending somewhat in the direction of this general character of legislation, affecting the rights of the Indians reserved to them by treaty stipulations, have been presented to me during the present session of Congress. They have received my reluctant approval, though I am by no means certain that a mistake has not been made in passing such laws without providing for the consent to such grants by the Indian occupants, and otherwise more closely guarding their rights and interests; and I hoped that each of those bills as it received my approval would be the last of the kind presented. They, however, designated particular railroad companies, laid down general routes over which the respective roads should be constructed through the Indian lands, and specified their direction and termini, so that I was enabled to reasonably satisfy myself that the exigencies of the public service and the interests of commerce probably demanded the construction of the roads, and that by their construction and operation the Indians would not be too seriously affected.

The bill now before me is much more general in its terms than those which have preceded it. It is a new and wide departure from the general tenor of legislation affecting Indian reservations. It ignores the right of the Indians to be consulted as to the disposition of their lands, opens wide the door to any railroad corporation to do what, under the treaty covering the greater portion of the reservation, is reserved to the United States alone; it gives the right to enter upon Indian lands to a class of corporations carrying with them many individuals not known for any scrupulous regard for the interest or welfare of the

Indians; it invites a general invasion of the Indian country, and brings into contact and intercourse with the Indians a class of whites and others who are independent of the orders, regulations, and control of the resident agents.

Corporations operating railroads through Indian lands are strongly tempted to infringe at will upon the reserved rights and the property of Indians, and thus are apt to become so arbitrary in their dealings and domineering in their conduct toward them that the Indians become disquieted, often threatening outbreaks, and periling the lives of frontier settlers and others.

I am impressed with the belief that the bill under consideration does not sufficiently guard against an invasion of the rights and a disturbance of the peace and quiet of the Indians on the reservation mentioned; nor am I satisfied that the legislation proposed is demanded by any exigency of the public welfare.

GROVER CLEVELAND.

EXECUTIVE MANSION,

July 7, 1886.

[Forty-ninth Congress of the United States of America, at the first session, begun and held at the city of Washington on Monday, the seventh day of December, one thousand eight hundred and eighty-five.]

An act granting to railroads the right of way through the Indian reservation in Northern Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of way through the Indian reservation in Northern Montana, set apart for the use of the Gros Ventre, Piegan, Blood, Blackfeet, and other Indians, by act of Congress approved April fifteenth, anno Domini eighteen hundred and seventy-four, is hereby granted to any railroad company duly organized under the laws of any State or Territory, except the District of Columbia, or by the Congress of the United States, which shall have filed with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet in width; also the right to take from the public lands adjacent to the line of said road material, stone, earth, and timber necessary for the construction of said railroad; also ground adjacent to such right of way for station buildings, depots, machine shops, side-tracks, turn-outs, and water-stations, not to exceed in amount three hundred feet in width and three thousand feet in length for each station, to the extent of one station for each ten miles of its road.

SEC. 2. That any railroad company whose right of way, or whose track or road-bed upon such right of way, passes through any canyon, pass, or defile, shall not prevent any other railroad company from the use and occupancy of the said canyon, pass, or defile for the purposes of its road, in common with the road first located, or the crossing of other railroads at grade; and the location of such right of way through any canyon, pass, or defile shall not cause the disuse of any wagon-road or other public highway now located therein, nor prevent the location through the same of any such wagon-road or highway when such road or highway may be necessary for the public accommodation; and where any change in the location of such wagon-road is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall, before entering upon the ground occupied by such wagon-road, cause the same to be reconstructed, at its own expense, in the most favorable location, and in as perfect a manner as the original road: *Provided,* That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile.

SEC. 3. That it shall be the duty of the Secretary of the Interior to fix the amount of compensation to be paid the Indians for such right of way, and provide the time and manner for the payment thereof; but no right of any kind shall vest in any rail-

road company in or to any part of the right of way herein provided for until plats thereof, made upon actual surveys for the definite location of such railroad, and including the points for station buildings, depots, machine-shops, side-tracks, turnouts, and water-stations, shall be filed with and approved by the Secretary of the Interior, and until the compensation aforesaid has been fixed and paid; and the surveys, construction, and operation of any such railroad shall be conducted with due regard for the rights of the Indians, and in accordance with such rules and regulations as the Secretary of the Interior may make to carry out this provision.

JOHN G. CARLISLE,

Speaker of the House of Representatives.

JOHN SHERMAN,

President of the Senate pro tempore.

I certify that this act originated in the Senate.

ANSON G. MCCOOK,

Secretary,

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