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THE KLAMATH RIVER INDIAN RESERVATION.

MAY 7, 1880.—Recommended to the Committee on Indian Affairs and ordered to be printed.

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

REPORT:

[To accompany bill H. R. 3454.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 3454) for the restoration of the Klamath River Indian Reservation, in the State of California, to the public domain, having had the same under consideration, respectfully submit the following report:

It is in evidence that the reservation in question was set apart for Indian purposes by executive order of November 16, 1855, in pursuance of the act of March 3, 1855, relating to the Indians of California, and included the lands embraced in a strip one mile wide on both sides of the river for a distance of twenty miles from its mouth.

The formation of this reservation was exceedingly wrong and unjust to the public interests, as it rendered all the lands lying outside, opposite, and adjoining the same comparatively valueless, as the water front on both banks was within the reservation, and the evidence discloses the fact that these adjoining lands are very valuable for the timber growing upon them, and likewise for grazing and agricultural purposes.

It is also in evidence that this reservation was occupied, in accordance with the executive order, until the year 1861, when a great freshet occurred, which washed away all the houses and improvements which had been erected thereon. Early in the following year (1862) the Indians were removed by official direction temporarily to "Smith's River," and soon thereafter to the Hoopah Reservation on Trinity River, where they were permanently located, and an agency established for their benefit.

After this destruction of the Indian settlements and public property by the freshet of 1861, which was undoubtedly the primary cause of the removal of the Indians from the Klamath River Reservation to that of the Hoopah Valley on the Trinity River, it was generally understood and believed that the government had abandoned all claim to the lands embraced within this reservation. As a result of such belief and understanding, citizens of the United States seeking homes in this portion of the State of California entered upon, occupied, and improved certain portions of these lands, many of whom expended large sums of money, and still greater values in labor, in the development and improvement of the lands in question, and the erection of their homes. To dispel any doubts that might have been entertained as to the rights of settlers on this abandoned reservation, in the year 1874 the Hon. J. K. Luttrell applied to the Department of the Interior for information as to whether the Klamath

River Reservation was still held *as such* by the government, and in response received the following letter, to wit :

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., February 27, 1874.

SIR: In response to your verbal inquiry concerning the Klamath Indian Reservation in California, I will state that the reservation in question, being described as a strip of country commencing at the coast of the Pacific Ocean and extending one mile in width on each side of the Klamath River, and up the same twenty miles, was approved by the President on the 16th of November, 1855, as one of the two reservations for Indians in California authorized by a clause in the Indian appropriation act of March 3, 1855 (Stat. L., vol. 10, p. 699). In the year 1861 nearly all of the arable land was destroyed by a freshet, rendering the reservation almost worthless, in view of which a new reservation was established adjacent thereto by order of the Secretary of the Interior, dated May 3, 1862. This reservation was known as the Smith River Reservation, and was discontinued by a clause in the Indian appropriation act approved July 27, 1868 (Stat. L., vol. 15, p. 22). The Klamath Reservation has not been used for any public purposes since the freshet referred to, and the department *has no claim upon it.*

Very respectfully, your obedient servant,

EDWARD SHUTER,
Commissioner.

Hon. J. K. LUTTRELL,
House of Representatives.

This official communication, proceeding from an authorized agent of the government, was, of course, relied upon as an official declaration that the government had relinquished and abandoned all claim to the lands of the said reservation which had been conferred upon it by the act of March 3, 1855. This official letter was confirmatory of what had been for years the understanding and belief of every one conversant with the facts in the case.

After the publication of this official declaration on the part of the government, through the agent authorized by law to give expression to such determination and decision on its part, settlers on the abandoned reservation rested in security. As natural to such an event, possessed with the idea that the title to their homes and the results of their labor would remain undisturbed, a fresh impetus was given to the improvement of farms, building of houses, establishment of fisheries, erection of mills, and many other processes of development incident to the settlement of a new country. In the progress of this development the wants of the settlers called for mail facilities, and a post-office was established at the mouth of the Klamath River. The establishment of this office was another recognition on the part of the agents of the government of the permanency of the white settlers on this abandoned reservation. As a further mark of the belief of these settlers that their homes and property would be reserved to them, they erected bridges and established ferries to promote intercourse between the settlements on both sides of the river.

