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Edwin H. Van Antwerp And Chas. H. Bates.

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Recommended Citation

S. Misc. Doc. No. 126, 53rd Cong., 2nd Sess. (1894)

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IN THE SENATE OF THE UNITED STATES.

MARCH 22, 1894.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. PETTIGREW presented the following

PAPERS RELATIVE TO CLAIM OF EDWIN H. VAN ANTWERP AND CHAS. H. BATES, U. S. SURVEYORS, FOR SURVEYING WEST BOUNDARY OF PINE RIDGE INDIAN RESERVATION, TO ACCOMPANY AMENDMENT INTENDED TO BE PROPOSED BY MR. PETTIGREW TO THE BILL (H. R. 5575) MAKING APPROPRIATIONS FOR THE SUNDRY CIVIL EXPENSES OF THE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1895, AND FOR OTHER PURPOSES.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Huron, S. Dak., February 16, 1892.

SIR: Numerous petitions from settlers and others are on file here for an early survey of the lands not heretofore surveyed lying immediately west of and adjoining the west boundary of Pine Ridge Indian Reservation, as defined in section 1 of an act approved March 2, 1889, providing for a division of a portion of the reservation of the Sioux nation of Indians, in Dakota, into separate reservations, and for other purposes. I am also in receipt of requests from the State authorities for said surveys to facilitate the land selections to which the State is entitled under its admission act.

As the survey petitioned for and requested can not be made until said boundary is established, I respectfully ask if the establishment of that boundary can not be contracted for, payable from some available Indian appropriation, or, failing favorable consideration by the Indian Office, then and in that event out of the current appropriation for the public surveys.

This boundary is stated to be on the meridian of 103° west from Greenwich. This meridian has been connected from the north to the first standard parallel north in range 9 east of the Black Hills meridian. A simple computation from established surveys southward will give the intersection of that meridian with the first standard parallel south, in the same range, from which point of intersection a short blank line would arrive at the terminus of said boundary on the South Fork of the Cheyenne River, and thence the line could be carried south without special precautions other than those required in the running of guide meridians. Or the initial point of the boundary on the south boundary of the State could be determined from a consideration of the survey and measurement of the State boundary and of the surveys already closed to it in range 8, and westward. One or the other of

these methods would give a substantially correct position for the Indian boundary and would avoid the astronomic work usual in determination of longitude, and the largely increased cost per mile for so short a line consequent thereon. Marked as are the east boundary of the Rosebud Reservation, the south and north boundaries of the Lower Brule Reservation and the north boundary of the Pine Ridge Reservation, all recently executed, the cost of the west boundary of the Pine Ridge Reservation need not exceed \$15 per mile for ordinary running, with \$4 per mile extra where the line passes over lands mountainous, heavily timbered, or covered with dense underbrush. As the length of the line is apparently about 30 miles, the cost of establishment in the manner stated would be about \$625.

Very respectfully,

B. H. SULLIVAN,
Surveyor-General.

Hon. T. H. CARTER,
*Commissioner General Land Office,
Washington, D. C.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Huron, S. Dak., February 16, 1893.

SIR: Numerous petitions from settlers and others are on file here for an early survey of the lands not heretofore surveyed, lying immediately west of and adjoining the west boundary of Pine Ridge Indian Reservation, as defined in section 1 of an act approved March 2, 1889, providing for a division of a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations, and for other purposes. I am also in receipt of requests from the State authorities for said surveys to facilitate the land selections to which the State is entitled under its admission act.

As the surveys petitioned for and requested can not be made until said boundary is established, I respectfully ask if the establishment of that boundary can not now be contracted for, payable from some available Indian appropriation, or, failing favorable consideration by the Indian Office, then and in that event out of the current appropriation for the public surveys.

This boundary is stated to be on the meridian of 103° west from Greenwich. This meridian has been connected from the north to the first standard parallel north, in range 9 east of the Black Hills meridian. A simple computation from established surveys southward would give the intersection of that meridian with the first standard parallel south in the same range, from which point of intersection a short blank line would arrive at the terminus of said boundary on the South Fork of the Cheyenne River, and thence the line could be carried south without special precautions other than those required in the running of guide meridians, or the initial point of the boundary on the south boundary of the State could be determined from a consideration of the survey and measurement of the State boundary, and of the surveys already closed to it in range 8, and westward. One or the other of these methods would give a substantially correct position for the Indian boundary and would avoid the astronomic work usual in determination of longitude, and the largely increased cost per mile for so short a line consequent thereon. Marked as are the east boundary of the Rosebud Reservation, the south

and north boundaries of the Lower Brule Reservation and the north boundary of the Pine Ridge Reservation, all recently executed, the cost of the west boundary of the Pine Ridge Reservation need not exceed \$15 per mile for ordinary running, with \$4 per mile extra where the line passes over lands mountainous, heavily timbered, or covered, with dense underbrush. As the length of the line is apparently about 39 miles, the cost of establishment in the manner stated would be about \$625.

