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Letter from the Secretary of the Interior, in response to Senate resolution of January 9, 1893, relative to a treaty negotiated by Joel Palmer with certain tribes of Indians in Oregon.

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IN THE SENATE OF THE UNITED STATES.

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LETTER

FROM

THE SECRETARY OF THE INTERIOR,

IN RESPONSE

*To Senate resolution of January 9, 1893, relative to a treaty negotiated by Joel Palmer with certain tribes of Indians in Oregon.*

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JANUARY 25, 1893.—Referred to the Committee on Indian Affairs and ordered to be printed.

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DEPARTMENT OF THE INTERIOR,  
*Washington, January 24, 1893.*

SIR: I have the honor to acknowledge the receipt of the following resolution of the Senate, dated January 9, 1893:

*Resolved*, That the Secretary of the Interior be, and he is hereby, directed to transmit to the Senate a copy of a treaty negotiated by Joel Palmer, then superintendent of Indian affairs for the Territory of Oregon, on or about the eleventh day of August, eighteen hundred and fifty-five, with the various Indian tribes inhabiting the coast of Oregon from the Columbia River to the California line, consisting of Tillamook, Coos Bay, Coquille, Too-too-toney, Chetco, Siuslaw, Clatsop, and Lower Umpqua Indians, and whereby they, it is alleged, ceded all the country claimed by them between the country theretofore ceded by various other treaties and the Pacific Ocean, estimated to contain five million acres of land, and by the terms of which, it is alleged, there was a reservation of a tract of country on the coast within the limits of the Coast Reservation established by the President, estimated to contain seven hundred and fifty thousand acres; and that the Secretary of the Interior be further directed to advise the Senate whether such treaty was ever transmitted to the Senate for ratification; also whether the United States, if said treaty was not ratified has acted upon the terms stipulated therein and received the benefits of the cession therein provided, and, if so, whether said Indians were ever paid the amounts stipulated in such treaty to be paid to them for and on account of the land so ceded, and, if so, when such payments were made; and further, that he advise the Senate fully whether such treaty became operative and whether the terms thereof, or any of them, have been enforced against the Indians or the stipulations therein complied with by the United States.

In response thereto, I transmit herewith copy of a communication of the 21st instant, from the Commissioner of Indian Affairs, on the subject, to whom the matter was referred.

Very respectfully,

JOHN W. NOBLE,  
*Secretary.*

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
Washington, D. C., January 21, 1893.

SIR: I have the honor to acknowledge the receipt, by Department reference, of a resolution from the Senate of January 9, 1893, as follows:

*Resolved*, That the Secretary of the Interior be, and he is hereby, directed to transmit to the Senate a copy of a treaty negotiated by Joel Palmer, then superintendent of Indian affairs for the Territory of Oregon, on or about the eleventh day of August, eighteen hundred and fifty-five, with the various Indian tribes inhabiting the coast of Oregon from the Columbia River to the California line, consisting of Tillamook, Coos Bay, Coquille, Too-too-to-ney, Chetco, Siuslaw, Clatsop, and Lower Umpqua Indians, and whereby they, it is alleged, ceded all the country claimed by them between the country theretofore ceded by various other treaties and the Pacific Ocean, estimated to contain five million acres of land, and by the terms of which, it is alleged, there was a reservation of a tract of country on the coast within the limits of the Coast Reservation established by the President, estimated to contain seven hundred and fifty thousand acres; and that the Secretary of the Interior be further directed to advise the Senate whether such treaty was ever transmitted to the Senate for ratification; also whether the United States, if said treaty was not ratified, has acted upon the terms stipulated therein and received the benefits of the cession therein provided, and, if so, whether said Indians were ever paid the amounts stipulated in such treaty to be paid to them for and on account of the land so ceded, and, if so, when such payments were made; and further, that he advise the Senate fully whether such treaty became operative and whether the terms thereof, or any of them, have been enforced against the Indians or the stipulations therein complied with by the United States.

In reply I have to say, with reference to the request of the Senate for a copy of the treaty negotiated by Superintendent Palmer of the Oregon Superintendency, of August 11, 1855, with the Indian tribes inhabiting the coast of Oregon from the Columbia River to the California line, that in March and April, 1888, diligent and persistent search was made in this office for the treaty referred to, but no trace of it could be found other than a wrapper containing a brief showing when it was received in this office, and a memoranda dated February 15, 1869, which indicated that it had been removed from the wrapper prior to that date. Since that time, however, it has been ascertained that said treaty was transmitted to the Department February 5, 1857, no copy thereof being retained in this office. From the Department it was forwarded through the President to the Senate, and is printed in a Senate document marked "Confidential; Executive, No. 9, Thirty-fourth Congress, third session," which is now on file in one of the offices of the Senate.

