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**Abandoned military reservations. Letter from the Secretary of War, relative to the disposition of abandoned military reservations.**

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ABANDONED MILITARY RESERVATIONS.

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L E T T E R

FROM

T H E S E C R E T A R Y O F W A R ,

RELATIVE TO

*The disposition of abandoned military reservations.*

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FEBRUARY 7, 1881.—Referred to the Committee on Military Affairs.  
FEBRUARY 17, 1881.—Ordered to be printed, with the accompanying papers.

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WAR DEPARTMENT,  
*Washington City, February 7, 1881.*

SIR: Referring to my letter of the 4th instant, transmitting a list of useless military reservations, which was laid before the House and referred to your committee on the 5th instant, I beg to request that the letter and accompanying documents be printed. Such documents have as a rule been printed heretofore and are valuable for reference. This list was carefully prepared. It contains much valuable information, and took considerable time to prepare. It should, therefore, be printed for the use of this department.

Very respectfully, your obedient servant,

ALEX. RAMSEY,  
*Secretary of War.*

Hon. W. A. J. SPARKS,  
*Chairman Committee on Military Affairs,  
House of Representatives.*

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WAR DEPARTMENT,  
*Washington City, February 4, 1881.*

SIR: I have the honor to transmit herewith a list of military reservations reported as no longer needed for military purposes, and still in the custody of the War Department.

Special attention is invited to this list, which embraces twenty-four different military sites, twenty-two of which have heretofore been reported to Congress with request for authority to dispose of the same, as the act of June 12, 1858 (11 Stats., p. 336, ch. 156), provides that "said lands shall not be subject to sale or pre-emption under any of the laws of the United States."

The act of March 3, 1819 (3 Stats., p. 520, ch. 88), authorized the Secretary of War, under the direction of the President, to sell military sites which had become useless for military purposes, and the act of March 3, 1857 (11 Stats., p. 203, ch. 106), extended this authority to all military sites which are or may become useless. The act of June

12, 1858, above referred to, however, repealed all existing laws which authorized the sale of useless military sites (see abstract of laws on this subject hereto attached), and since then sites reported by the military authorities as no longer of any use for military purposes have been reported to Congress with request for special legislation. But from the time such a site is so reported until an act of Congress is passed authorizing its disposition, the department is of necessity compelled to provide for its care and preservation, and as several years generally elapse before such an act is passed, the care of such useless reservations is a considerable tax upon the reduced appropriations of the department.

The retention of such reservations is also objectionable on other grounds, as will be seen from the following extract from a letter of the Commissioner of the General Land Office, dated September 11, 1877, to the honorable Secretary of the Interior. He says: "Applications are frequently made to this office by persons who are settlers in good faith, for permission to enter lands which at some former period were reserved for military purposes by the President, or were occupied by the military authorities, but are not now used for military purposes.

"The law of June 12, 1858 (vol. 11, p. 336), forbids the sale or disposal of military sites, which are or may become useless for military purposes, except those in Florida.

"This prohibition of the sale of useless military reservations is believed by this office to be adverse to the public interests, inasmuch as it prevents the acquisition of title to lands which the government does not longer need to retain."

In view of the foregoing I have the honor to respectfully request that authority be granted during the present session of Congress to dispose of the reservations mentioned in the inclosed list, and that a general law be passed authorizing the Secretary of War to transfer such military sites as are or may hereafter become useless for military purposes, to the custody of the Secretary of the Interior, for disposition under the general land laws, or such other disposition as may be deemed for the best interests of the United States. The buildings, if any, on such sites to be disposed as the Secretary of War may determine, either by transfer in whole or in part to other posts where needed, by separate sale, or transfer to the Secretary of the Interior for sale with the land.

In this connection I would invite attention to my letters of the 23d of April, 1880, and January 6, 1881, reporting the necessity for the establishment in the office of the Secretary of War of a land-title division, which shall have charge of all matters pertaining to lands in the custody of the War Department. The necessity for such a division becomes more and more urgent every year, and I would earnestly request that action be taken during the present Congress which will authorize the establishment of such a division, and the necessary appropriation be made therefor.

In view of the importance of this subject, I beg to request that this letter and the accompanying documents be printed.

Very respectfully, your obedient servant,

ALEX. RAMSEY,  
Secretary of War.

The SPEAKER  
of the House of Representatives.

#### *Law in regard to sale of military sites.*

AN ACT authorizing the sale of certain military sites.

*Be it enacted, &c.,* That the Secretary of War be, and he is hereby, authorized, under the direction of the President of the United States, to cause to be sold such military sites, belonging to the United States, as may have been found or become useless for military purposes. And the Secretary of War is hereby authorized, on the payment of the consideration agreed for into the Treasury of the United States, to make, execute, and deliver all needful instruments, conveying and transferring the same in fee; and the jurisdiction which had been specially ceded for military purposes to the United States by a State, over such site or sites, shall thereafter cease.

Approved March 3, 1819.—(3 Stat., p. 520, ch. 88.)

Act April 28, 1828.

SECTION 1.—In all cases where lands have been or may hereafter be conveyed to, or for, the United States, for forts, arsenals, dock-yards, light-houses, or any like purpose, or in payment of debts due the United States, which shall not be used, or necessary for the purposes for which they were purchased, or other unauthorized purpose, it shall be lawful for the President of the United States to cause the same to be sold for the best price to be obtained, and to convey the same to the purchaser by grant or otherwise.—(4 Stat., p. 264.)

Act March 3, 1857, 11 Stat., p. 203, ch. 106.

SEC. 4. That the provisions of the act approved March 3, 1819, entitled "An act authorizing the sale of certain military sites," be, and they are hereby extended to all military sites, or to such parts thereof which are or may become useless for military purposes: *Provided, nevertheless*, That nothing in this act, nor in the act above mentioned, shall be so construed as to impair in anywise the right of the State within which any such site or reservation may be situated to impose taxes on the same, in like manner as upon other lands or property owned by individuals within the State after such sale.

Act June 12, 1858, 11 Stat., p. 336, ch. 156.

SEC. 6. That all the existing laws, or part of laws, which authorized the sale of military sites which are or may become useless for military purposes be, and the same are hereby repealed, and said lands shall not be subject to sale or pre-emption under any of the laws of the United States: *Provided, further*, That the provisions of the act of August 18, 1856,\* relative to certain reservations in the State of Florida, shall continue in force.

[Senate Ex. Doc. No. 158, Forty-sixth Congress, second session.]

*Letter from the Secretary of War, transmitting a report relative to the public lands, forts, arsenals, &c., in the custody of that department, and recommending the creating in his office a division designated as "Land Title Division," and provision made therefor.*

APRIL 26, 1880.—Laid on the table and ordered to be printed.

WAR DEPARTMENT,  
Washington City, April 23, 1880.

The Secretary of War has the honor to transmit to the United States Senate a copy of a report prepared in compliance with his instructions by the chief of the correspondence division of this department, relative to the subject of public lands, forts, arsenals, &c., in the custody of the War Department.

This report presents succinctly and with clearness the laws, decisions, and regulations governing the subject, and points to the inconvenience, delay, and error which, under the existing regulations, are liable to occur in the determining of questions that are constantly arising in regard to titles and other matters connected with these lands, forts, &c.

When it is considered that the lands occupied for military purposes, including forts, arsenals, armories, &c., and in the custody of the War Department, represent an estimated value of about \$200,000,000, it becomes clearly obvious that the public interests require that the transfer deeds and all other papers affecting the question of title, which are now scattered through several of the department bureau offices, should be collected, recorded, and filed, for safe and permanent preservation, in the office of the Secretary of War, and that there should be provided a system of record, exhibiting in detail all known facts connected with each piece or parcel of property, and of the action had by the department, from time to time, in relation thereto, in order that all questions, as they arise, may be promptly and intelligently determined.

