

Humboldt river are called the Tos sha wee hee or White Knives from the fact that originally they made their knives from a white flint stone. Nothing is known definitely as to the number of the War at te kaw and Too she wa kees. They are however considered very numerous. Their country as yet is mostly unexplored and some of them have probably never saw a white man. The Too shaw wee hees are the Indians who commit depredations upon the p 59 California immigrants.

The Sho-Sho-Nee Diggers subsist chiefly upon roots, berries and a large black cricket which they gather in large ~~quantities~~ quantities and after being... or dried in an oven made by digging a hole in the ground they are pounded fine and put away in sacks for use. Of late years they have got a few horses and mules which they have stolen from the immigrants, but generally they are too indolent to supply themselves with a sufficiency of food for the winter and are compelled to eat their animals to save themselves from starvation. In fact they are often compelled to eat their own children for the same reason. Some few of them are armed with guns, but as a general thing they use only the bow and arrow.

I understand from Mr. McArthur that the Too She Wa Hee or "hite Knives have this season a company of forty persons on the California immigrant ~~travelling~~ road and succeeded in killing one or more persons. A company of them have been about Fort Hall this summer and have stolen several horses from persons residing there. He also informed me that they are the Indians who have for the last three or four years killed and robbed the Oregon immigrants along Snake River and at Salmon falls. They are the friends of the Wenisstas and some of them were in the Wenisstas camp on Boise River at the time of the massacre last season and not only instigated the ~~men~~ Wenisstas to of barbarity but ... them and received their share of plunder



be practiced among them, that they adopt the white man's law and will hold the individuals alone responsible. This applies particularly to the Cayuses.

The Wascoes have resolved that for the future life alone shall be satisfied with life. <sup>heretofore</sup> ~~On~~ the custom has prevailed that no matter how deliberat~~e~~ and cold blooded the murder, Indian justice as well as the victim's relatives could be perfectly satisfied with a few horses and goods.

During the year more than usual attention has been paid to agricultural pursuits, many having planted for the first time. Others were prevented by the want of seeds and proper implements. Their crops consist of wheat, corn, oats, peas, potatoes, mellons, onions, cabbages, carrots and garden vegetables generally and it is gratifying to know that with a few exceptions their labor has been well rewarded with bountiful crops adding stimulus and encouragement to further effort.

The general character of their improvements compare favorably with those of their more civilized neighbors, their hewed log houses particularly would reflect no discredit on white men. There is a good deal of attention paid to the raising of stock, particularly horses and cattle; ~~and~~ more pains being taken however to obtain numbers of them to improve the ~~quality~~ ~~and~~ although they are p 64 are i.. ? to the qualities of good horses.

The Indians in this district have in general manifest a pacific disposition toward our people during the year with the exception of a few young men principally Cayuses, who during the early part of the summer conducted themselves in a very unfriendly manner...

...

Within the past few months treaties of purchase and amesity have been made with all the tribes and bands within this district with the exception of a small band under a chief by the name of Wallachin



who occupies the south bank of the Columbia from Dog River to the Cascades or Great Falls. Also a small band of Sho-sho-nee Snakes who reside in the Blue Mountains south west of the Grand Rounde.

The well known sentiments of the tribes in the interior as also the fact of their being wealthy led many to assert confidently that any attempt to purchase their lands should prove entirely fruitless. Some months previous to the time of meeting them in Council I was called upon to settle difficulties in reference to the ownership of a horse where the principal chief of the Cayuses was the claimant on one white man on the other part. The horse was awarded to the Indian, but still he appeared to be not perfectly satisfied and spoke of the manner in which they would settle a matter of that kind by their laws. He was told that ~~Agent~~ the Agent was not acquainted with their laws and customs in those matters and that he was compelled to decide in accordance with the white man's law to which he replied with some warmth that he was under the belief that the Indians did not know so much as the whites but they know sufficient for their purposes, they know the names of the earth and sky and the things which .... them and had no reason to change their names if they could, that they 65

did not ask the whites for their laws or superior knowledge, all they desire of them was to be let alone, that he remembered the words of ~~him~~ the former chief ... and that when whitemen came into his country they were watched with a vigilant eye; that they ... loved their country, it gave them birth and nourished them in manhood and that when they died they expected to be buried in it; that it was in part composed of the bones of their ancestors.

