

NEZ PERCÉ INDIAN RESERVATION.

L E T T E R

FROM THE

ACTING SECRETARY OF THE INTERIOR,

RELATIVE TO

The purchase and improvement of the Nez Percé Indian reservation in the Territory of Idaho.

MAY 22, 1872.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., May 21, 1872.

SIR: I have the honor to transmit herewith a copy of a report from the Commissioner of Indian Affairs, dated the 18th instant, inclosing a draught of a joint resolution entitled "A joint resolution to enable the Commissioner of Indian Affairs to purchase and pay for certain improvements within the Nez Percé Indian reservation, in the Territory of Idaho," together with the accompanying copy of a communication from J. B. Monteith, United States Indian agent, in relation to the subject.

The facts in the case are fully set forth in the report of the Commissioner and the agent's letter, and, in view thereof, the subject is respectfully submitted for the favorable consideration of Congress.

Very respectfully, your obedient servant,

B. R. COWEN,
Acting Secretary.

Hon. J. G. BLAINE,
Speaker of the House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., May 18, 1872.

SIR: I have the honor to invite your attention to the following, viz: By the tenth article of the treaty concluded with the Nez Percé tribe

of Indians, June 11, 1855, (Statutes at Large, volume 12, page 960,) it was agreed that the tract of land then occupied by William Craig should not be considered a part of the reservation set apart for them by said treaty, except for the purpose of enforcing the intercourse act, in consideration that said Craig had consented to reside among them as their friend and adviser. The privilege thus accorded to Craig has been regarded and held by this Department as giving him the right of personal occupancy only.

It appears from a communication addressed to this office under date of the 14th ultimo, by Agent Monteith, (a copy of which is submitted herewith,) that the said Craig has deceased, and that the improvements upon the tract in question were purchased by his son-in-law at the administrator's sale.

These improvements are represented by the agent to be very desirable, and necessary for the accommodation of certain Nez Percé Indians now living outside of the reserve, where they are continually involved in difficulties with the whites; that said improvements cover between three hundred and four hundred acres of land, which is under very good cultivation, with between five hundred and six hundred rods of fencing, and that there is nearly fifty acres in timothy, which yields from two and one half to three tons per acre, and worth \$21 per ton at Fort Lapwai. The agent suggests that the Department purchase the fencing and pay for the plowing at the usual rates, which he believes to be \$3 per rod for fencing and \$4.50 per acre for plowing.

Inasmuch as the authority of the Department to direct the purchase of these improvements out of existing appropriations may be doubtful, and in order to quiet all question in regard to the title, I have caused the draught of a joint resolution to be prepared, which is herewith submitted for the action of Congress, and, if passed by that body, will confer the authority sought.

I may add that the improvements are very desirable for the use of the Indians referred to, for whom the agent states twenty or more good farms can be had upon the tract in question.

The cost of said improvements will amount, in the aggregate, to about \$3,500, which sum can be paid from the appropriation for "plowing land and fencing lots, as per first clause, fourth article, treaty of June ninth, eighteen hundred and sixty-three," appropriated by the Indian appropriation act, approved April 10, 1869, if the payment is authorized by the joint resolution.

I respectfully recommend early action in the premises.

Very respectfully, your obedient servant,

H. R. CLUM,
Acting Commissioner.

The honorable SECRETARY OF THE INTERIOR.

A JOINT RESOLUTION to enable the Commissioner of Indian Affairs to purchase and pay for certain improvements within the Nez Percé Indian reservation in the Territory of Idaho.

Whereas by the tenth article of the treaty concluded with the Nez Percé tribe of Indians, June eleventh, one thousand eight hundred and fifty-five, it was agreed that the tract of land then occupied by William Craig should not be considered a part of the reservation set apart for them by said treaty, except that the same should be subject to the intercourse act in common with the other lands of the reservation, in

consideration of the fact that said Craig had consented to reside among them as their friend and adviser; and whereas the said Craig, and, since his death, his legal representatives, have cultivated and otherwise improved the tract of land in question; and whereas the right of personal occupancy of the same, acquired under the treaty referred to, ceased with the death of said Craig; and whereas the improvements upon said tract as aforesaid are required for the use of the Nez Percé tribe of Indians: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Indian Affairs be, and he is hereby, authorized to purchase from the legal representatives of the said William Craig the said improvements, at a cost not exceeding the sum of three dollars per rod for fencing and four dollars and fifty cents per acre for the plowing upon the said tract, and to pay for the same out of any unexpended money appropriated for "fulfilling treaty with the Nez Percé tribe of Indians."

OFFICE INDIAN AGENT,
Lapwai, Idaho Territory, April 14, 1872.

SIR: I have the honor to acknowledge the receipt of your letter bearing date March 16, 1872, from which I understand that Mr. Craig, by virtue of the stipulations of the treaty, had simply a right of "personal occupancy" to the lands therein referred to; that at his death the title of the Nez Percé Indians to said lands remaining unextinguished, the right of occupancy did not pass to his heirs, nor the title become subject to the statutes of descent and distribution, but rather that all his rights to the same reverted and became subject to the same control as other lands on the reserve; and that I am at liberty, and it becomes my duty, to warn the purchaser from the place, and take it for the benefit of the Indians.

Before doing so, however, I desire to acquaint you with the following facts, and shall await your further instructions. There is between three hundred and four hundred acres of said land fenced and under very good cultivation.

There is nearly fifty acres in timothy, which yields about two and a half or three tons per acre, and which is worth, at Fort Lapwai, \$21 per ton. There is a shell of a house on the place; also a small barn, not of much value. There is between five hundred and six hundred rods of fence, some of the best quality of stone and the rest rail and board, built in part by Craig while living, and, after his death, by his son-in-law, who now lives on the place, the son-in-law being the purchaser at the administrator's sale.

The place is very desirable as a location for the Indians, and, if taken possession of, would make twenty or more good farms, and would enable me to locate all the Indians now living on the Alpowa Creek (outside the reserve) in a body upon the reserve, which would be a great inducement for them to come on, and save a great amount of trouble to the agent, in the frequent call made upon him to settle disputes arising between the Indians and white settlers now crowding around them, taking up farms and bringing with them large bands of cattle. It is probable, if the Government takes possession of the place, suit will be commenced by parties in possession, either for its recovery or for its value.

Before I make any move in the matter, I desire the Department to be fully informed as to all the facts connected with the case, to obtain your further decision and instruction therein, that I may act more understandingly. It might be the Government would buy the improvements, fencing, and plowing, at the price they have paid heretofore, which, I believe, is \$3 per rod for fencing and \$4.50 for plowing, the acre.

I am pleased to await your instructions.

I am, sir, very respectfully, your obedient servant,

JNO. B. MONTEITH,
United States Indian Agent.

Hon. F. A. WALKER,

Commissioner of Indian Affairs, Washington, D. C.