The Secretary of War, in the absence of legislation, is unable to inaugurate the desired measures, and, viewing the subject as one involving considerations of great import, respectfully and urgently recommends that legislation be had during the present session of Congress, creating in his office a division to be designated and known as the "Land-Title Division," and that provision be made for employes therein as follows, viz

One chief of division, at an annual salary of.....	\$2,500
One assistant chief of division, at an annual salary of.....	2,000
One clerk of class four, at an annual salary of.....	1,800

\* Section 1, act August 18, 1856 (11 Stat., p. 87, ch. 129), provides "That all public lands heretofore reserved for military purposes in the State of Florida, which said lands, in the opinion of the Secretary of War, are no longer useful or desired for such purpose; or so much thereof as said Secretary may designate, shall be and are hereby placed under the control of the General Land Office, to be disposed of and sold in the same manner and under the same regulations as other public lands of the United States: *Provided*, That said lands shall not be so placed under the control of said General Land Office until said opinion of the Secretary of War, giving his consent, communicated to the Secretary of the Interior in writing, shall be filed and recorded."

One draughtsman, at an annual salary of .....	\$1,800
One clerk of class three, at an annual salary of.....	1,600
One clerk of class one, at an annual salary of.....	1,200
One assistant messenger, at an annual salary of.....	720

ALEX. RAMSEY,  
Secretary of War.

The PRESIDENT  
of the United States Senate.

WAR DEPARTMENT,  
Correspondence Division, April 19, 1880.

Mr. SECRETARY: In compliance with your instructions, I have the honor to report on the subject of the real estate in the custody of the War Department.

The law, decisions, and Army Regulations on this subject are, in part, as follows:

#### LAW AND DECISIONS.

"No land shall be purchased on account of the United States, except under a law authorizing such purchase." (*Revised Statutes, section 3736; also paragraph 1058, Army Regulations, edition of 1863.*)

"No public money shall be expended upon any site or land purchased by the United States for the purpose of erecting thereon any armory, arsenal, fort, fortification, navy-yard, custom-house, light-house, or other public building, of any kind whatever, until the written opinion of the Attorney-General shall be had in favor of the validity of the title, nor until the consent of the legislature of the State in which the land or site may be to such purchase has been given," &c. (*Revised Statutes, section 355; paragraph 1059, Army Regulations, 1863, almost identical.*)

"From an early period of the history of the government it has been the practice for the President to order, from time to time, as the exigencies of the public service required, parcels of land belonging to the United States to be reserved from sale and set apart for public uses, and the authority of the President is recognized in numerous acts of Congress. (*Grisar v. McDowell, 6 Wall., 381.*)

Reservations for forts, &c., in Oregon (including Washington and Idaho Territories), limited to 640 acres. (*Acts Sept. 27, 1850, section 14, 9 Statutes, 500; and Feb. 14, 1853, section 9, 10 Statutes, 159.*)

Once properly declared by the President, military reservations cannot be relinquished or otherwise disposed of without the sanction of Congress. (*Wilcox v. Jackson, 13 Peters, 513; 10 Opin., 365.*)

*Exception:* Military reservations in Florida set apart prior to August 18, 1856, when no longer required, can be relinquished by the Secretary of War to the Interior Department for disposition by the General Land Office. (*Act June 12, 1858, ch. 156, section 6, 11 Statutes, 336.*)

#### ARMY REGULATIONS.

Paragraph 1061. "Complete title papers, with full and exact maps, plans, and drawings of the public lands purchased, appropriated, or designed for permanent military fortifications, will be collected, recorded, and filed in the Bureau of the Corps of Engineers; of the public lands appropriated or designated for armories, arsenals, and ordnance depots, will be collected, recorded, and filed in the Ordnance Bureau; of all other land belonging to the United States, and under the charge of the War Department, for barracks, posts, cantonments, or other military uses, will be collected, recorded, and filed in the office of the Quartermaster-General of the Army."

Paragraph 1062. "A copy of the survey of the land at each post, fort, arsenal, and depot, furnished from the proper bureau, will be carefully preserved in the office of the commanding officer."

#### RECAPITULATION.

From the foregoing it will be seen that lands are acquired by the War Department either by purchase or reservation of public land. When acquired they can be disposed of only with the consent of Congress, except lands in Florida set apart prior to August 18, 1856.

That the quantity of land that may be reserved for military sites is unlimited, except in the State of Oregon and in Washington and Idaho Territories.

The regulations require title papers, maps, plans, and drawings to be collected, recorded, and filed as follows:

For permanent military fortifications, bureau of the Chief of Engineers.

For armories, arsenals, and ordnance depots, in the Ordnance Bureau.

All other lands for barracks, posts, cantonments, or other military uses, in the office of the Quartermaster-General.

Copy of the survey, in the office of the commanding officer.

The following statement shows the number of military posts, &c., at various periods of the government :

Number of posts in 1802.....	27	} See letter of Secretary Calhoun of December 11, 1818.
Number of posts in 1818.....	73	
Number of posts in 1860.....	154	} Memoranda, page 480, Burnside report on the reorganization of the Army.
Number of posts in 1878.....	212	
Number of posts occupied by troops in 1860.....	77	
Number of posts occupied by troops in 1878.....	146	
Number of arsenals in 1860.....	23	} Army Register for 1880.
Number of arsenals in 1878.....	18	
Number of posts occupied by troops in 1880.....	140	}
Number of posts in charge of ordnance sergeant in 1880.....	47	
Number of arsenals in 1880.....	18	
Number of recruiting depots in 1880.....	3	
Number of engineer depots in 1880.....	1	
Number of national cemeteries in 1880.....	78	
Total posts, &c.....	287	

This statement does not include a number of reservations for fortifications, a number of "abandoned" military posts now in charge of agents of the Quartermaster's Department, also some property which has probably been lost sight of, as in the accompanying list of real estate purchased by the United States since July 4, 1776, and in the custody of the War Department, on the 14th of February, 1825 (House Ex. Doc. No. 92, 19th Congress, 1st session), there are 198 pieces of property mentioned.

It is almost impossible to form an estimate of the value of this property. It probably aggregates more than \$200,000,000. General Benét, in a statement dated April 5, 1872, reported the value of arsenals and armories in 1821 as \$2,420,084, and the value of arsenals and armories on June 30, 1871, as \$11,301,621.78; and this includes but one-sixteenth of the posts reported in the present Army Register, without considering abandoned military posts and other real property.

There are a number of military reservations which are of no further use for military purposes, and every year the number increases.

It is the custom of the Secretary of War to report such cases to Congress as soon as they are brought to his notice, and ask for authority to transfer the reservations to the custody of the Secretary of the Interior for sale or disposition under the general land laws. As a rule, several years elapse before such authority is granted, and in the mean time trespassers come upon the reserves as soon as the troops leave, and when ejected they appeal to the department to reinstate them in possession of land to which often-times they have no shadow of claim.

These claims are a source of constant annoyance, and in addition there is the expense of an agent to take care of each "abandoned" reservation. It would be a benefit to the public service if a general law were passed authorizing the Secretary of War to dispose of useless military reservations, either by sale or by transfer to the custody of the Department of the Interior for disposition under the general land laws, or in such other manner as Congress may provide.

The regulations for the preservation of the title papers, &c., of reservations (Par. 1061, quoted above) should be amended so as to provide for a central office under the chief clerk in the War Department, where all such papers should be recorded, and preserved when completed. The present regulations provide that certain title-papers shall be filed in the bureaus, but it is often found necessary, when a question of title occurs, to search in several of the bureaus of the department in order to collect the papers. Many of the original deeds are on file or of record in the office of the Secretary of War. Time, which is sometimes of vital importance, is thus consumed, and occasionally it happens that important papers are overlooked, as was the case in the Presidio Reservation, when, but for Mr. Crosby's memory, a very important survey would have been overlooked, and the title to the property been jeopardized.

Where such valuable property is concerned, every precaution should be taken to guard against the loss of papers and to provide for their being duly recorded and preserved; and for this purpose there should be in the office of the Secretary of War a division of land records in which should be filed the title-papers, &c., of all lands in the custody of the War Department, as well as all other papers relating thereto. It should be the business of this division to see that all deeds are duly recorded; that the opinion of the Attorney-General as to the validity of title is obtained; that cession of jurisdiction is obtained when necessary; and that a plat of the site is filed. As rapidly as possible a history of each piece of property should be prepared, giving—

1st. Location.