The above is given to show the feelings, sentiments, prejudices and professions that were to be overcome by the commissioners before they ~~men~~ could hope to effect treaties with them.

The success of the commissioners was therefore as unexpected as it was gratifying to our citizens. By their several treaties



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Office Superintendent Indian Affairs

Salem Oregon, Sept. ~~25~~ 23rd, 1857

Sir: The special agency at the Dalles will be dispensed with at the close of the present quarter. Special agent A.H. Robie has been directed to turn over to you the public property in his charge. You will also assume the charge of the Indians recently embraced within the special agency of Special Agent Robie, in thus increasing your duties I am aware of the necessity which will exist for clerical assistance and in the event that you deem it necessary to employ a clerk for limited periods I will use every exertion to have the account allowed at the Treasury Department.

Very respectfully

Your Obedient Servant

Ami P. Dennison , esq.

J.W. Nesmith, Supt. Ind. Affairs O and W T

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Office Superintendent Indian Affairs

Salem Oregon, November 13, 1857

Sir:

I have the honor to acknowledge the receipt of your letter of September 17th, 1857 enclosing invoices of ~~dry~~ dry goods and hardware shipped per Willy Tay..or & Co (?) for the Indian service in Oregon and Washington territories. The goods have not yet arrived. I am informed however by the agent of W F Co. that they will arrive on the next steamer.

The goods will be extremely acceptable and will go far to relieve the most abject wants and <sup>destitution</sup> ~~distribution~~ to which the Indians here are reduced.

They have long looked for the arrival and frequently remarked that the Great Father had forgotten that winter was approaching.

On arrival no time will be lost in making a distribution of them among the different Ind. tribes. The forwarding of substantial and of the character has a good effect in convincing the Indians that the government exercises a protective care for their wants and that their Great Father has not as they have often been told, concluded to steal their country from them and leave them to perish from cold and hunger.

Doubtless the files of your office go to show that the Indians have heretofore been victims ..from a similar character; I desire to disabuse your mind of such an erroneous misconception. While I believe that the late Supt. Palmer, Stevens and Hedges acted honestly and gave the Indians what was justly their due so far as government had supplied the means I am sorry that I cannot say as much for a Mr. Anson Dart who was ~~de~~ superintendent for the Indians in the years 1851, 52 and 53 during which time a large p 103 shipment of Indian goods was made from the states and of which the Indians had never any transferable evidence in the way



possession.

Indian goods such as blankets, clothing, hardware ~~etc.~~ <sup>and</sup> at the time allotted to them. In consequence of the discovery of the gold mines in great demand on this coast and it is a well known fact susceptible of direct and positive proof that the said Dart sold in this territory ~~large~~ very large invoices of such goods at from one to two hundred per cent profit on New York prices. It is said that on the settlement of accounts a larger balance was due to the government which he paid over in cash which he might well afford to do after realizing from one to two hundred per cent profits on what should have been distributed to "Lo the Poor Indian!" and his family. How far the statement relates to his being in arrears or having paid over the balance due the government may be correct I have no means of knowing as he has effectually covered up his tracks by taking all his accounts from the files of the office. In relation to the fact of his selling the Indians goods I have myself .. to submit the proof. I submit this statement for the purpose of illustrating the fact that the Indians have not received all that the government ~~seem~~ intended they should.

In this connection it would perhaps be proper to inform you that Supt. Dart built on the Willamette river opposite the village of ~~Wixiam~~ Milwaukie an office at an expense of about seven or eight thousand dollars. This office which is an excellent one has now been turned over to me and I learn that the person upon whose "claim" it was erected now asserts his title to it.

Inasmuch as the house was built at government expense it might be proper to institute steps to ascertain who is the legitimate owner of the property. Very respectfully etc. J.W. Nesmith, Supt. Ind. Affairs, O and W. Territory. Hon Charles E. Mix, act com. Ind. Affairs, Washington, D.C.