In the midst of this progress of white civilization on an abandoned reservation, in the year 1877, for some cause which is not apparent at this time, the government chose to reassert its rights to this reservation. It appears that some Indians, probably those belonging to the Hoopah Reservation, had found their way back to the Klamath River, and were living, as Indians in that section of country do, on fish, supplemented with what they could beg from the whites, and when this source failed would perform such labor for the settlers as would procure the means of sustaining life.

From the testimony of eminent citizens of that vicinity, who are well

informed as to the facts of which they speak, and whose veracity is unquestioned, it is established that the whites and Indians were living in a state of peace, and also in a state of mutual dependency and communion with each other, so far as labor and food were concerned, inasmuch as the Indians depended more or less upon the whites for subsistence, and the whites in turn employed the Indians to perform such labor as they were capable of performing.

It is in evidence that some time in the spring or early part of 1877 Lieut. James Halloran made a scout to the mouth of the Klamath River, and reported a condition of affairs likely to lead to hostilities between the whites and Indians if the cause of disagreement was not speedily removed. The inciting cause is not stated, but regarding the declaration of reliable and trustworthy citizens as correct, that the whites and Indians were living in peace, and that the Indians did not desire the whites to leave, it is difficult to surmise what the "conflicting interests" were, or what the cause of dissatisfaction. There were neither agent nor superintendent at the Klamath River Reservation, and it is hinted that liquor was being sold to the Indians, but there were laws in force under which those who sold these Indians intoxicating liquors could have been punished. There is no spirit of justice or equity in a rule that would make a whole community suffer for the misdeeds of a few of its members, and that punishment so great as to sweep from them their homes and property, the result of long years of industry, sobriety, and the expenditure of large sums of money in the development of the resources of the country.

This report of Lieutenant Halloran was, through the War Department, laid before the Secretary of the Interior, and, in turn, he called upon the Secretary of War to cause the settlers to be removed from the Klamath Reservation.

Acting upon an order from the War Department, General Irwin McDowell, on the 19th day of October, 1877, ordered Captain Parker to notify the settlers on this reservation to leave immediately, and this order he executed by notifying fourteen persons to leave with their property, four of which number were admitted to be without the limits of the reservation.

These settlers earnestly protested against being forced to leave at the time of year when the rainy season was upon them. Subsequently the order was modified, allowing them six months in which to abandon their homes. These settlers protested that they had lived there many years in the belief that they were on the public lands, and that such belief was strengthened by the universal impression that such was the fact, and that the government had relinquished its claim, as evidenced by the letter above quoted of the Commissioner of Indian Affairs addressed to the Hon. J. K. Luttrell, Representative from California. Under this order, however, a portion of the settlers were removed or driven off, and at the time of their removal it is in evidence before the committee that there were not to exceed 115 Indians occupying this reservation. Unimpeachable testimony of a sworn character has been submitted establishing this fact. M. G. Tucker, who has lived in that vicinity for many years, acting as an interpreter, states under oath that there are not to exceed 95 Indians in all now upon the reservation, to wit, 29 bucks, 50 squaws, and 16 children.

Joseph Ewing, equally well informed, states that there may be 115 in all, to wit, 30 bucks, 70 squaws, and 15 children.

Judge J. P. Haynes, judge of the superior court, places the number at 125 in all.

Both of the affiants, Tucker and Ewing, state that these Indians are

of different tribes, families, or bands, and that they are continually at war with each other; that homicides and murder are of common occurrence. The restraining influence of the white settlers, in the absence of United States troops and government authority, is needed to preserve peace in the community.

It has been shown that these Indians have made no advancement in the arts of civilized life, there being not more than five acres of land under cultivation by them in the entire reservation, and that amount is contained in small parcels around their huts.