2d. Descriptions by metes and bounds; number of acres. If any changes, their character, and the authority therefor.

3d. Buildings—number, kind, condition, and what other improvements.

4th. A plat of the site.

5th. How and when acquired; whether by purchase or reservation of public lands.

6th. Whether or not such possession has been continuous, giving facts.

7th. If reserved public land, whether prior to occupancy by War Department there were settlements on the land; and, if so, what action has been taken relative thereto.

8th. If located within a State, has jurisdiction been ceded to the United States; give date of act of cession, and see that a duly certified copy of the act is on file. In cases where there is a general land law of a State ceding jurisdiction over land purchased for military purposes, cite the act.

9th. If purchased, give date of opinion of Attorney-General as to validity of title.

10th. Whether the land is still required by the War Department.

Such a division should have a chief whose pay should equal the pay of a chief of division in the office of the Secretary of the Treasury. As it will be necessary for the chief to be absent at times, investigating cases, there should be an assistant chief. There should also be a draughtsman, and, say, one clerk of the fourth class, one third-class clerk, one first-class clerk, and one messenger. This force would be needed at first to bring up the records to date; then probably the force could be diminished.

Very respectfully, your obedient servant,

JOHN TWEEDALE,  
*Chief of Division.*

The Hon. SECRETARY OF WAR.

Approved.

H. T. CROSBY,  
*Chief Clerk.*

WAR DEPARTMENT,  
*Washington City, January 6, 1881.*

The Secretary of War has the honor to invite the attention of Congress to his letter of the 23d April, 1880, transmitting a report relative to the public lands, forts, arsenals, &c., in the custody of the War Department, and recommending the creation of a division in his office, to be known as the "Land-Title Division." (See Senate Ex. Doc. No. 158, Forty-sixth Congress, second session, copy inclosed; also book of estimates for the fiscal year ending June 30, 1882, pages 34 and 204.)

Special attention is again called to this matter on account of its importance. Questions are constantly arising which involve the jurisdiction of the United States over lands reserved for military purposes which might be avoided, or, at least, more easily settled and without the delay now occurring, if the department had the means of bringing all the title papers together, and having them examined by persons skilled in such work. They are now scattered through all the bureaus of the War Department, and it is the particular business of no one to make examinations, to collate facts, and to be fully informed of decisions and opinions governing this class of cases. Such cases as they arise are incidental to other current work of the department, on which the clerical force is fully engaged.

Under the existing system it is difficult to determine such questions speedily, and great care is necessary in order that the cases may be fully presented, and no important opinions and decisions overlooked.

The department has not the force to inaugurate a new system, and for the purpose of facilitating the public business, and putting the work on such a basis that the liability to mistakes shall be reduced to the minimum, I have submitted the estimate on page 34 of the book of estimates, and earnestly recommend the same to the favorable consideration of Congress.

Respectfully submitted.

ALEX. RAMSEY,  
*Secretary of War.*

The SPEAKER  
*of the House of Representatives.*

LIST OF MILITARY RESERVATIONS REPORTED AS NO LONGER NEEDED FOR MILITARY PURPOSES, AND STILL IN THE CUSTODY OF THE WAR DEPARTMENT.

The following is a list of military reservations and portions of reservations which have been reported as no longer needed for military purposes, and which are still in the custody of the War Department. Compiled from information in the Adjutant-General's Office :

1. Bois Blanc Island .....	Michigan.
2. Fort Butler .....	New Mexico.
3. Camp Cady .....	California.
4. Fort Crittenden .....	Utah.
5. Camp Crittenden .....	Arizona.
6. Camp Crook .....	California.
7. Fort Fetterman (old wood reservation and portion of post reservation) .....	Wyoming Territory.
8. Camp Goodwin .....	Arizona.
9. Old Camp Grant .....	Arizona.
10. Camp Independence .....	California.
11. Island in the Missouri River east of Kansas City.	
12. Fort Larned .....	Kansas.
13. Fort McPherson .....	Nebraska.
14. Fort McRae .....	New Mexico.
15. Oglethorpe Barracks .....	Savannah, Ga.
16. Fort Randall (portion of reservation) .....	Dakota Territory.
17. Fort Reading .....	California.
18. Fort Rice .....	Dakota Territory.
19. Rush Lake Valley .....	Utah.
20. Fort Sedgwick .....	Colorado and Nebraska.
21. Camp Sheridan .....	Nebraska.
22. Camp Three Forks Owyhee .....	Idaho Territory.
23. Fort Verde (garden tract only) .....	Arizona.
24. Fort Wilkins .....	Michigan.

Appended is a short statement in the case of each reservation, showing when established, location, recommendation and reasons for abandonment, condition of buildings on the reservation, so far as known, and when reported for the action of Congress.

As will be seen from these statements, most of the reservations have been heretofore reported to Congress with recommendation for appropriate legislation, but without securing, as yet, the requisite authority to enable the department to dispose of the same.

R. C. DRUM,  
*Adjutant-General.*

ADJUTANT-GENERAL'S OFFICE,  
*Washington, January 5, 1881.*

BOIS BLANC ISLAND, MICHIGAN.

Located near Fort Mackinac, in the Straits of Mackinaw.

Military reservation declared by the President November 8, 1827 (embracing about one-half of the island), and used for the purpose of supplying the post of Fort Mackinac with fuel and timber.

Having become unnecessary for military purposes, and a continual source of expense to the department to keep off trespassers (it having valuable timber on it), and the military authorities having recommended its disposition, the reservation was reported by the department for the action of Congress by letters to the House of Representatives dated, respectively, December 7, 1874, December 31, 1875, and March 20, 1878 (*vide* Report No. 19, H. R., Forty-fourth Congress, first session).

There is also a light-house reserve on the island.

The commanding officer Fort Mackinac reported as follows, under date of December 18, 1874:

"There is no improvement on the island by the military. The old maps show government wharves or docks; they have long since been washed away or rotted down. They were small affairs, and evidently built for the purpose of getting out timber and wood for the use of the post."

FORT BUTLER, N. MEX.

General Orders No. 6, Headquarters of the Army, March 12, 1860, directed the establishment of a 6-company post at some suitable location on or near the Canadian



River, to be called "Fort Butler," and March 22, 1861, the Secretary of War approved of a military reservation at the site selected for the post, located on the Canadian River.

It appears that the site was never occupied for military purposes. It was located within the private land claim of Pablo Montayo, and became the subject of correspondence between the War and Interior Departments, and the War Department, deeming that the land must be held until Congress authorized its disposition, upon recommendation of the General of the Army accordingly reported it for the action of that body by letters of March 9, 1874, and January 28, 1876, to the House of Representatives (*vide* H. Ex. Doc. No. 108, Forty-fourth Congress, first session).

(The report of the Secretary, in his letter dated January 28, 1876, was that so much of the Fort Butler military reservation as was not embraced in the reservation of Fort Bascom was no longer needed for military purposes. Subsequent investigation, however, showed that no reservation had been declared at Fort Bascom, the site of which was leased August 2, 1864, and abandoned to the lessor in January, 1871.)

#### CAMP CADY, CAL.

Post established April 23, 1865.

Located on the Mojave River, in San Bernardino County, about 150 miles northeast of Wilmington, and on the road to Fort Mojave, Arizona Territory.

Reservation declared by the President June 3, 1870, with an area of 1,562 acres 2 roods 33 perches, more or less.

Post discontinued and garrison withdrawn April 24, 1871, by orders of the department commander, the reservation and buildings being placed in charge of an agent.

January 24, 1874, the department commander requested that the reservation be relinquished by the government and thrown open to settlement, for the reason that it was no longer required for military purposes and had not been garrisoned since March, 1871. This request was approved by the division commander, the General of the Army, and the Secretary of War, and the reservation was reported to Congress by War Department letter of April 22, 1874, to the United States Senate, with recommendation for legislation authorizing the *sale* of the reserve; and by letter of December 20, 1875, to that body, the Secretary recommended that authority be given for its *relinquishment* to the Interior Department (*vide* H. Ex. Doc. No. 25, Forty-fourth Congress, first session).