Very respectfully,

B. H. SULLIVAN,
Surveyor-General.

Hon. T. H. CARTER,
*Commissioner General Land Office,
Washington, D. C.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Huron, S. Dak., April 6, 1892.

SIR: Based on applications from settlers and others for surveys to include their settlements, and from the State officers for surveys to enable them to make selections of lands to which the State is entitled under the admission act, it is my intention soon to submit for your approval joint contracts for the remainder of the apportionment of \$25,000, made by you to this district out of the appropriation for surveys for the fiscal year ending June 30, 1892. The surveys to be compassed by these contracts include the regions colored red on the inclosed sketch.

There are portions of these regions which are of a very rough character, so much so as to render field operations exceedingly difficult and expensive. This is known to be the case especially in T. 7 S., R. 2 E.; T. 8 S., R. 4 E., Ts. 5 and — S., R. 5 E. To reach the settlements in such cases and to inclose all the lands which can be properly classed as "agricultural" according to the instructions for the current fiscal year, and at the same time maintain the proper order of survey imperatively required, it will be necessary to run many lines over this excessively difficult surface. Furthermore for the purposes of State land selection, lines will have to be run over surface of the character described in order to embrace lands which the State wishes to secure before trespassers have removed therefrom timber, for which such lands are chiefly valuable. This depletion of timber is proceeding at a rapid rate, to the injury of the lands which the State wishes to select. Hence the urgency of State officials for surveys.

I have endeavored to contract for all these surveys at the usual minimum and intermediate rates. My deputies have uniformly declined to take the responsibility unless provision can be inserted in their contract for increased compensation whenever it shall appear from the field notes that such should be paid. It is, of course, impossible to say in advance precisely where the instances will occur, and in view of this fact I respectfully ask that permission be given for an insertion of rates not exceeding the maximum rates, the same, of course, to apply only when the showing in the returned field notes and plats so warrants.

The interests of Government will be protected, as the matter will still rest under the control of the honorable Secretary, as required by

law, and the deputies can thus be reimbursed for any exceptional difficulties encountered in this work, as is proper.

I have before me your annual instructions of July 16, 1891, and note the presentation required when permission is asked for insertion of rates above the intermediate. I would state as above as reasons for such surveys the numerous petitions from settlers for survey of agricultural lands, and the repeated requests of State officials for surveys that the lands which the State desires to select may be secured to it, and the impossibility of meeting these demands without an allowance of increased compensation to deputies whenever the facts in the case so warrant. Relative to the lowest rates at which the work can be done I would suggest that the maximum rates be allowed, and by rigid scrutiny of returns limit the application of such rates to any desired extent when stating the account.

I urge that the request be granted, if possible, to secure for the settlers and the State the surveys for which this office has been impo-rtuned; and in that event I would ask to be instructed, in order that I in turn may instruct my deputies, as to the showings which should appear in the field notes to permit of a satisfactory statement of the deputies' accounts where rates over the intermediate rates are allowed. Provision is already made in current special instructions of this office whereby the necessary showing is obtained in the field notes where intermediate rates are proper; but no provision is made for rates in excess of these.

Referring to the diagram it is noticed that to complete said surveys it will be necessary to establish the west boundary of the Pine Ridge Indian Reservation. This is properly a charge against Indian appropriations; but if it can not be secured in that direction provision will have to be made in the joint contract now proposed. There are two methods of establishing this boundary, either of which will avoid expensive astronomic work necessary to a determination of longitude. The starting point may be determined on the south boundary of the State by a reference to the southwest angle of the State and existing measurements along the State boundary, or, again, as the 103° meridian has been connected to the first standard parallel north, its intersection with the first standard parallel south computed from the public surveys intervening; from this intersection the line can be projected southward. I may say that a rough computation indicates that these two methods assign positions to the boundary differing by less than 70 chains. I desire to be informed which, if either, of these methods shall be provided for the special instructions.

Very respectfully,

B. H. SULLIVAN,
Surveyor-General.

Hon. T. H. CARTER,
Commissioner General Land Office, Washington, D. C.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 6, 1892.

SIR: I have the honor to acknowledge the receipt, by Departmental reference for report, of a communication from the Acting Commissioner of the General Land Office, dated March 1, 1892, in which he incloses copy of a letter from the U. S. surveyor-general for South Dakota,

inquiring if the establishment of the west boundary line of the Pine Ridge Indian Reservation can now be contracted for, payable from some available Indian appropriation, or if in the event of unfavorable consideration by this office the expense of such survey could be paid out of the appropriation for public surveys for the current fiscal year.

In reply, I have the honor to state that the balance of the appropriation for surveying and allotting Indian reservations for the current year is not sufficient to warrant this office in recommending further expenditures therefrom.

The office has no objection from the proposed surveys of the said western boundary of the Pine Ridge Reservation if the expense of the same be defrayed from the appropriation for public surveys. Indeed I should be glad to have it done.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 8, 1892.

