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Big Horn Southern Railroad.

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BIG HORN SOUTHERN RAILROAD.

JANUARY 6, 1893.—Referred to the House Calendar and ordered to be printed.

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

REPORT:

[To accompany S. 3317.]

The Committee on Indian Affairs, to whom was referred the bill (S. 3317) extending the time for construction of the Big Horn Southern Railroad through the Crow Indian Reservation, submit the following report:

By proviso to section 3 of the act of Congress of February 18, 1889 (25 Stat., 660), granting to the Big Horn Southern Railroad Company a right of way through a portion of the Crow Indian Reservation, Mont., the President was invested with discretionary power to "require that the consent of the Indians to said right of way shall be obtained by said railway company, in such manner as he may prescribe, before any right of way under this act shall accrue to this company."

The President decided that the consent of the Indians to said right of way should be obtained, and such consent was obtained on December 20, 1890.

Section 3 of said act also provides—

That it shall be the duty of the Secretary of the Interior to fix the amount of the compensation to be paid to the Indians for such right of way, and grounds adjacent thereto, as provided in section two, and provide the time and manner for the payment thereof; and also to ascertain and fix the amount of compensation to be made individual members of the tribe for damages sustained by them by reason of the construction of said road; but no right of way shall vest in said railroad company in or to any 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, turn-outs, and water-stations, shall be filed with and approved by the Secretary of the Interior, which approval shall be made in writing and be open for the inspection of any party interested therein, and until the compensation aforesaid has been fixed and paid.

The concluding clause of section 4 of said act provides—

That the rights herein granted shall be lost and forfeited by said company unless the road is constructed and running through said reservation on said line within two years from the passage of this act, or if the consent of the Indians are required under the terms of the proviso to section three of this act, then within two years from the date when such consent shall be obtained as provided in section three of this act.

The Secretary of the Interior has fixed the amount of compensation to be paid the Indians in their tribal capacity for the right of way over the lands held in common, but the amount of compensation for damages to individual Indians has not been fixed, owing to the inability of the company to come to any conclusion with them. The company was of the opinion as claimed that the time did not commence to run until an

agreement was reached with the individual Indians, their consent being required as much as that of the tribe in common, but on an examination of the order of the President requiring that the consent of the Indians should be obtained, it was found that such construction was not placed upon the provisions of the act.

It will be observed that section 3 of said act provides that—

No right of way shall vest in said railway company in or to any of the right of way herein provided for * * * *until the compensation aforesaid has been fixed and paid.*

Under the provisions of section 4 the right of the company is lost and forfeited unless the road is constructed and in running order through said reservation by December 20, 1892, being two years from the date the consent of the Indians was obtained to the provisions of said act.

The company has acted, it seems, in good faith in this matter, all the preliminary steps having been taken, except the fixing and payment of the compensation to individual Indians.

The company claims it has at all times been ready and willing to begin the construction of the road whenever its rights become vested under the provisions of this act, and claims it has expended large sums of money in making surveys and plats and otherwise preparing for the construction of its road.

The committee therefore recommend the passage of the bill extending time for construction of said road for two years from December 20, 1892.

Report of attempt to settle certain damages to individual Indians through whose allotments and hay meadows, etc., the survey of the Big Horn Southern Railroad runs.

CROW AGENCY, MONT., July 18, 1892.

Agent WYMAN, addressing the Indians located on the allotments through which the Big Horn Southern runs, informed them that the representative of the road was now present and ready to come to an understanding and settlement with each of them for any damage sustained by each person by reason of the railroad running through their allotments, and that each of the Indians were desired to state their own idea of the damage sustained and state their views as to the proper amount to be paid by the company.

Mr. P. McCORMICK, representative of the Big Horn Southern Railroad, said to the Indians that he was present for the purpose of settling any damages sustained by the Indians through whose allotments the road passed, provided the Indians, their agent, and himself could arrive at a fair estimate of damages. That he was now ready to discuss the matter with each of them and their agent.