The buildings are of adobe, and were reported in 1872 as of little value. (See also Report No. 19, H. R., Forty-fourth Congress, first session.)

#### FORT CRITTENDEN, UTAH.

Post established August 24, 1858, and called "Camp Floyd"; name changed to Fort Crittenden February 6, 1861.

Located in Cedar Valley to the south and west of Salt Lake City.

Reservation declared by the President July 14, 1859.

Area 93,703.61 acres, including the entire Cedar Valley.

Post abandoned July 27, 1861, and not since reoccupied.

In his annual report for 1878, page 141, under "abandoned military reservations," the Commissioner of the General Land Office says:

\* \* \* \* \*

"The other reservation which is recommended to be restored to the public domain is Camp Floyd, in Utah, declared by the President July 14, 1859; name changed to Fort Crittenden February 6, 1861. The Secretary of War reports that the 'post was abandoned July 27, 1861, and not since occupied.' This reservation comprises all of Cedar Valley, and is in length 33 miles, and its greatest width 16 miles. The lines of public surveys were extended over it, and the settlements of Cedar City and Fairfield were made before the date of the order for reservation, which order includes the settlements. It does not appear that any government improvements exist either on Fort Thorn or Fort Crittenden."

#### CAMP CRITTENDEN, ARIZ.

Post established March 4, 1868.

Located on the old site of "Fort Buchanan" (which was abandoned in 1861), at the head of Sonoita Valley and River, about 55 miles south by east of Tucson.

Reservation declared by the President March 30, 1870, with an area of 3,278.084 acres.

Post abandoned January 22, 1873. It was built of adobe.

May 28, 1873, the department commander reported the post as of no further use for military purposes in view of the establishment of new posts better located, and recommended that the reservation be thrown open for settlement.

Reservation reported for action of Congress by War Department letters, dated respectively, December 20, 1873, and December 31, 1875, to the United States Senate.

March 13, 1878, the Secretary of War, in letter to Speaker House of Representatives, reported favorably on bill H. R. 3249, Forty-fifth Congress, second session, for the relinquishment of the reservation to the Interior Department.

#### CAMP CROOK, CAL.

Post established July 1, 1857, by General Clark, commanding department, upon the main emigrant road between California and Oregon.

Located on Fall River, 7 miles north of Pitt River, in the Pitt River Valley, Shasta County.

No reservation declared by the President; but under special legislation as to California (*vide* opinion of Attorney-General Williams of May 24, 1873, General Orders 65 of 1873), the sanction of Congress is required for relinquishment of the site, which is two miles square.

Post abandoned June 1, 1869, and buildings sold in April, 1870, by authority of the War Department.

Reservation reported to Congress for relinquishment to Interior Department by War Department letters of January, 4 and December 31, 1875, to the House of Representatives, published in H. Ex. Docs. No. 80, Forty-third Congress, second session, and No. 29, Forty-fourth Congress, first session. (See, also, Report No. 19, H. R. Forty-fourth Congress, first session.)

By letter of April 30, 1880, addressed to the chairman of the House Military Committee, the Secretary of War, recommended the passage of a bill (H. R., 5260) to restore the lands included in this reservation and that of Fort Reading, Cal., to the public domain, &c.

#### FORT FETTERMAN, WYO.

##### *Reduction.*

By letter of December 16, 1872 (published in Senate Ex. Doc. No. 14, Forty-second Congress, third session), the Secretary of War recommended to Congress that the reservation at this post be reduced in area from 60 square miles, as declared by the President June 28, 1869, to 12½ square miles, and by letter of February 8, 1878, to the President of the United States Senate, he again called attention to the matter.

##### *Old wood reserve.*

In view of the selection of a *new* wood reservation for use of Fort Fetterman, the old wood reservation declared by the President August 29, 1872, became useless to the military, and its relinquishment was recommended to Congress by War Department letter of February 8, 1878, to the President of the United States Senate.

Under date of March 5, 1878, the Secretary of War, in accordance with a request of Senator Plumb, of the Military Committee, transmitted certain plats of the Fort Fetterman reservation, together with draft of a bill to carry out the recommendations made in War Department letter of February 8, 1878.

#### CAMP GOODWIN, ARIZ.

Post established June 21, 1864.

Located near the Gila River, about 120 miles northeast of Tucson and 90 miles from San Pedro River, on the Southern Pacific Railroad.

Reservation declared by the President August 20, 1867, 6 miles square.

Post abandoned March 14, 1871.

Relinquishment of reservation to Interior Department recommended to Congress by Secretary of War, *vide* War Department letters February 15, 1876, to Senate and House of Representatives.

Subsequently a portion of the reserve was embraced in the "Camp Thomas" military reservation, declared by the President May 18, 1877, and another portion was embraced in the White Mountain Indian Reservation. The part left (about one-fourth of the original reservation) has but limited grazing facilities, and is of no value for agricultural purposes; there are no buildings upon it, and, by letter of January 29, 1878, to the Speaker of the House of Representatives, the Secretary of War laid the papers before Congress recommending the passage of a law authorizing its transfer to the Interior Department in lieu of former recommendation.

## OLD CAMP GRANT, ARIZ.

Post established November 1, 1865.

Location, at the confluence of the San Pedro and Arivapa Rivers, on the site of "Fort Breckenridge," 56 miles north of Tucson, and 100 miles east of Maricopa Wells.

Reservation declared by the President March 30, 1870, with an area of 2,031.70 acres.

Post abandoned March 31, 1873. It was built of adobe.

May 28, 1873, the department commander reported the post as of no further use for military purposes, a new post now known as "Fort Grant" having been established near Mount Graham, about 70 miles southeast, and recommended that the reservation be thrown open to settlement.

Reservation reported to Congress by War Department letters dated, respectively, December 20, 1873, and December 31, 1875, to the United States Senate, the former recommending legislation authorizing sale of the reserve and the latter its transfer to the custody of the Interior Department for disposition under the public land laws.

## CAMP INDEPENDENCE, CAL.

Post established July 4, 1862.

Located on Oak Creek, in Owens River Valley, Inyo County, 2 miles north of the town of Independence.

Three reservations, post, wood, and grazing, declared by the President January 23, 1866.

Discontinued as a station for troops by Special Orders 80, Military Division of the Pacific, July 5, 1877, and garrison withdrawn July 20, 1877.

Most of the original buildings which were constructed of adobes, were destroyed by an earthquake, March 26, 1872. The present buildings are of frame.

March 25, 1878, General McDowell reported as follows:

"At the breaking out of the hostilities with the Nez Percés, under Joseph, I caused the post of Camp Independence to be broken up, and left in charge of an agent of the Quartermaster's Department; I then intended not to reoccupy this post, and had the public property withdrawn.

"The post consists of buildings recently put up at a cost of many thousands of dollars, and has two or three reservations of valuable land: one for the post, and the others for grazing and wood.

"Now that the completion of the Southern Pacific Railroad gives a speedy access to the country in which Camp Independence is situated, and the Indians have become harmless, I recommend the abandonment of the post, and that the land be sold in small bodies, in such way as the law may allow.

"The land, even without the buildings, is worth more than the usual price of \$1.25 per acre. The buildings will have to be sold with the land." (*Vide* H. Ex. Doc. No. 79, Forty-fifth Congress, second session.)

The recommendation of the department for the disposition of the post and reservation is contained in letter of April 13, 1878, to Hon. B. Wadleigh, of the Senate Military Committee (copy herewith).

WAR DEPARTMENT,  
*Washington City, April 13, 1878.*

SIR: In reply to your letter of the 2d instaut, inclosing for information Senate bill 671, "for the relief of certain citizens of the United States, and occupants of lands within one mile of the military post of Camp Independence, Inyo County, California," I have the honor to invite your attention to the inclosed copy of a report, dated the 25th ultimo, from the commanding general Military Division of the Pacific, from which it will be seen that this post is no longer needed for military purposes. I would therefore respectfully recommend that a bill be introduced, authorizing this department to transfer the Camp Independence Military reservation, with the buildings thereon, to the custody and control of the Secretary of the Interior, for sale as recommended by General McDowell.