SIR: I acknowledge the receipt of your communication of the 1st ultimo and accompanying copy of letter from the surveyor-general of South Dakota relative to the desired survey of the west boundary of the Pine Ridge Indian Reservation in said State.

In response thereto I transmit herewith copy of a communication of 6th instant from the Commissioner of Indian Affairs, to whom the matter was referred.

The Commissioner states that the balance of appropriation for surveying and allotting Indian reservations for the coming year is not sufficient to warrant his office in recommending further expenditures therefrom, but that it has no objection to the proposed survey if the same can be defrayed from the appropriation for public surveys.

Very respectfully,

JOHN W. NOBLE,
Secretary.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 16, 1892.

SIR: Referring to your letter of February 16, 1892, relative to the necessity of establishing the west boundary of the Pine Ridge Indian Reservation in South Dakota, and inquiring if the establishment of said boundary can not now be contracted for payable from some available Indian appropriation, or from the appropriation for public surveys for the current fiscal year, you are informed as follows:

A copy of your letter of February 16, 1892, was transmitted to the Department with office letter E of March 1, 1892, requesting instructions in the matter.

I am now in receipt of departmental letter of April 8, 1892, inclosing a copy of a letter dated April 6, 1892, signed by the Commissioner of Indian Affairs. The latter officer states that the remaining unexpended balance of the appropriation for surveying and allotting Indian reservations for the current fiscal year is insufficient to warrant him in recommending further expenditures therefrom. The Commissioner, however, further states that he has no objection to the proposed survey of the west boundary of the Pine Ridge Indian Reservation, provided the expense of executing the work be defrayed from the appropriation for the survey of the public lands; in fact he would be glad to have the survey executed under said condition.

In acknowledging the receipt of office letter E of March 1, 1891, and inclosing a copy of the Indian Commissioner's letter, the Secretary of the Interior refers to the statements made by the latter, but gives no specific directions. Inclosed herewith are copies of said letters.

Also referring to your letter of April 6, 1892, in the matter of awarding contracts for proposed surveys, including several townships immediately adjoining the west boundary of the Pine Ridge Indian Reservation, you state that it will be necessary to establish said boundary in connection with the proposed surveys.

Although the expense of establishing said line is properly chargeable to the Indian appropriation, it is evident that no sufficient balance thereof is available, and that provision will have to be made therefor in the proposed joint contracts.

As the appropriation for public surveys is available for the survey of "lines of reservation," this office knows of no objection to carrying your suggestion into effect, and embodying the survey of said boundary line in the proposed contracts, the expense to be charged to the balance of your apportionment for the survey of the public lands for the current fiscal year.

You will be advised in another communication as to the proper method to be adopted in establishing the west boundary of the Pine Ridge Indian Reservation.

Very respectfully,

THOS. H. CARTER,
Commissioner.

The U. S. SURVEYOR-GENERAL,
Huron, S. Dak.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 19, 1892.

SIR: Referring to last paragraph of your letter dated April 6 and to office letter E dated April 16, 1892, you are further advised in regard to the subject-matter as follows:

The initial point for the west boundary of the Pine Ridge Indian Reservation may be determined with sufficient accuracy by direct measurement from an established corner of the public land surveys. Existing measurements along the south boundary of the State are not regarded as entirely reliable. A better starting point may be had at intersection of one hundred and third meridian with the second standard parallel north—the second being considered more accurate than the first standard north—thence east to closing corner for fourth guide

meridian east, south to the base line, and west thereon to closing corner between ranges 14 and 15, thence south to the linear boundary of Pine Ridge Indian Reservation and west thereon to initial monument, from which point distance may be measured west (as computed) to the one hundred and third meridian. Also west on second standard and south by the Black Hills guide meridian may supply a check.

Use your own discretion in making computation, and please send copy thereof (on separate sheet) with the special instructions for information of this office.

Very respectfully,

W. M. STONE,
Acting Commissioner.

The U. S. SURVEYOR-GENERAL,
Huron, S. Dak.

YANKTON, S. DAK., *February 9, 1894.*

DEAR SIR: In the matter of difference between the First Comptroller of the Treasury and ourselves in the settlement for the work performed in surveying and marking the west line or boundary of the Pine Ridge Indian Reservation, under contract No. 85, district of South Dakota, we wish to make the following statement to you:

Preliminary to entering into this contract we had several conversations with the surveyor-general regarding the price to be paid for the work on this boundary line. There being more blank line to be run, astronomically, than mounded line, it was very evident that it could not be run for the same cost as a regular standard or meridian line work, as the Comptroller classes it in the price he has allowed us for the work. With a distinct understanding that if the honorable Commissioner of the General Land Office did not approve the price stipulated, \$20 per mile, that we would not do the work for less, we signed the contract No. 85 and made the bond, and it was forwarded to the honorable Commissioner and duly approved; and we did the work according to the contract and special instructions.