Upon receipt of Superintendent Palmer's communication forwarding the treaty to this office, he was advised in a letter of November 19, 1855, as follows:

I received on the 14th instant your treaty or treaties of various dates from the 11th August to the 8th of September last with the confederated tribes and bands of Indians residing along the coast and west of the Coast Range of mountains between the Columbia River and the southern boundary of Oregon. You will suspend action under these treaties until you receive further orders.

It does not appear from the records of this office that any further instructions were ever given relative to this treaty.

One of the stipulations of the treaty of August 11, 1855, referred to, was the reservation of a certain quantity of land for the occupancy and use of the Indians along the coast of Oregon and west of the Coast Range of mountains; yet, in view of the fact that the treaty was never ratified and the further fact that the steps which eventually culminated in the setting aside of this reservation by executive order were inaugurated by Superintendent Palmer's letter of April 17, 1855, some months prior

to the completion of the treaty, and also the fact that the reservation was actually made by executive order November 9, 1855, five days before the treaty was received in this office, I do not think the reservation upon which many of the Indian tribes of the coast of Oregon have been collected can be said to have been set aside in accordance with the stipulations of this treaty.

The Senate asks also to be advised whether, if said treaty was not ratified, the United States has acted upon the terms stipulated therein and received the benefits of the cession therein provided, and, if so, whether said Indians were ever paid the amount stipulated in said treaty to be paid to them for and on account of the lands so ceded, and, if so, when such payment was made.

In reply to this I have to say that, as far as I can gather from the unsatisfactory data of record in this office on this subject, the United States has received the benefits of a cession proposed to be made by the various tribes that were parties to the treaty; that is, there appears to have been no controversy between the United States and the Indians as to the right of the United States to permit settlement on the lands claimed by them, and which they agreed in the treaty, as it is understood, to cede to the United States.

The reservation established as above stated on November 9, 1855, by executive order, for the use of the coast tribes of Indians in Oregon, was for a long time known as the Coast Reservation. Its boundaries were changed by an executive order of December 21, 1865, and again by act of Congress of March 3, 1875 (18 Stats., 446), and the reservation is now known as the Siletz.

On this reservation were collected all the tribes who were parties to the treaty of August 11, 1855, except the Tillamooks, Nehalins, and Clatsops, which latter were reported by the superintendent in 1860 to number together 179 persons; besides those who were parties to the unratified treaty, there were other Indian tribes on this reservation. One thousand one hundred and thirty-four of the Indians on the reservation were reported in 1860 to be provided for by treaties, while 1,866 were there without any treaty provisions.

In 1855 the superintendent of Indian affairs for Oregon transmitted estimates of funds required in Oregon to fulfill treaty stipulations with certain Shasta, Scoton, and Umpqua Indians, in all \$55,250. The Indians named were entitled to this money under provisions of a ratified treaty.

Under cover of the same report, he estimated funds required for fulfilling treaty stipulations with certain confederated bands of Tillamooks, Siuslaw, Kal-a-wal-set, Coose Bay, Coquille, Tootootany, and Chetco tribes of Indians, as follows:

For providing, after the ratification of the treaty and prior to their removal, such articles as may be deemed "essential to their wants," as per third article of treaty of 11th August, 1855 .....	\$3, 000
For erection of buildings on reservation, fencing and opening farms; the purchase of teams, farming implements, tools, and seeds; the payment of employes; subsistence of Indians first year after removal, article 3, same treaty .....	22, 000
For the erection of two sawmills, four schoolhouses, two blacksmith shops, one tin shop, thirteen dwelling houses for mechanics and other employes; two agency buildings with the requisite outbuildings for each, article 4, same treaty .....	14, 550
For the purchase of mechanics' tools, medicines, books and stationery for schools; furniture for employes, article 4, same treaty .....	5, 000
For pay of one superintendent of farming operations, three farmers, two blacksmiths, one physician for one-half year commencing January 1, 1856, per article 4, same treaty .....	5, 100