Should this committee admit the power of the President to establish permanent reserves by executive order, there should be a protest entered against the manner in which that power was exercised in establishing the Klamath River Reservation. A reserve containing but *forty* square miles of territory, covering *forty* miles of water front, extending but one mile back from the river's banks, is, to say the least, preposterous. This reservation might just as well extend ten or twenty miles back from the water, on each side of the river, as *one mile*, inasmuch as no one can or will settle upon these lands outside of the reserve for its entire length, as they would be cut off entirely from the river, which is their only and natural highway. The injustice which has been arbitrarily inflicted upon the settlers of this vicinity is at once apparent. To permit a few Indians (less than 100 in number) to hold 40 sections of land, and thereby control over 400 sections, is an injustice, if not an outrage, that should not for a moment be tolerated. It is clearly established from the evidence submitted that from the year 1862 up to the year 1877 the reservation in question was abandoned by the government, and that the Indians were, in 1862, removed to the Hoopah Valley Reservation, and permanently located there, where an agency was established and still exists. Hence it appears that these Indians now on the Klamath River Reservation are not where they ought to be; that by and under the laws and regulations governing the settlement of Indian tribes on reservations especially set apart for them, they should now be on the reservation set apart for them, which is the Hoopah Reservation on the Trinity River, in the State of California, a reserve sufficiently large, as appears from the evidence, to accommodate ten times the number of Indians now upon it.

It is clear that the government exercised no control over the Klamath Reservation for a period of sixteen years; that settlers went upon the lands in good faith, believing the government had abandoned the reserve; that in 1874 the Commissioner of Indian Affairs declared officially that "The Klamath Reservation has not been used for any public purpose since the freshet referred to, and the department has no claim upon it." These facts are to be considered in determining the relative rights of each race of settlers. While the committee would not do an injustice to the Indian, they are at the same time unwilling to permit an outrage to be inflicted upon the white settlers who entered upon these lands in good faith, and under the sanction of the government have made valuable improvements thereupon. These white settlers are, in the opinion of the committee, as much entitled to the protection of the government as other good citizens who by the power of the government are protected from an invasion of their rights and the destruction of their homes and property. If it be held, however, that the Indians have an original title to these lands, and that the one hundred of their race now living thereon would be wronged by the passage of this bill, it may be asserted in behalf of the measure that the relations now existing between these Indians and the white settlers are of such a reciprocal character as to warrant the conclusion that the removal of the white settlers

would be an injury to the Indians remaining upon the reservation, as the Indians in return for their labor depend upon the whites for their food and clothing, and the evidence discloses that from long usage this character of food and raiment has become essential to their existence.

There are other and conclusive arguments to be urged in favor of restoring these lands to the public domain. By the singular construction of this reservation, as shown in this report, a large area of the public lands, embracing many thousands of acres of fertile lands, are practically withheld from settlement and improvement. The Klamath River is 300 miles in length, taking its source near the Oregon line. The stream is now navigable for 40 miles, and by a slight expense in the removal of rocks from the river bed would be navigable for 100 miles or more. The climate and the nature of the soil both combine to render the commercial values of this stream of great importance. It is asserted by competent authority that this section has no equal in California as a fruit and wine growing country. Along the entire length of the Klamath River, and especially within the reserve in question, and back of it, are large bodies of the best timber in use, including redwood, yellow and white pine, and cedar. The natural highway to these immense values is the Klamath River, none of which can be appropriated to the uses and arts of civilization so long as the reservation remains as such, as private enterprise and capital is debarred from entering upon the developments and labor required to perfect their use. This river, whose length for twenty miles is locked by a despotic act on the part of the Government, is likewise the natural highway to an extensive mining country, which remains undeveloped and valueless for want of better communication. Private capital, always cautious, will not seek investment, no matter what results may be offered, in sections of the country where settlers have been driven from their homes by the strong arm of the military.

It is the opinion of the committee, after careful investigation, that the Government can have no use for these lands as an Indian reservation. The Hoopah Reservation, to which the Indians were removed and settled upon after the freshet in 1862, is located but 15 miles from the abandoned Klamath Reservation, and is capable of sustaining many thousands more of Indians than are now located upon it. Why, then, should these lands in question be kept from settlement and improvement by white citizens who are eager to expend their labor and means in the development of their resources?

If there be no use for this abandoned reserve for the purposes originally intended, the committee can see no valid reason why it should not be restored to the public domain, and again made free for the access of labor and capital of white settlers seeking homes and fields for their energy and enterprise. Entertaining this view, after an impartial and careful consideration of all the evidence submitted, they are constrained to report in favor of the measure, and they therefore return the bill to the House, with the recommendation that it pass.