OLD DOG. When you asked us to let you put down the stakes [survey the road], you told us that after the stakes were all down, showing us where the cars were going, if we didn't like it then we could say so before the railroad was built. The other railroad [Northern Pacific] goes through our farms and a lot of our horses and cattle are killed, and they don't pay us what they are worth. That road killed two of our men once and never looked at us [paid us]. There were not many people [Indians] living where those two Crows were killed, either. This road of your's [the Big Horn Southern] goes through a great many farms, more than a hundred—I guess two hundred, and right through the middle of lots of our best hay ground. Our cattle and our horses will be close to it, and our children will play close by the rails. We think that your cars will kill lots more of our horses and cattle than the other road does, and we don't know that you would pay us any more money. If any of our children were killed all our women would cry and call us fools for letting the road be built right through our farms. We told you once that you could build the road or that you could drive the stakes, but now we change our mind. I don't want the road to pass through my land where you kill the best hay I have. I will let you go through the reservation just outside of our farms, just along the foot of the hills, where it don't hurt me or any of the Crows.

SPOTTED HORSE. I hear that you want to build the railroad you drove the stakes for right where stakes were put. The people on the outside call us Little Horn

Indians fools [the Indians on Big Horn and Pryor Creek] for letting the railroad pass through our best hay land. We remember that one railroad killed two of our men, and sets fire to the haystacks, and runs right over our cattle and horses. This is very bad. I think it bad for any railroad to run right through our farms. You can go just alongside of our farms, but I don't want it [the road] to run through my hay ground and garden.

ENEMY HUNTER. It will be good for you to build your road away from where the stakes are set, and not on our farms and gardens. Your road goes right through my best hay, where the grass is the best. I am willing it should be built anywhere, except through our farms, but not there. It would be very bad to have our horses and cattle, and sometimes our men, killed, like those Indians that live in the Yellowstone Valley (where the Northern Pacific passes). We don't want such things to happen to us. I hope you won't build your road on my farm.

FIRE BEAR. I say just as the rest do, for I have good hay ground, and don't want it cut in two. I can sell lots of hay off the ground where your cars go. You can go along the foot of the hills and not come on my farm at all.

BIRD SHIRT. When you talked about your road, you bought our land, and we all said yes. I thought it was bad then, for your cars to go through all our; but I said yes with all of my friends. Now I am glad they don't want to sell a part of their farms for the cars to run on. Let them run along the foot of the hills. If they come near our farms it won't do any hurt, but it will hurt us to run over our land. We don't want to sell it for money.

FRINGE. The best hay land I have got is cut almost in two by your stakes. When your cars come I won't sell but little hay. I want to be good friend with you [Mr. McCormick], for I have known you a long time, but I will say no, when you ask to run your cars over my farm, and right by my house. Build the road along the hills and don't ask us to take your money for coming on our farms.

DEAF BULL. We all want to hold our farms away from the railroad. If the cars run along the foot of the hills it will be good; we will all say yes. But none of the Little or Big Horn Indians want the railroad to run over their farms. There ain't one that wants it—not one Indian. If some of us are run over and killed, then all the Indians will feel badly, and we love our horses and cattle.

YELLOW CRANE. I like the way the Crows talk to-day. Take your railroad away from our farms, pull up the pegs [survey stakes], and drive them down again along the foot of the hills. That will make us glad. I want to keep my land fenced in.

BIG SHOULDER BLADE. I don't want the road to come across my farm. We will have our horses and cattle killed and our hay burned all up, and when we want pay the railroad will give us only part of what we could have sold our things for. I know this; it is bad. Build your road along the hills by our farms, but don't come on our land.

SPOTTED TAIL. I talk just like the others. We all feel badly when we think of the cars going right over our land. It is good for them to go near us along the hills, but not good to come on our land.

BOY THAT GRABS. I have always felt badly when I thought of the railroad coming over our farms and along through our hay land that gives us so much money. We don't want the cars near our house where we live. It would be good to have the cars go some other way.

LONG OTTER. I stand with all the Crows who live near me. We all have one heart about this matter. We never did want the railroad to run through, sometimes right through the middle of our land, our farms, and gardens. Every Crow that has a farm, if the road runs through the farm, he will talk just like these Indians and I talk. You won't find one to say, "Let the cars come through my land and pay me for it." They are all willing to let the road be built along the bottom of the hills near by, but not on their farms. I know what I talk is true.

MR. MCCORMICK (to Old Dog). Please name some amount of money, to agent and myself, for which you would be willing to let the roadbed be built through your individual farm. Name some price.