Contract No. 85 embraces the survey of boundary, standard, township, and subdivision lines, at \$20 for reservation boundary, \$9 for base, standard meridian, and meander lines, \$7 for township lines, and \$5 for section and connecting lines, and the usual rates for mountainous and timber lands on the public land surveys.

We duly made return for the work, the returns were approved by the surveyor-general, and forwarded to the General Land Office, where the work was accepted by the honorable Commissioner, and an account sent to the Treasury Department, in accordance with the contract.

In official letter E, dated September 4, 1893 (inclosed herewith), we were then informed that the First Comptroller in adjusting the account in his Department had allowed us \$9 per mile for this boundary line instead of \$20 per mile, as stipulated in the contract. To this unjust settlement we protested, and applied to you for assistance in explaining the matter to him. The result of your kind and personal effort did not change the settlement.

We think and claim that the contract should be as binding on the Government as ourselves. At the rate allowed in the Comptroller's

adjustment we would be receiving less than \$4 per mile, there being about 55 miles of blank line that was required to be run astronomically and with as much care as the mounded line, of which there are 41 miles, 74.23 chains. At \$20 per mile, as stipulated in the contract, the pay would average less than \$9 per mile. This is the point mostly considered at the time of making the contract.

The reduction of \$461.21 by the honorable First Comptroller on the contract price for running this makes the work a considerable financial loss to us. The line of 103° west from Greenwich, covered by this contract, is a bona fide Indian reservation boundary; reference to the statutes and section creating it is mentioned in the contract. The work required in running and perpetuating the line is entirely different from that required on the public land surveys. It is run astronomically, the mounds, pits, posts, and stones are much larger than is required in the public land surveys. (*See Special Instructions.*)

Separate and complete sets of field notes and plats were required, and in every way the work is segregated from the public-lands surveys. We entered into this contract in good faith, believing that the officers of the Government did the same, and that they would pay for the same as stipulated in the contract. We were not seeking an opportunity for the privilege of paying a premium to do Government work. From the result of your personal efforts with the honorable First Comptroller we are satisfied that the Government will not fulfill its part of the contract by any act of his, and we therefore most earnestly appeal to you for relief in the amount of \$461.21 through the legislative branch of the Government.

Yours, respectfully,

E. H. VAN ANTWERP,
For E. H. VAN ANTWERP and C. H. BATES,
U. S. Deputy Surveyors.

Hon. R. F. PETTIGREW,
Washington, D. C.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Huron, S. Dak., May 18, 1892.

SIR: I have the honor herewith inclosed to submit for your approval surveying contract and bond (duplicate and triplicate) No. 85, dated April 9, 1892, entered into with Edwin H. Van Antwerp and Charles H. Bates, U. S. deputy surveyors, estimated liability \$6,000, payable from the appropriation for survey of public lands for the fiscal year ending June 30, 1892. Said contract is for the stated exterior and subdivisinal surveys in Fall River County and in the southern portion of Custer County, S. Dak. It also provides for the establishment of the west boundary of the Pine Ridge Indian Reservation, the same being necessary for the contemplated subdivisions.

As indicating the necessity for said surveys to embrace settlements and enable the State to make selections of land to which it is entitled under the admission act, I inclose one petition from the auditor of Custer County, dated March 25, 1892, setting forth the existence of settlements in several townships, among them being townships 5 and 6 of range 9; also a petition from the auditor of Pennington County, dated March 7, 1892, setting forth the existence of settlements in township 1,

north of range 10. Reliable oral information is received here as to the existence of settlements in almost all the townships in Fall River County yet unsurveyed, and that there are townships contiguous to those settled which are in the line of settlement, which townships, following the suggestions of your letter E, dated April 20, 1891, are now included in this contract. I have been requested in person by the State officers to expedite the surveys now contracted, that the State may select the lands it desires before such lands are denuded of timber, for which certain portions are chiefly valuable. I have not asked from these officers letters to this effect, deeming those of ex-Senator G. C. Moody, Governor A. C. Mellette, and State Land Commissioner Thomas H. Ruth, forwarded by my letter of May 16, 1891, submitting certain contracts, as sufficiently expressing their wishes in this regard.

As instructed in your letter E, dated April 19, 1892, a position has been computed for the intersection of the meridian of 103° with the first standard parallel south, from which to project southwards the west boundary of the Pine Ridge Indian Reservation. The following results are obtained:

(1) From the intersection of that meridian with the second standard parallel north, eastward on that parallel to the fourth guide meridian, thence south to the Black Hills base line, thence west to the line between ranges 14 and 15, thence south to the north linear boundary of the reservation, thence west along it and the surveys in township 4 south, of range 10 east, to the line between ranges 9 and 10, substantially as suggested in your said letter; resulting position, 78.59 chains west of the standard corner to those ranges on the first standard parallel south.

(2) From the second standard parallel southward by way of the first guide meridian (between ranges 7 and 8); resulting position, 101.99 chains west of the said standard corner to ranges 9 and 10.