With reference to Senate bill 671, I would state that the military post of Camp Independence, Cal., was established July 4, 1862, and from that date no person could acquire title to land within one mile of said post, as section 7 of the act of March 3, 1853 (10 Stat., 247), provides with reference to lands in California that "no person shall make a settlement or location upon any tract or parcel of land selected for a military post or within one mile of such post. (See Opinion of Attorney-General of May 24, 1873, published in General Order 65 of 1873, copy herewith.)

Josiah Earl and others in 1873 made claim to certain lands within one mile of this military post. Their claim did not embrace any part of the United States reservation so far as the department is advised, but under the law above referred to, their claim was rejected by the Commissioner of the General Land Office. General Scho-

field, then commanding the Military Division of the Pacific, forwarded the claim with remarks as follows: "In view of the well known objections to citizens establishing themselves in close proximity to a post, I would recommend that no patent for the land in these cases be given until after the post has been abandoned; meantime the claimants will be allowed undisturbed occupation as long as they do not conduct themselves in such a way as to prejudice the interests of the public service."

The parties claim under the general land laws, and if authority for the transfer of the land to the Secretary of the Interior is granted, as above recommended, they will have their remedy before the Commissioner of the General Land Office.

Very respectfully, your obedient servant,

GEO. W. MCCRARY,  
*Secretary of War.*

Hon. B. WADLEIGH,  
*Of Committee on Military Affairs, United States Senate.*

[General Orders No. 65.]

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,  
*Washington, June 12, 1873.*

The following opinion of the Attorney-General of the United States is published for the information and government of all concerned :

OPINION.

DEPARTMENT OF JUSTICE, *May 24, 1873.*

Hon. WILLIAM W. BELKNAP,  
*Secretary of War :*

SIR: From the letter of the Acting Secretary of War of the 24th ultimo, and its inclosures, relative to the military post of Fort Reading, Cal., it appears that the post was established May 26, 1852, and garrisoned until April 1, 1856, when the troops were withdrawn, and that from the latter date until June 13, 1867, it was occupied but a few months, and, without further occupation by troops, was finally abandoned on the 6th of April, 1870, when the buildings pertaining to it were sold in pursuance of an order of the Secretary of War; of which abandonment notice was duly communicated to the General Land Office.

It further appears that no record can be found of any order of the President reserving lands for military purposes at this post, or that a reservation was ever in any way formally declared. It does not appear what extent of land was actually occupied and used; whether only so much as was embraced within the lines of the work, or a larger tract.

The 6th section of an act approved June 12, 1858 (11 Stat., 336), provides (with an exception of certain reservations in the State of Florida) for the repeal of "all the existing laws or parts of laws which authorize the sale of military sites which are or may become useless for military purposes," and that "said lands shall not be subject to sale or pre-emption under any of the laws of the United States," and it is asked whether the facts above stated "are sufficient to constitute the post mentioned a military site within the meaning of this provision, so as to require the consent of Congress prior to its relinquishment and sale."

It is added that as there are many places occupied as military sites which, as in this instance, are such "only by occupancy," the War Department desires a rule for its guidance in such cases.

Before the enactment of this provision Congress had, by the act of 1819 (3 Stat., 520) and by various special acts, devolved upon the Secretary of War the duty of selling useless or abandoned military sites. There having been question whether the act of 1819 applied to any such sites except those undisposed of at the time of its passage, an act was passed March 3, 1857 (11 Stat., 203) extending the provisions of the former act "to all military sites, or to such parts thereof, which are or may become useless for military purposes."

Finally, in consequence of complaints as to the manner in which this authority to sell had been exercised, the provision in the act of 1858 was adopted, by which all such sites are reserved from sale or pre-emption until otherwise ordered by Congress. There is no discrimination in its terms as to the value, situation, or extent of the sites; it comprehends all military sites or reservations, no matter what their extent, whether embraced within the actual lines of a post or fort, or including, in addition, more or less of the surrounding lands.

In *Wilcox vs. Jackson* (13 Peters, 513) it is held "that whensoever a tract of land shall have once been legally appropriated to any purpose, from that moment the land thus severed becomes severed from the mass of public lands, and that no subsequent

law or proclamation would be construed to embrace it or to operate upon it, although no reservation were made of it."

Attorney-General Bates in the case of the Rock Island military reservation (10 Opinions, 365), decides that it was not in the power of the President to relinquish that reservation, and thus throw the island back into the general body of the public lands, without the consent of Congress.

So far as concerns military posts in the State of California, a clause in the seventh section of the act of March 3, 1853, entitled "An act to provide for the survey of public lands, &c." (10 Stat., p. 247), rendered the reservation of land outside of the lines of a fort or post, by executive authority, unnecessary. The clause reads as follows: "And no person shall make a settlement or location upon any tract or parcel of land selected for a military post, or within one mile of such post."

This provision in the act of 1853 would seem to leave no room for controversy as to Fort Reading. All settlements and locations by private parties are excluded not only from what is properly the military post, but from all land within one mile of it.

My opinion, therefore, is that Fort Reading is of that character of military sites contemplated by the sixth section of the act of June 12, 1858, and that the consent of Congress is necessary to its relinquishment and sale.

Very respectfully, your obedient servant,

GEO. H. WILLIAMS,  
*Attorney-General.*

E. D. TOWNSEND,  
*Adjutant-General.*

By order of the Secretary of War:

#### ISLAND IN THE MISSOURI RIVER, EAST OF KANSAS CITY.

March 10, 1865, the President of the United States directed that this island, situated in sections 28 and 33, township 50 north, of range 33 west, of the 5th principal, containing 54.70 acres, be reserved for military purposes, with the view to the erection of a pest-house.

In 1872, the reservation not being required longer for military purposes, the Secretary of War recommended to Congress its relinquishment to the Interior Department. (*Vide* War Department letter, December 2, 1872, to the United States Senate.)

There are no government improvements on the island.

#### FORT LARNED, KANS.

Post established October 22, 1859, as "Camp on Pawnee Fork"; designated "Camp Alert" February 1, 1860, and changed to Fort Larned June, 1860.

Located on the right bank of the Pawnee Fork, about 8 miles from its confluence with the Arkansas River, and 7 miles west from Larned Station on the Atchison, Topeka and Santa Fé Railway, in Pawnee County.

Reservation declared by the President, January 3, 1865, 16 square miles.

Reported by department and division commanders in January, 1878, as no longer needed. (*Vide* H. Ex. Doc. 79, Forty-fifth Congress, second session.)

Post discontinued, upon suggestion of the Secretary of War, by Special Orders 109, Department of the Missouri, June 19, 1878, having fulfilled the purpose for which it was established, a guard being sent from Fort Dodge to protect buildings, &c., which were reported to be mostly of sandstone, of very good quality, and valuable.

Sale of buildings ordered by Secretary of War December 6, 1878, on recommendation of department and division commanders, and the Quartermaster-General, and measures about to be taken to report the reservation to Congress, when a report was read from department commander, dated December 21, 1878, that Indian troubles might compel use of post, which is on railroad, for concentrating and quartering troops. Accordingly, under date of January 14, 1879, the Secretary of War recalled the order for sale of buildings. In February, 1879, Lieutenant-General Sheridan reported, in connection with General Pope's letter of December 21, 1878, that *in his opinion* there never would be any military necessity for the occupation of Fort Larned.

In September, 1879, the department and division commanders both recommended the dismantling of the fort, the material to be transferred to Fort Dodge. The Secretary of War decided, however, that the structures of stone should be left to follow the land, when its disposition is authorized by Congress.

December 2, 1879, the following instructions were telegraphed the department commander:

"Understanding the quartermaster is moving buildings at Fort Larned, Secretary of War directs *all* operations be suspended there until action of Congress."