OLD DOG. If I had anything to sell I would tell you what money I wanted for it, but I haven't anything to sell. I don't want your cars to run right over my farm, and I don't want your money. You can build your road a little way off and keep your money.

MR. MCCORMICK (to Spotted Horse). I am here to make some arrangement with you to pay you for any damage by the railroad I represent crossing your farm and hay lands, or for other individual damage; but I must obtain from your own lips some indication of the price you demand. If it is too small your agent will tell you; if it is too high I shall say so, and then we can talk matters over. But the very first thing is for you to give your own ideas of value of what property we may destroy or injure. Then we can proceed.

SPOTTED HORSE. We have told you that we didn't want to sell any part of our farms, for a railroad or any other purpose. We want to be good friends with you,

for we have known you (Mr. McCormick) a long time, but we can't sell our land. This is all.

MR. McCORMICK asked Enemy Hunter the same question as he had Old Dog and Spotted Horse.

ENEMY HUNTER. I speak with the Crows; when I have something to sell, come to me and I will tell you the price. I won't be mean, but I have no part of my farm to sell, and so I can't tell you what I would take to let the railroad pass through my farm. None of us can tell you the price he would charge to let your road come on our land, because not one of us are willing to have the cars come on our farm at all.

MR. McCORMICK asked Deaf Bull what price he required for such injury as might be done by the road passing through his own farm.

DEAF BULL. I don't want to say anything about this taking money. The road can go some other way, and not on my land. All of the Crows think alike about this matter. We don't want any money and don't want the road across our land.

MR. McCORMICK asked Long Otter to name a price for which he would let the road cross his farm, according to the survey; that the company desired to settle this question, but could not unless the Indians holding these allotments would agree upon some price.

LONG OTTER. We want to be friendly and do what is right, but this is a big country, and I want your road to go in some other way than across our land; as other Crows have said, you can go along the hills. That way will not hurt any of us and will be good for you.

MR. McCORMICK asked Fringe if he would not set some price for the probable injury to his land, and asked him to state some price, that there might be a basis to work on.

FRINGE. I won't set any price, because I do not want to sell anything. I want to keep my land whole. Don't want any road built through it. You (Mr. McCormick) can build the road along the foot of the hills and let our farms alone. Then we will feel all right.

MR. McCORMICK then put the same question to many other Indians, explaining his desire that satisfactory arrangements be made with the individual Indians, as per the intention and understanding between the company and the Indians at time of previous council; but all the Indians entered their strong objections in the same tone as above, each and all refusing to set a price. Their refusal was positive and final.

Agent WYMAN told the Indians that if all there present held the views of those who had spoken that he would report the facts to the Department and await any instructions; that the representative of the railroad company was present and that he, the agent, was all ready to assess the damages, but he could do nothing unless they, the Indians, were willing to come to some understanding; that as they all seemed to object to having their lands crossed by the road he would personally ask those present to signify either their approval or disapproval of proceeding with the arrangements contemplated ever since the survey was made.

Here all the Indians protested against the road crossing their lands, saying, as heretofore mentioned, that they were perfectly willing for the road to be built along the foot of the hills, so that it would not cut up their allotments, hay ground, etc.

After this expression the meeting was adjourned.

I certify that the above is a correct report of meeting of Crow Indians with Mr. P. McCormick, representative of the Big Horn Southern Railroad, held for purpose of adjusting certain damages sustained by individual Indians by reason of said railroad passing through their allotments, and that I was present, and did report the proceedings of the meeting.

C. H. BARSTOW, *Clerk.*

CROW AGENCY, MONT., *July 18, 1892.*

I certify that I did interpret at the meeting held with the Crow Indians, on the 18th day of July, 1892, and that the proceedings as reported on pages 1 to 5, inclusive, hereto attached, are true and correct statements of the remarks of the Indians and my own interpreting.

T. STEWART, *Agency Interpreter.*

CROW AGENCY, *July 18, 1892.*

I certify on honor that the report hereto attached, as per pages 1 to 5, is a true report of proceedings in a meeting held by me on July 18, 1892, with the Crow Indians and representative of the Big Horn Southern Railroad, for the purpose of adjusting any damages claimed by the Indians by reason of the said railroad passing through the allotments of individual Indians.

M. P. WYMAN, *United States Indian Agent.*

CROW AGENCY, MONT., *July 18, 1892.*