(3) From the second standard parallel southward by way of the line between ranges 9 and 10; resulting position differ, only 17 links from the preceding.

(4) From the west boundary along the first standard parallel south; resulting position, 100.30 chains west of the same standard corner.

The first three computations are related to the 103° meridian as established north of the Belle Fourche River; the last computation is independent of that establishment.

Relative to the second and third computations, it is noted that they indicate a remarkable agreement in the general course of the first guide meridian and the range line 12 miles east of it, and, in reasonable probability (as these lines were run at different times and by different deputies) that the general course is practically north; that the resulting position is free from errors incident to long distances over dissimilar surfaces, as, for instance, the distances considered in the first computation; and that the position agrees substantially with the check computation by way of the first standard parallel south. For these reasons the position indicated by the second and third computations is believed to be more reliable, and its adoption is recommended in case the following method, respectfully submitted, should be deemed unadvisable. This method is to carry forward the established meridian as a blank line across the intervening surveys to an actual intersection with the right bank of the south fork of the Cheyenne River, concerning the practicability of which I remark that both deputies are excellent transitmen—one of them established the one hundred and third meridian—and a transit prolongation by either (if the establishment

may be accepted as in correct position) will be free from the errors incident to computations from surveys which are admittedly somewhat discordant; and that the advantage of this method, if any, may be obtained, I have embodied it in the special instructions, duplicate of which is herewith inclosed, and I respectfully await your modification of that instruction as written, if you deem best.

Very respectfully,

B. H. SULLIVAN,
Surveyor-General.

Hon. T. H. CARTER,
Commissioner General Land Office, Washington, D. C.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., May 31, 1892.

SIR: I am in receipt of your letter of May 18, 1892, transmitting contract and bond No. 85 (in duplicate), dated April 9, 1892, awarded to Edwin H. Van Antwerp and Charles H. Bates, U. S. deputy surveyors, for the survey of the exterior and subdivisinal lines of designated townships situated in Fall River and Custer counties, S. Dak., and for the establishment of the west boundary of the Pine Ridge Indian Reservation; liability \$6,000, payable from the apportionment made to South Dakota of the appropriation made for public surveys for the fiscal year. Special instructions to the contracting deputies, with diagram, are inclosed in your letter, as also a letter dated, Custer City, S. Dak., March 25, 1892, signed by the county auditor of Custer County, requesting the survey of certain townships. With your letter of May 19, 1892, you inclose a letter, dated Rapid City, S. Dak., signed by the county auditor of Pennington County, requesting the survey of township 1 north, range 10 east, Black Hills meridian.

You inclose said letters from the county auditors as indicating, in view of existing settlements, the necessity for the survey of the township therein named, and state that oral information received assures you as to the existence of settlements in almost all of the unsurveyed townships in Fall River County.

You have also included in said contract townships contiguous to those settled upon, under authority of letter E, of April 20, 1891. In addition to the described papers you have been requested by the State officers to expedite the surveys contracted for, to the end that the State may make selections of lands before the same are denuded of timber, for which certain portions are chiefly valuable.

In reply, you are advised that the forms of said contract and bond, as submitted, are found to have been duly and legally executed. The special instructions issued to the deputies are satisfactory.

While the letters from the county auditors making official requests for surveys in the several townships are accepted, it should be borne in mind that applications or petitions for surveys should emanate from *the settlers on the lands*. The fact, as stated by you, that the State desires to select lands in the townships named in the contract warrants me in waiving the non-compliance with existing regulations governing public surveys. It is suggested, however, that the State officials should express in writing their desire for the surveys in question, as the communications from said officers, referred to by you, as submitted with

your letter of May 16, 1891, make no reference to Fall River and Custer counties, S. Dak.

For reasons stated I have this day approved contract and bond No. 85 (in duplicate), awarded to Edwin H. Van Antwerp and Charles H. Bates, for the surveys therein provided for.

Very respectfully,

W. M. STONE,
Acting Commissioner.

The U. S. SURVEYOR-GENERAL,
Huron, S. Dak.

[Telegram.]

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., May 31, 1892.

SURVEYOR-GENERAL,
Huron, South Dak.:

Contract No. 85, with Van Antwerp and Bates, approved.

W. M. STONE,
Acting Commissioner.

YANKTON, S. DAK., *December 10, 1893.*

SIR: In official letter dated September 4, 1893, we are notified that our account for surveying the public lands and the "west linear boundary of the Pine Ridge Indian Reservation," under contract No. 85, dated April 9, 1892, amounting to \$4,887.95 as adjusted per General Land Office report, No. 57422, had been reduced \$461.21 by you for the reason as stated in said letter:

The amount disallowed by this office is the difference between the amount charged in the account and allowed by the General Land Office for the survey of 41 miles, 74 chains, and 23 links of Indian reservation boundary line at \$20 per mile, as provided by the contract, and the amount allowed by the Comptroller for the survey of said line at \$9 per mile, as fixed by law.

