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Message from the President of the United States, transmitting a communication from the Secretary of the Interior of the 23d instant, with accompanying papers, in response to Senate resolution of the 30th ultimo, calling for certain information in relation to the Malheur Indian Reservation in the State of Oregon

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Recommended Citation

S. Exec. Doc. No. 121, 47th Cong., 1st Sess. (1882)

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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A communication from the Secretary of the Interior of the 23d instant, with accompanying papers, in response to Senate resolution of the 30th ultimo, calling for certain information in relation to the Malheur Indian Reservation in the State of Oregon.

FEBRUARY 28, 1882.—Read and referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate of the United States :

I transmit herewith a communication of the Secretary of the Interior of the 23d instant, with accompanying papers, furnished in obedience to a resolution of the Senate of the 30th ultimo, calling for certain information in relation to the Malheur Indian Reservation in the State of Oregon.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
February 28, 1882.

DEPARTMENT OF THE INTERIOR,
Washington, February 23, 1882.

SIR: I have the honor to acknowledge the receipt, by Executive reference of 1st instant, of a resolution of the Senate of the 30th ultimo, namely:

Resolved, That the President be requested, if in his opinion not incompatible with public interest, to inform the Senate what necessity, if any, exists for continuing in force the Executive orders of March 14, 1871, September 12, 1872, May 15, 1875, and January 28, 1876, establishing and continuing the Malheur Indian Reservation in the State of Oregon; whether said reservation is now occupied or used as an Indian reservation, and whether there be any treaty or agreement now existing or in force with any Indian tribe or tribes which requires the further withdrawal of the lands composing said reservation from settlement by the whites under the land laws of the United States.

In reply, your attention is respectfully invited to the inclosed copy of letter of the 16th instant from the Commissioner of Indian Affairs, to whom the resolution of the Senate was referred, which contains a full history of the creation and continuance of the reservation in question. (See map, also inclosed, noted in letter.)

The Commissioner concludes with the opinion that the lands should be disposed of for the benefit of the Indians for whom it was created, also that the objects for continuing in force the Executive orders are twofold:

First. That it may be appraised and sold for the benefit of the Indians for whose use it was set apart; and

Second. That the government property upon it—buildings, &c.—may be protected from destruction and theft until disposed of.

The views of the Commissioner have the concurrence of the department.

I have the honor to be, sir, very respectfully, your obedient servant,
S. J. KIRKWOOD,
Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 16, 1872.

The honorable the SECRETARY OF THE INTERIOR:

SIR: I have the honor to acknowledge the receipt, by your reference for report, of a resolution of the Senate of the United States of the 20th ultimo, as follows:

Resolved, That the President be requested, if in his opinion not incompatible with the public interest, to inform the Senate what necessity, if any, exists for continuing in force the Executive orders of March 14, 1871, September 12, 1872, May 15, 1875, and January 28, 1876, establishing and continuing the Malheur Indian Reservation in the State of Oregon; whether said reservation is now occupied or used as an Indian reservation, and whether there be any treaty or agreement now existing or in force with any Indian tribe or tribes which requires the further withdrawal of the lands comprising said reservation from settlement by the whites under the land laws of the United States."

In reply, I have the honor to submit a brief history of the origin and design, the subsequent uses and present status of the reservation referred to in said resolution.

In 1871, upon the recommendation of the department, at the request of the then superintendent of Indian Affairs of the Oregon superintendency, which request had the concurrence of this bureau, the President, by his order dated March 14, 1871, withdrew from the market as public lands for the period of 18 months (as recommended) all that country in the State of Oregon lying between the 42d and 44th parallels of north latitude, and the 117th and 120th degrees longitude west (except so much thereof as had been or might be granted for military or wagon-road purposes), with a view to selecting therefrom a suitable reservation for the consolidation and settlement thereon of all the Indians inhabiting the country within the limits of the State east of the Cascade range of mountains, excepting those who might select lands in severalty upon either of the other reservations in that section.

The main object, as disclosed by office records, seems to have been, in short, to provide a reservation upon which might be gathered all bands found roaming over eastern Oregon to the annoyance of white settlers.

Subsequently (in 1872), at the request of the department, the boundaries of the proposed reservation were defined in accordance with the recommendation of the then superintendent (Odeneal), concurred in by this bureau (Executive Order, September 12, 1872).

The reservation thus established was declared to be for the use of the Snake or Piute Indians.