November 30, 1880, Lieutenant-General Sheridan telegraphs that the reservation at

Fort Larned ought to be reported to Congress for transfer or abandonment. (See, in this connection, bill S. 193, Forty-sixth Congress, and report No. 136 to accompany the same.)

## FORT M'PHERSON, NEBR.

Post established September 27, 1863, as "Cantonment McKean"; changed to "Post of Cottonwood" February, 1864; to "Fort Cottonwood," May, 1864, and to "Fort McPherson," February 20, 1866.

Located on the south side of the South Platte River, 2 miles west of Cottonwood Springs, and about 6 miles southeast of McPherson Station, on the Union Pacific Railroad.

Reservation declared by the President January 22, 1867; enlarged, January 25, 1870; further extended, October 11, 1870; portion set apart for a National Cemetery, October 13, 1873, with boundaries as described in General Orders 103, Adjutant-General's Office, 1873 (copy herewith); further enlarged, April 19, 1878.

January 24, 1878, the department commander reported that while no military necessity existed for troops at this post, its retention for a time was recommended, as there might be such necessity in some future contingency (*vide* H. Ex. Doc. No. 79, Forty-fifth Congress, second session).

The post appears to have been built to accommodate a garrison of five companies, the buildings being of lumber, cedar frames and cedar logs; and under date of July 28, 1878, the department commander recommended its abandonment, in view of the dilapidated condition of the quarters as well as the necessity for soon ordering troops to build the new post in the Niobrara country, Fort Niobrara, Nebr., for which Congress appropriated the sum of \$50,000.

This recommendation was approved by the Lieutenant-General, the General of the Army, and the Secretary of War, and the Lieutenant-General was advised accordingly, in letter dated August 16, 1879, from the Adjutant-General's Office.

The garrison was withdrawn March 29, 1880, leaving a detachment which remained until June 20, 1880.

The post is now in charge of a non-commissioned officer, a sergeant of the Fifth Cavalry.

In telegram dated November 30, 1880, the Lieutenant-General stated that the reservation at this post should be reported to Congress for abandonment.

[General Orders No. 103.]

WAR DEPARTMENT,  
ADJUTANT-GENERAL'S OFFICE,  
Washington, October 13, 1873.

By direction of the President, a tract of land, within the limits of the present military reservation at Fort McPherson, Nebr., with boundaries as hereinafter described, is hereby set apart as a National Cemetery.

## BOUNDARIES.

Beginning at a point on the south bank of the South Platte River, marked by a wooden post, about four thousand and four hundred (4,400) feet from the flag-staff at Fort McPherson, and running thence westward up the south bank of the river thirteen hundred and twenty (1,320) feet to a wooden post; thence southward to the table-land of the ridge four thousand four hundred and forty (4,440) feet to a wooden post; thence eastward along the table of the ridge eight hundred (800) feet to a wooden post; thence northward four thousand and four hundred (4,400) feet to the point of beginning, the whole tract containing about one hundred and seven (107) acres.

By order of the Secretary of War.

E. D. TOWNSEND,  
Adjutant-General.

## FORT M'RAE, N. MEX.

Post established April 3, 1863.

Located at Ojo del Muerto (spring of the dead), in Socorro County, 3 miles east of the Rio Grande.

Reservation declared by the President May 28, 1869, 4 square miles.

Abandonment of post recommended August 16, 1872, by division commander, and approved by Secretary of War. Garrison withdrawn, but subsequently returned by Special Orders 132, paragraph 1, District of New Mexico, September 23, 1872. Garrison again withdrawn October 30, 1876, by orders from district headquarters, a detachment being left in charge of the post.

January 23, 1878, the department commander reported that the post could be given up (*vide* H. Ex. Doc. No. 79, Forty-fifth Congress, second session).

Abandoned post placed under immediate command of commanding officer of Fort Bliss, Tex., to station details, &c., under instructions from district headquarters by Special Orders 52, Headquarters District New Mexico, May 27, 1879.

Fort McRae was a one-company post, built of adobe.

An inspection report dated October 4, 1879, shows that the buildings were then being dismantled and the material, doors, sashes, boards, &c., to be used in the construction of new Fort Bliss, Tex.

#### OGLETHORPE BARRACKS, SAVANNAH, GA.

Site deeded to the United States by the city of Savannah November 5, 1833—about three-fourths of an acre. Purchase made by authority of Congress at a cost of \$12,000 for site. Thirty-five thousand dollars was appropriated for buildings for two companies, and additional appropriation of \$25,000 was made subsequently.

Post established (on present site) about 1834.

Located in the central part of the city of Savannah, and occupying a square bounded on the north by Liberty street; on the east by Drayton street; on the south by Harris street; and on the west by Bull street.

Garrison withdrawn in April, 1879, and place left in charge of an ordnance sergeant.

Various applications from local organizations for use of the buildings have been denied by the department on the ground that Congress alone has the necessary authority.

By War Department letter of June 12, 1879, to the Speaker of the House of Representatives, the Secretary of War stated, in returning communication from the chairman of the Committee on Public Buildings and Grounds, concerning bill H. R. 2021, "to vest the title to the United States barracks in the city of Savannah, Ga., in the corporation of said city, for public uses," that the General of the Army reported adversely to such a disposition of these valuable buildings (which are principally of brick with slate roofs, and in good condition), and that, in accordance with his views, their sale to the highest bidder would be recommended to Congress at its next session (second session Forty-sixth Congress).

By War Department letters of May 22, 1880, to the Senate and House of Representatives, recommendation was made for such legislation by Congress as would authorize the sale to the highest bidder, after public advertisement, of the site and buildings occupied by the post of Oglethorpe Barracks. (See also bill H. R. 3840, second session Forty-sixth Congress, to transfer barracks to Treasury Department for post-office and revenue purposes.)

#### FORT RANDALL, DAK.

##### *Reduction.*

Post established June 26, 1856, and still garrisoned.

Located on the right bank of the Missouri River, 75 miles by land above Yankton, and 100 miles or more by river.

Reservation declared by the President June 14, 1860.

September 9, 1867, that portion of the reservation north of the Missouri River and west of the Yankton Indian Reservation was relinquished to the Interior Department, but October 25, 1870, the reserve was, with consent of said department, restored to its original limits.

Under act of Congress approved May 18, 1874 (published in General Orders No. 47, of 1874, Adjutant-General's Office, copy herewith), the Secretary of War transferred to the Interior Department certain portions of the reservation occupied by settlers prior to the date of the President's order declaring the same, or while not under military control, between the years 1867 and 1870.

By letter of December 2, 1879, the Secretary of War recommended to the House of Representatives the relinquishment to the Interior Department of the portion of the reserve north of the Missouri River not already confirmed to settlers under the act of Congress approved May 18, 1874, before mentioned. The portion thus recommended for relinquishment is located in Charles Mix County. (See in this connection bill H. R. 4575, Forty-sixth Congress, second session, and Report No. 744, accompanying same.)

[General Orders No. 47.]

WAR DEPARTMENT,  
ADJUTANT-GENERAL'S OFFICE,  
Washington, May 25, 1874.

The following acts of Congress are published for the information and government of all concerned:

AN ACT for the relief of certain settlers on the Fort Randall military reservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to

transfer to the custody of the Department of the Interior such portions of the military reservation of Fort Randall, in Dakota, as were actually occupied by settlers prior to the promulgation of the order of the President of June fourteenth, eighteen hundred and sixty, setting apart the reservation for military purposes, and, further, such portions of the said reservation as were released from military occupation and control between the years eighteen hundred and sixty-seven and eighteen hundred and seventy, and were during that time settled upon in good faith and in the belief that the lands were open to settlement.

SEC. 2. That the Secretary of the Interior be authorized to confirm, in accordance with existing laws, the titles of such settlers upon the military reservation of Fort Randall as may be reported by the Secretary of War for that purpose, and to cause patents to be issued for such lands as the aforesaid settlers may be entitled to under existing laws and the provisions of this act.