Again, in a communication from the First Comptroller's office, dated September 2, 1893:

The survey of this portion of the Indian reservation was rendered necessary in order to close thereon the public surveys in several townships situated in Fall River and Custer counties, as provided for in said contract, and therefore was not a survey of the Indian reservation, but was a mere incident to the survey of public lands.

We wish to say that we entered into this contract in good faith, and had every reason to believe that the Government did the same. From our best information we recognized the line in dispute as a bona fide Indian reservation boundary; it was so stated in the contract, and reference made therein to the statute and section which created it. The character of the work required on the line is entirely different from any required on the public-land surveys. The line was required to be extended astronomically. The mounds, pits, posts, and stones are far in excess of any required on the public-land surveys, thereby requiring a far more expensive outfit to execute the work. (*See Special instructions herewith.*)

Another item of importance in connection with this work, and expense to us, was the projection of a blank line from the terminal monument of the meridian of 193° west of Greenwich, on the North Fork of the Cheyenne River, to obtain an initial point for said

boundary. This required the labor and expense of projecting a blank line astronomically, and with as much care and precision as the permanent line, for about 55 miles across the high rolling country and bad lands east of the Black Hills. This fact was considered at the time the price was fixed by the surveyor-general, and submitted to the honorable Commissioner of the General Land Office for approval.

Calculating the whole line over which careful astronomical and instrumental work was required to be done, would make the compensation therefor under the contract price at less than \$9 per mile, and at the price allowed by you at less than \$4 per mile. Certainly this would be a great loss to us.

In the summer of 1890 C. H. Bates surveyed the meridian of 103° west from Greenwich from the South Fork of the Cannon Ball River to the North Fork of the Cheyenne River, for which he received \$30 per mile. (Contract No. 24, approved March 8, 1888.) This work required but about 40 miles of blank line to 129½ miles of mounded line. Again the same season he surveyed the meridian of 102° west from Greenwich, from the South Fork of the Cannon Ball River to the Cheyenne River, for which he received \$16 per mile. (Contract No. 57, approved May 10, 1890.) This work required about 20 miles of blank line to about 106 miles of mounded line.

This line was in all respects, so far as we can learn, a similar case to the one now in question. It was run under similar circumstances, and embraced in a contract for surveying the public lands and requiring similar work in the surveying and perpetuating as the line under contract No. 85.

We are informed by the surveyor-general of North Dakota that under contract No. 12, dated April 5, 1892, that Beardsley and Dike received \$30 per mile for surveying the north boundary of the Fort Berthold Indian Reservation; as near as we can learn a parallel case to the one under our contract No. 85.

The above statements are most respectfully submitted for your consideration.

In justice to ourselves, and in conformity to the wording of the contract, we pray for a reconsideration of your decision in the matter, and we be paid in full as adjusted by the General Land Office.

Very respectfully,

EDWIN H. VAN ANTWERP,
CHARLES H. BATES,
U. S. Deputy Surveyors.

The FIRST COMPTROLLER OF THE U. S. TREASURY,
Washington, D. C.

Special instructions—Contract No. 85.

U. S. SURVEYOR-GENERAL'S OFFICE,
Huron, S. Dak., April 9, 1891.

EDWIN H. VAN ANTWERP,
CHARLES H. BATES,
U. S. Deputy Surveyors, Yankton, S. Dak. :

SIRS: In addition to the printed instructions issued to all deputies having contracts with this office, the following special instructions are issued for your guidance in executing the surveys under your joint contract No. 85 of even date.

WEST LINEAR BOUNDARY OF PINE RIDGE INDIAN RESERVATION.

This boundary is that portion of the meridian of 103° west from Greenwich between the South Fork of the Cheyenne River and the north boundary of the State of Nebraska. Said meridian has been established north of and closed on the Belle

Fourche River in township 5 north, of range 9 east (Black Hills, Montana). From this point you will project the said meridian as a blank line on a due south course to the most southerly intersection with the right bank of the South Fork of the Cheyenne River where you will erect an initial monument on ground not subject to overflow (distance to river to be stated). From this initial monument the line will be continued on a due south course with half mile and mile points at each 40 and 80 chains until you arrive at the north boundary of the State of Nebraska, where a terminal monument will be erected. Both the blank line and the established line will be run by transit; and to secure from errors due to defective collimation, each advance point will be determined as the mean of two pair of pointings in reverse positions of the instrument. You will start the blank line from a series of carefully conducted observations on polaris for meridian, and similar observations will be taken each day when possible. Should polaris observations be not available, other celestial observations possible in the daytime should be resorted to. Observations will be fully recorded, as usual. The line will be double chained in all respects as provided for standard lines.