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For constructing wagon roads between contemplated Indian settlement on said reservation, and between such settlements and the mills, etc., as per article 11, same treaty .....	10,000
For opening and constructing a wagon road from the mouth of Salmon River to the Willamette Valley, per same article .....	5,000
	\$64,650
For transportation of materials, mill fixtures, tools, furniture, subsistence, etc., from place of purchase to reservation.....	4,000
	68,650

By a letter of January 17, 1856, the superintendent was advised that in accordance with the estimate for remittances from the appropriations for fulfilling treaties heretofore ratified the Secretary of the Interior had been requested to cause to be remitted to him the sum of \$55,250, and also that "your estimate for a remittance on account of fulfillment of treaties with certain bands of Tillamooks, Siuslaw, Kal-a-wal-set, Coos Bay, and other tribes can not be acted on, as the treaty has not been ratified, nor is there any appropriation made out of which the funds at present can be advanced." No record of any payments under said unratified treaty is found in this office.

In his annual report for 1866, Mr. I. W. P. Huntington, superintendent of the Indian affairs of Oregon, refers as follows to the treaty of 1855 with the coast Indians:

In 1855 Joel Palmer, then Superintendent of Indian Affairs, made a treaty with nearly all the tribes along the coast from Columbia River to the California line. By the terms of the treaty the Indians ceded all their lands and agreed to remove to the Coast Reservation. In consideration the Government promised to pay certain annuities, to build mills, provide schools, physicians, open farms, erect buildings, etc. This treaty the Senate refused to ratify, and it has therefore not been held to be binding upon the United States, but the Indians fully complied with the terms of *their side* of the treaty, abandoned their lands, removed to the reservation designated for them, and have with few exceptions remained there since. White settlers occupied their lands and still occupy them. The Indians complain, and justly, I think, that, having complied with *their side* of the treaty, we ought to comply with *ours*. This discontent is much aggravated by seeing that other Indians draw annuities and are so much better provided for. It is also often aggravated by the machinations of malicious whites, who foster their discontent and encourage them to leave the reservation, and, seeking their own country, endeavor by retaliation to recover just compensation. They had concluded, however, that at least they were secure in the possession of the lands they occupy, but they are again now doubly alarmed by having a *part* of their reservation suddenly taken from them and apprehensive that the taking of a part is only preliminary to the taking of the whole.

I recommend either that the treaty of 1855 be ratified, that provision be made for making another, or, in default of either, that some other plan be devised by which those tribes can be assured in the possession of the reservation and some compensation guaranteed them for the lands they have surrendered.

The Commissioner of Indian Affairs, in his report for the same year, said:

The Siletz and Alsea agencies have charge of the Indians on the coast with whom a treaty was made by Supt. Palmer in 1855, but which, for some reason, failed to be ratified by the Senate, although most of the other treaties of that year with the Oregon Indians were ratified. By the provisions of that treaty the Indians ceded nearly all the land lying between the Coast Range of mountains and the ocean, save a reservation set apart for their residence; and they immediately retired to the proposed reservation in full faith that the Government would carry into operation the stipulations of the treaty. But this has not been the case, and ten years have elapsed, during which the Indians have awaited the action of the Government, being aided meanwhile by means of the general fund appropriated for the service in Oregon.

From these reports and records I think it is fair to presume that the Government has never paid the Indians the amounts stipulated for in the treaty of 1855, which failed to be ratified by the Senate, but the

provisions of which appear to have been faithfully adhered to by the Indians themselves, except those who appear never to have gone upon the reservation.

Latterly, appropriations have been made generally for the support and civilization of the Indians at the Grand Ronde and Siletz agencies, but not in fulfillment of treaty stipulations.

From the foregoing it will be seen in answer to the last query of the Senate resolution, whether such treaty became operative and whether the terms thereof, or any of them, have been enforced against the Indians, or the stipulations therein complied with by the United States, that it appears that while the Indians, except those above mentioned as not having gone upon the Siletz Reservation, immediately upon entering into the treaty removed to and have remained on the reservation, and have, so far as they had the power, complied with the provisions of the treaties. The United States has not fulfilled any of the stipulations agreed to therein on its behalf, unless the appropriations for the support and assistance of Indians in Oregon generally can be said to discharge the Government from its obligation to the Indians thereunder, if indeed an unratified treaty can impose obligations on either party, a question which of course must be answered in the negative.

The Senate resolution is herewith returned to the files of the Department.

Very respectfully, your obedient servant,

T. J. MORGAN,  
*Commissioner*