It having been thereafter ascertained that the agency buildings and farms (also certain hot springs which the Indians had been in the habit of using, and which were needed for Indian purposes) belonging to the reservation, were outside of the boundaries thus defined, the President, upon the recommendation of the department, and this bureau as well, extended the reservation on the northeast so as to include the same. (Executive Order, May 15, 1875).

In 1876, upon the further recommendation of this office, concurred in by the department, which recommendation was based upon the recommendation of the surveyor who made the survey of the boundaries and subdivisions of a portion of the reserve as last defined, and of Hon. Jas. K. Kelly of the United States Senate, who presented a petition of settlers claiming improvements within the Executive addition referred to, the President, by his order of January 28, 1876, restored to the public domain the greater portion of the tract added by the previous order of May 15, 1875.

Having stated the origin and design of the reservation in question, I will now state as briefly as possible the use to which it has been put since its establishment.

The agency was established in 1873, and in the following year the lands within easy reach were surveyed into forty acre tracts. Prior to this time the Indians, for whose use the reservation was intended, were under the control of no agent, and were living in the mountains, depending on fishing, hunting, and stock stealing, for their subsistence. In the summer of 1874, the number of Indians receiving rations at the agency reached as high as 521, and during the following winter over 700 were fed and clothed there. A few engaged in agricultural pursuits and assisted the agent in the cultivation of the agency farm. Beside this, the Indians dug and put into successful operation an irrigating-ditch capable of supplying water for mill and shop purposes, and for the irrigation of a very considerable quantity of agricultural land. They entered into the work with commendable zeal, and gave promise of rapid advancement in the paths of civilization.

In 1876, according to the report of their agent, 1,521 days' work were accredited to the Indians, while in 1877 (up to August 14), 2,617 days were so accredited.

In 1878, for the purpose of aiding the bands on this reserve, and other roving Indians in Southeastern Oregon, Congress appropriated the sum of \$10,000, and each year since an appropriation of \$5,000 has been made for the same object. Under the direction of this office Agent Rinehart, then in charge of the Malheur Agency, assisted by a special agent appointed for the purpose in 1878, attempted to gather the roving bands together at Malheur, but they only succeeded in removing about 130, consisting mainly of Weiser's band, who had never before been upon a reservation with a view of remaining.

Upon the outbreak of the Bannock war in June, 1878, all of the Indians then belonging to the agency (600) left the reservation. At the close of said war those who had taken part in the hostilities, together with 100 other Indians who belonged at Malheur, were removed with their women and children to the Yakama Agency. There then remained about 230 Indians under Chiefs Ochoho, Winnemucca, and Weiser, who properly belonged at Malheur.

In the winter of 1879-'80 a self-constituted delegation, consisting of the Chief Winnemucca and others of his band, visited this city, and while here made an agreement to remove to Malheur and receive allotments of 160 acres to each head of a family and each adult male; they were to cultivate the lands so allotted, and, as soon as the law would enable it, patents therefor in fee-simple were to be issued to each allottee. In pursuance of said agreement supplies were forwarded to the agency for their subsistence, and the agent was directed to take the necessary steps to gather the Indians there. This he was, however, unable to do, and the Indians remain in the vicinity of Camps McDermit and Bidwell, and the town of Winnemucca, supporting themselves mainly by cultivating lands and laboring among the whites. No coercive measures have been used, and inasmuch as they are peaceable and industrious they have not been disturbed, but have been left to engage in civilized pursuits among the whites, and thereby acquire habits of industry by which they will be enabled to support themselves. Those who were removed to the Yakama are reported as being contented and industrious, manifesting great interest in the plans being pursued for their welfare, while their children are making rapid progress in school.

The Malheur Agency was in the possession of the military during the summer of 1878, but there have been no Indians there since their sudden departure at the outbreak of the Bannock war.

Under date of December 23, 1880, the department, by direction of the President, discontinued the agency. A part of the public property has been removed to the Yakama Reservation in Washington Territory, that remaining being in charge of a person appointed by the department as "farmer in charge."

The present status of the reservation may be stated as follows:

The orders establishing it remain in force, and although it is not occupied by Indians or used as an Indian reservation, it still exists as an Indian reservation.

The objects for continuing in force the Executive orders under which it was created are twofold:

- 1st. That it may be appraised and sold for the benefit of the Indians for whose use and benefit it was set apart; and,
- 2d. That the government property, buildings, &c., may be protected from theft or destruction.