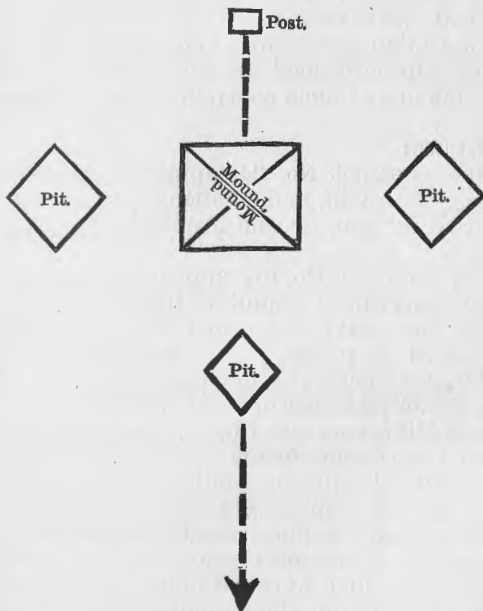
The initial point will be marked by a large and conspicuous square monument of durable material, with its faces directly to the cardinal points and inscribed:

I. M. L. 103° on N. face.

P. R. I. R. (for Pine Ridge Indian Reservation) on E. face, and P. L. (for public lands) on W. face.

Alongside of the monument will be deposited durable memorials and a glass vial of convenient size, securely corked, containing a strip of cardboard marked: "Initial Monument, longitude 103° west from Greenwich, west boundary of Pine Ridge Indian Reservation, 1892."

The memorials and vial will be 1 foot in ground. The monument will be deeply and securely set. On line 8 links south of point will be erected a pyramidal mound not less than 6 feet base and 3 feet high, with 3 pits at least 1 foot deep, of form and size sufficient to supply the necessary earth and properly sod the mound, all arranged as in marginal sketch. If wood is used for the corner monument it will square at least 6 inches on the upper portion, will project 2 feet above ground and 3 feet below the surface, and be charred between wind and soil; if of stone, the shaft must be of regular form, squaring not less than 6 inches at top, projecting $1\frac{1}{2}$ feet above ground and $2\frac{1}{2}$ feet below the surface.



The terminal monument will be established substantially after the form prescribed for the initial monument, except that the mound and 1 pit will be north of the corner point and the 2 other pits east and west of the corner point. The monument will be marked on the north face "T. M." (for Terminal Monument) with the

correct distance in miles, chains, and links from the initial monument; on the east face "P. R. I. R." (for Pine Ridge Indian Reservation), and P. L. on west face. The cardboard in the vial will be marked: "Terminal Monument, Pine Ridge Indian Reservation, longitude 103° W. from Greenwich, 1892," with distance from initial point.

The mile points will be marked by post or stone at mile points, upon which will be inscribed: On the north face with the number of the mile as "1 M.," etc.; on the east face with the letters "P. R. I. R.," and on the west face with the letters "P. L."

Eight links south of the mile points will be erected a pyramidal mound not less than 5 foot base, 2½ feet high, with 3 pits, all arranged as shown and above prescribed for the initial monument. Memorials will be deposited 12 inches in the ground.

The half-mile points will be established similarly, except that the mound will be not less than 4 foot base and 2 feet high.

If posts are used for the mile point they will square not less than 4 inches, be 4 feet long, and set 2½ feet in the ground; stone is preferable to wood if it can be had of suitable size and form to receive all the markings; length must not be less than 27 inches, two-thirds of which should be firmly set in ground. Post and stone for one-half mile points may be slightly less. When stone can be had for mounds it will be used jointly with the earth; the pits in these cases will be not less than 24-inch sides.

Your notes for this boundary will be under affidavits separate from your other surveys.



The FIRST COMPTROLLER:

SIR: I have examined the statement and appeal of Van Antwerp and Bates from your decision of September 2, 1893, "In the matter of the account of Van Antwerp and Bates, deputy U. S. surveyors, South Dakota," and I find that the cases therein cited are not analogous and afford no basis of comparison as precedents for the allowance and payment of the rates disallowed by you, as none of the contracts mentioned, wherein it is claimed that extreme rates not provided by law were allowed for the survey of Indian reservation boundary lines were made under and payable from appropriations for surveying the public lands, and accounts under but one of such contracts were adjusted by the First Comptroller.

The cases cited are:

(1) C. H. Bates, contract No. 24, approved March 8, 1888, under appropriation for "surveying and allotting Indian reservations, 1888." Accounts adjusted by the Second Auditor and the Second Comptroller.

(2) C. H. Bates, contract No. 57, approved May 10, 1890, for the survey of Indian reservation boundary line, under the appropriation of \$100,000, "for the survey of ceded Sioux Indian lands," act of March 2, 1889 (25 Stat., p. 898, § 25). Adjusted August 7, 1891, by First Comptroller, per General Land Office Report No. 54163. Allowed at \$20 per mile, \$45.62; \$16 per mile, \$1,659.02.

(3) Beardsley & Dike, contract No. 12, dated April 5, 1892, for the survey of Indian reservation boundary line under the appropriation for "surveying and allotting for Indians at Fort Berthold Reservation," deficiency act of March 8, 1892 (27 Stat., p. 6). Accounts adjusted by Second Auditor and Second Comptroller.