SEC. 3. That the Secretary of the Treasury be, and he is hereby, authorized to pay to each of the aforesaid settlers the respective amounts that were appraised as the value of their respective improvements, by a military board of survey convened for that purpose, at Fort Randall, under instructions from the War Department, dated March third, eighteen hundred seventy-one: *Provided*, That in case any improvements, or portion thereof, shall have been restored or delivered to any settler, after the appraisement of the same by the said military board of survey, such settler shall not be entitled to payment under this act for the improvements, or portion thereof, so restored or delivered to him.

Approved May 18, 1874.

By order of the Secretary of War :

E. D. TOWNSEND,  
*Adjutant-General*

FORT READING, CAL.

Post established May 26, 1852.

Located in Shasta County, about  $2\frac{1}{2}$  miles from the mouth of Cow Creek, where it empties into the Sacramento River about 20 miles southwest of Shasta City, Cal.

The facts relative to the establishment of the post, its occupancy, abandonment, and a history of the reservation, are set forth in the accompanying General Order, publishing opinion of the Attorney-General upon the subject.—(General Orders No. 65 of 1873.)

Under this opinion, the Secretary of War, under date of June 24, 1873, advised the Interior Department that the site of Fort Reading would be retained by this department until Congress authorized its sale.

By letter of April 7, 1876, to the House of Representatives, the Secretary of War recommended that a bill (H. R. 1950) for the restoration of the reserve to the public domain be amended so as to authorize its transfer to the Interior Department for disposition.

By letter of April 30, 1880, addressed to the chairman of the House military committee, the Secretary of War recommended the passage of a bill (H. R. 5260) to restore the lands included in this reservation and that of Fort Crook, California, to the public domain. (See also S. 1487, Forty-sixth Congress, second session.)

[General Orders No. 65.]

WAR DEPARTMENT,  
ADJUTANT-GENERAL'S OFFICE,  
*Washington, June 12, 1873.*

The following opinion of the Attorney-General of the United States is published for the information and government of all concerned:

OPINION.

DEPARTMENT OF JUSTICE, *May 24, 1873.*

HON. WILLIAM W. BELKNAP,  
*Secretary of War :*

SIR: From the letter of the Acting Secretary of War of the 24th ultimo and its inclosures, relative to the military post of Fort Reading, California, it appears that the post was established May 26, 1852, and garrisoned until April 1, 1856, when the troops were withdrawn, and that from the latter date until June 13, 1867, it was occupied but a few months, and, without further occupation by troops, was finally abandoned on the 6th of April, 1870, when the buildings pertaining to it were sold in pursuance of an order of the Secretary of War, of which abandonment notice was duly communicated to the General Land Office.

It further appears that no record can be found of any order of the President reserving lands for military purposes at this post, or that a reservation was ever in any way



formally declared. It does not appear what extent of land was actually occupied and used; whether only so much as was embraced within the lines of the work, or a larger tract.

The sixth section of an act approved June 12, 1858 (11 Stat., 336), provides, with an exception of certain reservations in the State of Florida, for the repeal of "all the existing laws or parts of laws which authorize the sale of military sites which are or may become useless for military purposes," and that "said lands shall not be subject to sale or pre-emption under any of the laws of the United States," and it is asked whether the facts above stated "are sufficient to constitute the post mentioned a military site within the meaning of this provision, so as to require the consent of Congress prior to its relinquishment and sale."

It is added that as there are many places occupied as military sites which, as in this instance, are such "only by occupancy," the War Department desires a rule for its guidance in such cases.

Before the enactment of this provision Congress had, by the act of 1819 (3 Stat., 520), and by various special acts, devolved upon the Secretary of War the duty of selling useless or abandoned military sites. There having been question whether the act of 1819 applied to any such sites except those undisposed of at the time of its passage, an act was passed March 3, 1857 (11 Stat., 203), extending the provisions of the former act "to all military sites, or to such parts thereof, which are or may become useless for military purposes."

Finally, in consequence of complaints as to the manner in which this authority to sell had been exercised, the provision in the act of 1858 was adopted, by which all such sites are reserved from sale or pre-emption until otherwise ordered by Congress. There is no discrimination in its terms as to value, situation, or extent of the sites. It comprehends all military sites or reservations, no matter what their extent, whether embraced within the actual lines of a post or fort, or including in addition more or less of the surrounding lands.

In *Wilcox vs. Jackson* (13 Peters, 513) it is held "that whensoever a tract of land shall have once been legally appropriated to any purpose, from that moment the land thus severed becomes severed from the mass of public lands, and that no subsequent law or proclamation would be construed to embrace it or to operate upon it, although no reservation were made of it."

Attorney-General Bates, in the case of the Rock Island military reservation (10 Opinions, 365), decides that it was not in the power of the President to relinquish that reservation, and thus throw the island back into the general body of public lands, without the consent of Congress.

So far as concerns military posts in the State of California, a clause in the seventh section of the act of March 3, 1853, entitled "An act to provide for the survey of public lands, &c." (10 Stat., p. 247), rendered the reservation of land outside of the lines of a fort or post, by executive authority, unnecessary. The clause reads as follows: "And no person shall make a settlement or location upon any tract or parcel of land selected for a military post or within one mile of such post."

This provision in the act of 1853 would seem to leave no room for controversy as to Fort Reading. All settlements and locations by private parties are excluded not only from what is properly the military post, but from all land within one mile of it.

My opinion, therefore, is that Fort Reading is of that character of military sites contemplated in the sixth section of the act of June 12, 1858, and that the consent of Congress is necessary to its relinquishment and sale.

Very respectfully, your obedient servant,

GEO. H. WILLIAMS,  
*Attorney-General.*

By order of the Secretary of War:

E. D. TOWNSEND,  
*Adjutant-General.*

FORT RICE, DAK.

Post established July 11, 1864.

Located on the west bank of the Missouri River, about 10 miles above the mouth of the Cannon Ball River, and 28 miles south from Bismarck, on the Northern Pacific Railroad.

Reservation declared by the President September 2, 1864, and (the same lands) January 22, 1867; 25 miles long and about 7 miles wide.

January 27, 1878, Lieutenant-General Sheridan recommended that the post be broken up, having fulfilled the objects for which it was built, and as the troops could be quartered elsewhere without any additional expense. (See H. Ex. Doc. 79, Forty-fifth Congress, second session.)

Post abandoned and garrison withdrawn November 25, 1878 (per Special Orders 133, Department Dakota, November 18, 1878), pursuant to letter of authority from the Adjutant-General's Office to the Lieutenant-General, dated May 16, 1878, which also

directed that after the withdrawal of the garrison the fact be reported with information as to whether or not the reservation would again be required for military purposes, in order that if not needed steps might be taken for its disposition.

A detachment remained to transfer property and destroy post until February 6, 1879.

January 24, 1880, the department chief quartermaster reported that all public buildings and other public property had been removed from Fort Rice, and February 24, 1880, the department commander reported that the reservation was no longer required for military purposes.

#### RUSH LAKE VALLEY, UTAH TERRITORY.

Not a military post, nor occupied by troops since the late war.

Reservation located in Tooele County, about 44 miles southwest from Camp Douglas, in townships 4 and 5 south, range 5 west of Salt Lake meridian, and declared by the President February 4, 1855.

The reserve was used by the Quartermaster Department as grazing grounds, corral, &c., and in September, 1868, was reported as of no further use to that department.

By War Department letter of March 6, 1869, the subject of the abandonment of the reservation was laid before the House of Representatives with recommendation that as it was no longer required for military purposes, its disposition be authorized by law, but no legislation appears to have been had in the matter, and by War Department letter of December 13, 1869, the reservation was relinquished to the Interior Department; this relinquishment was *withdrawn* July 29, 1873, not being *valid* in view of the opinion of the Attorney-General of May 24, 1873, in the Fort Reading case. The reservation was again reported to the House of Representatives by War Department letters of January 23 and March 23, 1874, recommending its transfer to the Interior Department. (*Vide* H. Ex. Docs. Nos. 96 and 197, Forty-third Congress, first session, and bill H. R. 1756, Forty-sixth Congress, first session.)