Effort has been made from time to time to have the lands in question restored to the public domain, but this office has maintained that they should be sold for the benefit of the Indians.

A memorial from the legislative assembly of the State of Oregon, praying for the restoration of these lands to the public domain, referred to this office in February of last year by the chairman of the Senate Committee on Indian Affairs, met with the disapproval of this office. In returning the same it was stated substantially, that, in the opinion of this office, the best interests of the service in Southern Oregon require

a discontinuance of the agency and the appraisal and sale of the lands included in the reserve, the proceeds of the sale to be invested for the benefit of the Indians, and that for that reason "the prayer of the memorialists for the opening of the same to *pre-emption settlement* and sale, does not meet with the favor of this bureau."

The reservation was not established by treaty as has been seen, nor does it appear that it was established in fulfillment of any treaty stipulation or agreement with any tribe or tribes of Indians; nevertheless, in view of the fact that it was set apart for the use and benefit of certain Indians, many of whom have never been induced to occupy it owing to prejudices against the lands in respect of locality and certain tribal jealousies known to exist, it has been the aim of this bureau to make such disposition of the reservation as will enable the department to materially assist the Indians in establishing themselves upon other reservations or lands elsewhere in agricultural pursuits.

The reservation is situated in Eastern Oregon, and contains 2,779 square miles, or 1,778,560 acres, of which it is estimated that 12,000 acres are tillable.

The Willamette Valley and Cascade Mountain military road, authorized by act of Congress approved July 5, 1866 (14 Stat., 89), passes through the reservation. The Executive order of September 12, 1872, which defines the original boundaries thereof, excepts out of the said boundaries lands that "may have been granted for military or wagon-road purposes."

I am informally advised by the General Land Office that about 107,800 acres of land have been sold and patented under the grant (all outside the reservation), but that the further patenting of lands on selections that have been made, amounting to some 446,000 acres, is in *obeyance*.

That part lying within the reservation will, of course, be subject to whatever decision is had in the matter.

The Fort Harney military reservation was established within the boundaries of the Malheur by Executive order of December 5, 1872. It has, however, been abandoned for military purposes; and, consequently, the President, by his order of July 23, 1880, canceled the order of December 5, 1872, above mentioned, and directed that the lands embraced therein be made subject to the Executive order of September 12, 1872, establishing the boundaries of the Indian reservation.

How far the status of the Malheur Reservation may be affected by the cancellation of the order as above, and the doing away with the military reservation, cannot now be determined, for the reason that the lands embraced within the late military reservation appear to be within the six-mile limit of the grant to the aforesaid Willamette Valley and Cascade Mountain road, and until the necessary surveys and selections have been made under the grant, it cannot be said whether the Fort Harney lands will fall within the road company's selection or not.

The Executive order of January 28, 1876, establishing the boundaries as they now exist, as hereinbefore stated, excepts out of the said boundaries also such lands as may pass to the *Dalles military road* on the north.

A copy of the said Executive order is here given:

"EXECUTIVE MANSION,
"January 28, 1876.

"It is hereby ordered that the tract of country in Oregon lying within the following described boundaries, viz: Beginning at a point on the right bank of the Malheur River where the range line between ranges 38 and 39 east of the Willamette meridian intersects the same; thence north on said range line to a point due east of the summit of Castle Rock; thence due west to the summit of Castle Rock; thence in a north-westerly direction to Strawberry Butte; thence to Soda Spring on the Canyon City and Camp Harney road; thence down Silvies Creek to Malheur Lake; thence due east to the right bank of the South Fork of the Malheur River; thence down said right bank of the South Fork to the Malheur River; thence down the right bank of the Malheur River to the place of beginning, except such lands within these limits as have passed or may pass to the Dalles military road on the north, and the Willamette Valley and Cascade Mountain military road on the south, be, and the same is hereby, withdrawn from sale and set apart for the use and occupancy of the Pinte and Snake Indians, to be known as the Malheur Indian Reservation; and that portion of country set apart by Executive order of May 15, 1875, not embraced in the limits of the above described tract of country, is hereby restored to the public domain.

"U. S. GRANT."

I inclose herewith a map, upon which is shown the reservation as at present existing under above order.

A copy of this report is inclosed, and the resolution of the Senate returned.

Very respectfully, your obedient servant,

H. PRICE, *Commissioner*.