Thus it appears that two of these contracts were under regular Indian appropriations which were not under the jurisdiction or control of the First Comptroller, and the accounts under them did not come before this office.

The account under contract No. 57 was adjusted and allowed in this office under Comptroller Matthews, but it differs from the account decided by you in that contract No. 57 was made under and payable

from a special appropriation, and not from the one for surveying the public lands as in the case in issue. That account was examined and adjusted by Mr. Sargent, and I am not aware that I ever saw or heard of it until now. I feel sure that it was not brought to the attention of Comptroller Matthews, and that he never passed upon the question of the allowance of the special rate therein, as authorized by contract No. 57.

Personally, I am of the opinion that the payment of rates in excess of those provided by law was not authorized under the special appropriation "for the survey of ceded Sioux Indian lands."

Respectfully submitted.

JAS. H. DAY.

TREASURY DEPARTMENT,
OFFICE OF THE FIRST COMPTROLLER,
Washington, D. C., September 4, 1893.

GENTLEMEN: Your account for surveying the public lands, 1892, under contract No. 85, of April 9, 1892, has been adjusted per General Land Office report No. 57422 and a balance found due from the United States thereon by the Comptroller of \$4,426.74. Disallowed by the Comptroller, \$461.21; allowed on the account by General Land Office, \$4,887.95.

The amount disallowed by this office is the difference between the amount charged in the account and allowed by the General Land Office for the survey of 41 miles 74 chains and 23 links of Indian reservation boundary line at \$20 per mile, as provided by the contract, and the amount allowed by the Comptroller for the survey of said line at \$9 per mile, as fixed by law.

Inclosed herewith I transmit a copy of the Comptroller's decision in this case.

Respectfully, yours,

R. B. BOWLER,
First Comptroller.

By J. R. GARRISON,
Deputy Comptroller.

E. H. VAN ANTWERP and C. H. BATES, Esqs.,
U. S. Deputy Surveyors.
(Care of Surveyor-General, Huron, S. Dak.)

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., September 2, 1893.

In the matter of the account of Van Antwerp and Bates, deputy U. S. surveyors, South Dakota.

In General Land Office report No. 57422, in favor of Van Antwerp and Bates, U. S. surveyors in South Dakota, for surveying public lands in 1892, there was allowed by the Commissioner of the General Land Office \$838.56 for the survey of some 42 miles of the "west linear boundary of the Pine Ridge Indian Reservation, as defined in 25 U. S. Statutes, 888 (sec. 1), the same being on the meridian of 103° west from Greenwich," at \$20 per mile, as provided in the contract.

The survey of this portion of the Indian reservation was rendered necessary in order to close thereon the public surveys in several townships situated in Fall River and Custer counties, as provided for in said contract, and therefore was not a survey of the Indian reservation, but was a mere incident to the survey of public lands. The expense, therefore, could not be charged to the appropriation for surveying

Indian reservations, and was properly chargeable to the appropriation for surveying public lands.

It is claimed by the General Land Office that because the appropriation for surveying public lands contains the words "and other surveys shall be confined to lands adapted to agriculture *and lines of reservation*," and because there is no limit placed upon the amounts allowed for surveying Indian reservations when chargeable to the appropriation for that object, the rate of \$20 per mile can be paid in this case out of the appropriation for the survey of public lands. The Comptroller can not agree with that opinion of the General Land Office. Limitations upon the rates to be allowed are made by the act making the appropriation. Section 2400 of the Revised Statutes provides: "The Commissioner of the General Land Office has power, and it shall be his duty, to fix the prices per mile for public surveys, *which shall in no case exceed the maximum established by law.*"

It was held by Secretary Lamar in the case of Baker (4 L. D., 453) that "the maximum rates are established by acts making annual appropriations for that purpose," and that they can not be exceeded. It was also held by Secretary Vilas in the McDonogh case (8 L. D., 254) that the rates provided for in the appropriation act could not be exceeded in the case of the survey of a private land claim, which is considered to be a reservation, and therefore as coming within the letter of the appropriation act, which authorized the survey of "lines of reservations."

Secretary Noble, in a letter to the Commissioner of the General Land Office, dated November 19, 1892, in regard to the claim of Charles Tappan, U. S. deputy surveyor in Montana, says: "I do not know of any law that will allow this amount of compensation for the survey of the limited number of miles embraced in the survey of said tract. The rates per mile are fixed by law, and can not be exceeded." In that case a lump sum had been contracted for, which was greater than the aggregate sum at the rates stated in the appropriation act.

I deem these decisions of the Secretaries of the Interior conclusive as to the view taken of this question by the Interior Department, and do not see how it could be decided otherwise.

As the "lines of reservation" surveyed coincide with standard or meridian lines, the amount of \$9 per mile, being the rate fixed in the appropriation act for such lines, will be allowed in this case, and no more.

R. B. BOWLER,
Comptroller.