The following extract from a report of the commanding officer, Fort Douglas, gives additional information relative to this reservation. The Secretary of War has declined to grant applications to occupy portions of the reserve pending action by Congress:

FORT DOUGLAS, UTAH, April 12, 1880.

To the ADJUTANT-GENERAL, U. S. A.,  
Washington, D. C.:

(Through Headquarters Department of the Platte, Fort Omaha, Nebr.)

SIR: I have the honor to return herewith the application of P. T. Handy, esq., in behalf of the First National Mining Company, for permission to occupy a tract of land at the north end of Rush Lake, on a military reservation, and beg leave to submit the following report:

The military reservation at Rush Lake, Utah, is distant 40 miles, in southwest direction, from Salt Lake City, and about 12 miles due north from Old Camp Floyd. It was reserved (or at his request) by Colonel Steptoe for the purpose of grazing and hay ground. It was reoccupied and fenced in by General P. E. Connor, United States Volunteers, in 1864, for the same purposes. In 1865 water accumulated, forming a lake, covering the grass lands. It was abandoned since, and is of no value for military purposes.

A number of people have settled on the reservation near the lake. On the southeastern portion there is a small town containing about forty houses (called town of Rush Lake), the Chicago Smelter (extensive smelting works); also on the north end of the lake extensive smelting works called the "Waterman." The latter company have fenced in all the available land on the north end of the lake. I have not been able to learn by what authority they have located upon the reservation further than that they claim they have permission.

I have the honor to be, very respectfully, your obedient servant,  
JNO. E. SMITH,  
Colonel Fourteenth Infantry, Commanding Fort Douglas.

#### FORT SEDGWICK, COLO. AND NEBR.

Post (in Colorado) established May 19, 1864, and called Camp Rankin; name changed to Fort Sedgwick September 27, 1865.

Located on the South Fork of the Platte River, opposite the mouth of Lodge-Pole Creek, near Julesburg, Colo., on the Union Pacific Railroad.

Reservation declared by the President June 28, 1869, 8 miles square, 64 square miles.

Post abandoned May 31, 1871, by authority of the Secretary of War, as being of no further use in a military point of view.

In letter of March 28, 1876, to Senator Cockrell, of the Senate Military Committee,

the Secretary of War, in transmitting copy of report of the Lieutenant-General and of indorsement of the General of the Army, suggested that a bill (S. 47) to reopen the lands of the reservation to settlement and occupation as public lands, be amended so as to authorize the Secretary of War to transfer said reservation to the custody and control of the Interior Department for disposition. The bill was reported with the amendment suggested, but failed to become a law.

March 17, 1876, Lieutenant-General Sheridan reported as follows:

"There are no improvements of any value to the government that I am aware of, and the point at the present time possesses no military advantages."

(In this connection attention is invited to bill S. No. 1742, Forty-sixth Congress, second session, and report No. 661, to accompany same.)

#### CAMP SHERIDAN, NEBR.

Post established at its present location in September, 1874.

Located on the east bank of the West Fork of Beaver Creek (a tributary of White River, into which it empties about 12 miles further north), and one-quarter mile from the Spotted Tail Indian Agency, as established just prior to that time, but which was removed about three years later, and is now known as "Rosebud Agency," in *Dakota Territory*.

Reservation declared by Executive order dated November 14, 1876; extended by Executive order dated April 28, 1879, and further enlarged by Executive order dated December 10, 1879, for the purpose of supplying wood and timber for use of the post.

Area of enlarged reservation,  $28\frac{3}{4}$  square miles.

Abandonment of post recommended by department commander August 8, 1880; approved by the Lieutenant-General and the General of the Army, and directed by the Secretary of War November 22, 1880, who also directed that report be made to Congress that the post was no longer needed for military purposes, with recommendation that the reservation be returned to the public domain.

The Lieutenant-General was advised accordingly by letter of December 2, 1880, from the Adjutant-General's Office, and instructed to report relative to location, condition, &c., of improvements on the reserve. When his report is received the matter will be *especially* reported for the action of Congress.

#### CAMP THREE FORKS OWYHEE, IDAHO.

Post established at its present location in September, 1866, and called "Camp Winthrop"; name changed to Camp Three Forks Owyhee in April, 1867.

Located about 35 miles south of Silver City and 16 miles north from the Three Forks of the Owyhee River.

Four reservations declared by the President April 6, 1869, and announced in General Orders No. 29, Department Columbia, September 23, 1869, copy herewith.

Part of the hay reserve is in Oregon.

Garrison withdrawn in May, 1871, and in August of that year the abandonment of the post and sale of public buildings thereat were recommended by department and division commanders, the Quartermaster-General, and the General of the Army, and authorized by the Secretary of War. In compliance with instructions contained in letter of August 22, 1871, from this office the department commander reported, under date of January 25, 1872, that the buildings were duly advertised and sold at public auction *October 23, 1871*, and that the transfer of the buildings was made to the purchaser immediately thereafter, which *completed* the abandonment of the post. He also recommended that measures be taken to transfer the reservation to the Interior Department, as it was not probable that it would again be required for military purposes.

The reservations were reported by the Secretary of War to the House of Representatives in letter of March 4, 1872, with recommendation that Congress authorize their transfer to the Department of the Interior for public entry and sale.

[General Orders No. 29.]

#### HEADQUARTERS DEPARTMENT OF THE COLUMBIA, Portland, Oreg., September 23, 1869.

The President having declared the reservation at Camp Three Forks Owyhee, Idaho, as set apart for military purposes, the limits of said reservation are hereby announced for the information of all concerned:

#### Post reserve.

One (1) mile north and south, by one and one-half ( $1\frac{1}{2}$ ) miles east and west; central point one-fourth ( $\frac{1}{4}$ ) of a mile west of camp flag-staff.

*Wood reserve.*

One (1) mile north and south, by two (2) miles east and west. Initial point, the northwest corner, to be at the wood-camp well. Bears east-northeast, nearest point four and three-fourth ( $4\frac{3}{4}$ ) miles from flag-staff.

*Grazing reserve.*

Two (2) miles north and south, by two (2) miles east and west. Initial point, the southeast corner, to be the same as the northeast corner of the post reserve.

*Water reserve.*

Twenty-five (25) yards each side of Dry Creek from the point where it leaves the wood reserve to the point where it enters the post reserve.

By command of Bvt. Maj. Gen. George Crook.

A. H. NICKERSON,  
*Captain, Twenty-third Infantry, A. D. C. and A. A. General.*

## FORT VERDE, ARIZ.

*Garden tract.*

The "Garden tract" at this post (formerly "Camp Verde"), declared by the President October 24, 1871, being no longer required for military purposes, the Secretary of War recommended to Congress its relinquishment, June 19, 1876, in letter to United States Senate. This tract was in *addition* to the original post reservation, and is  $1\frac{1}{2}$  miles by 3 miles 40 rods in extent. The post was subsequently relocated and the reservation enlarged to include the new site and another tract for use as a post garden, by Executive order of August 17, 1876.

## FORT WILKINS, MICH.

Post established May 28, 1844.

Located on Lake Superior, at "Copper Mine Harbor," 10 miles from Keweena Point.

Reservation declared by the President August 19, 1853, embracing lots 2 and 3 of section 33, and lot 5 of section 34, township 59 north, range 28 west, Michigan.

Post directed to be discontinued by Special Order 90, Department of the Lakes, August 15, 1870, and troops withdrawn August 30, 1870.

The Secretary of War recommended to Congress relinquishment of the reservation in letter December 20, 1870, to House of Representatives, and in letter to same body dated March 5, 1874, he called attention to former letter, and recommended that authority be granted to dispose of the reserve. (*Vide* H. Ex. Doc. No. 176, Forty-third Congress, first session.)

In letter of May 25, 1874, the Secretary of War transmitted to the House of Representatives, for the information of the Committee on Military Affairs, in compliance with a request of said committee, a copy of report of General Hancock in regard to the quantity of land and the value of buildings thereon, included in the reservation. The buildings are in charge of an agent appointed by the Quartermaster's Department. They are of log and frame, and not of any great value.