

LETTER

FROM

THE SECRETARY OF THE INTERIOR.

TRANSMITTING,

In response to Senate resolution of February 24, 1888, report on the claim of the Tillamook Indians of Oregon.

APRIL 30, 1888.—Ordered to be printed and referred to the Committee on Indian Affairs

DEPARTMENT OF THE INTERIOR,
Washington, April 26, 1888.

SIR: I have the honor to acknowledge the receipt of the resolution of the Senate passed on the 24th February, 1888, in the following words:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to report to the Senate when, and under what circumstances, and by virtue of what authority, if any, the tribe of Indians known as the "Tillamooks" have relinquished their claim to lands in Tillamook County, Oregon; and if no such relinquishment has been made, the nature and extent of any such claim said tribe of Indians may have to any lands in such county.

In response thereto I have the honor to transmit herewith a communication of the 21st instant from the Commissioner of Indian Affairs, to whom the matter was referred for report, wherein he states is set forth such information and facts on the subject as the records of his office afford relative to negotiations heretofore made with and by the Indians named for relinquishment of their title to lands claimed by them; and also such information as he is able to furnish as to the nature and extent of their claim to lands in the locality indicated in the resolution. The records of the Department disclose no additional information to that reported by the Commissioner.

Very respectfully,

WM. F. VILAS,
Secretary.

The PRESIDENT PRO TEMPORE UNITED STATES SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 21, 1888.

SIR: I have the honor to acknowledge the receipt, by Department reference, for report, of a resolution of the Senate dated February 24, 1888, directing the Secretary of the Interior to report to that body—

When and under what circumstances and by virtue of what authority, if any, the tribe of Indians known as the "Tillamooks" have relinquished their claim to lands

in Tillamook County, Oregon; and if no such relinquishment has been made, the nature and extent of any such claim said tribe of Indians may have to any lands in such county.

In reply I have to say, that the files of this office contain very little information relative to these Indians, and that of the most unsatisfactory character.

A treaty was negotiated with the Tillamooks in 1851 by Anson Dart, superintendent Indian affairs in Oregon Territory, and was forwarded to this office with twelve other treaties with the Indians along the Oregon coast by Mr. Dart, in his letter of November 7, 1851. On July 21, 1852, these treaties were forwarded to the Secretary of the Interior, and it is informally learned that they were transmitted by him to the President on July 30, 1852, and by the President to the Senate the following day. Informal inquiry at the Senate developed the fact that said treaty was received by that body and ordered to be printed, but that it can not now be found. (The delay in answering the resolution is incident to the search made there for it.)

It was never ratified by the Senate, and as no copy thereof was retained in this office, it is impossible to state just the location and area of the lands claimed by these Indians. But in speaking of them in his letter of transmittal Mr. Dart says:

The treaty with the Tillamooks secures a valuable country, resembling the Clatsop plains, and is directly south of that tract. It is very even and regular along the coast, but approaching the mountains it is uneven and hilly. Tillamook Bay affords a fine harbor, with sufficient depth of water on the bar for vessels drawing 12 feet of water. There are no less than five considerable streams putting into the bay, the valley of one of which extends 50 miles along the stream, making richest of bottom land. Much of this purchase is open country, and, as far as known, without settlers. Travelers concur in representing it as offering equal inducements to settlers with any portion of Oregon.

Another treaty appears to have been negotiated by Superintendent Palmer on the 11th of August, 1855, with the various tribes on the coast of Oregon, by which the Tillamooks, Coos Bay, and other tribes were to be confederated, but no action seems to have been taken looking to a ratification thereof. Diligent and persistent search has been made for this treaty, but no trace of it can be found other than a wrapper containing a brief showing that it was received in this office, and a memoranda dated February 15, 1869, to the effect that the treaty had been removed prior to that time. This Bureau, therefore, has no positive information as to the boundaries and area of the country claimed by the Tillamooks.

In his annual report for 1866 I. W. P. Huntington, then superintendent of Indian affairs for Oregon, recommended that the Tillamooks, with two other small bands, occupying a fertile country having a good harbor on the Oregon coast, be removed to a reservation, as their country was rapidly filling up with white settlers who complain of the Indians as nuisances, most of them having become as thoroughly debauched and degraded as they could well be.

In part 3, at page 201, Schoolcraft's History of the Indian Tribes of the United States, mention is made of a band of Indians known as the Klamucks, numbering about 400 and located on the coast of Oregon, south and east of the "Klatsops" plains lying directly south of the mouth of the Columbia River. It is presumed that this is the same band that is known as the Tillamooks, as they were found on the land described in Mr. Dart's letter as that they proposed to cede by the treaty made by him with them.

As to that part of the resolution relative to the nature and extent of

the claim of the Indians, I have to state that the Indian title appears to have been recognized as outstanding and resting in the Tillamooks by the United States, as shown by the fact that two treaties were negotiated with them for the purchase of their country, and that no effort has been made to have that title extinguished since the unratified treaty of August 11, 1855.

The Government has recognized the Indian title to lands in the State of Oregon and Washington Territory, by entering into treaties with them for the cession thereof, many of which have been ratified.

The Indian title was defined by the Supreme Court in the case of the Cherokee Nation *vs.* The State of Georgia (5 Peters, 1) as an "unquestionable right to the lands they occupy, until that right shall be extinguished by a voluntary cession to the Government." "That right is as sacred as the white man's right to the fee" (*U. S. vs. Cook*, 19 Wall, 591).

Even prior to the decisions above quoted, Chief Justice Marshall, in the case of *Johnson v. McIntosh* (8 Wheaton, 503), said :

It has never been contended that the Indian title amounted to nothing. This right of possession has never been questioned. The claim of the Government extends to the complete ultimate title, charged with this right of possession, and to the exclusive power of acquiring that right.

Many other and later decisions to the same effect might be cited.

As near as the country of the Tillamooks can be located, from the imperfect data at hand, I do not find that it is embraced in any of the cessions heretofore made by the Indians in that part of the country by any ratified treaty, and, applying the principles laid down by the courts, it would appear that the Tillamooks have all the original Indian rights to the land in question.

The Senate resolution is herewith returned.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.