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Sir: Office Supt. Indian Affairs

Salem Oregon, November 19, 1857

Sir: Agent R.H. Lansdale is placed in charge of that portion of Washington Territory east of the Cascade Mountains and north of the Columbia river.

You are directed to furnish him every assistance and facility <sup>in</sup> ~~as~~ your power and to turn over to him any property now in your hands which you received from him or from late Local Agent Robie.

In reply to your two letters of November 10th in relation to a supply of Indian goods I have to say that they have not yet arrived. On their arrival your proportion will be forwarded to you.

I have to request that you will return Craig's vouchers for the money placed in your hands as soon as you can get them signed, and, as I have mislaid or lost the retained copies of those vouchers, if they are still in your hands I have to request that you will send me copies of them at your earliest convenience as I desire them for reference in the office.

very respectfully etc.

(Signed) J.W. Nesmith

Supt. Ind. Affairs

Oregon & Wash Territories

A.E. Dennison, esq.

Indian Agent, Dalles

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Office Supt. Ind. Affairs

Salem Oregon Ter.

Sir:

December 10th, 1857

Referring to your letter of Nov. 28th in which you desire to be more fully informed in relation to the change in your district in consequence of Agent Lansdale being assigned to the Yakima district I have to say

that his district is composed of that district of country east of the Cascade Mountains and north of the Columbia and Snake rivers. I have not deemed it necessary in this division to follow out the Oregon and Washington boundaries but have accepted the more natural one of the rivers.

In relation to the property to be turned over by you to Agent Lansdale it was presumed at the time the instructions were given (though not expressed) that you should only turn over to Agent Lansdale such property as he might require for service in his district. It is presumed that you can furnish him with the few horses he will require without exhausting your supply so as to make fresh purchases necessary. Whatever you have received in the shape of clothing or subsistence from either messrs Lansdale or Robie and not exhausted by issue had better be turned over to Agent Lansdale.

Any other instructions you may require will be promptly given upon calling my attention to the particular subject. I have again to request that you return Craig's vouchers (signed) as soon as possible.

I am etc.

J.W. Nesmith

Supt. Ind. Affairs

A.P. Dennison, esq.

Indian Agent, Dalles, O.T.



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Office Supt. Indian Affairs

Salem, Oregon, April 1st, 1858

Sir:

I enclose to you a letter from Agent Dennison at the Dalles requesting that a company of soldiers be stationed at the Warm Springs Reservation.

The Indians who have heretofore lived in the vicinity of the Dalles will all be removed to the Warm Springs Reservation this spring and I fully concur in Agent Dennison's representations of the necessity for a few troops being stationed at that point. Hoping that the matter will commend itself to Gen. Clark's (sic) favorable consideration,

I am respectfully

J.W. Nesmith

Supt. Indian Affairs

To

Major W.W. Mackall

Asst. Adgt. General U.S.A.

San Francisco, Cal.



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Office Supt. Indian Affairs  
Salem, Oregon, April 1st, 1858

Sir:

Referring to your letter to this office of March 13th in regard to a conversation with Lieut. Allen of the Army respecting the surrender of the Yakima murderers I have at present no instructions to give in relation to the matter further than to direct that if the Indians desire to make a voluntary surrender of the murderers they can do so either to the military or the agents of the Indian Department.

The question of the demand for ~~the~~ the surrender of those murderers is now under the consideration of the heads of the Indian and p. 192

military departments at Washington and I am awaiting for orders in relation thereto.

Your request for a company of soldiers to be stationed at the Warm Spring (sic) reservation has been transmitted to Brig. Gen. Clark (sic) with a recommendation that it be complied with.

I am very respectfully

Yours obt. servant etc.

J.W. Nesmith, Supt. Indian Affairs

to A.P. Dennison,  
Indian Agent,  
Dalles, O.T.



Office Supt. Indian Affairs

Salem, Oregon, June 1, 1858

Sir:

Your letter of May 20th in which you ask to be appointed special Indian Agent at or in the vicinity of Fort Simcoe reached this office yesterday. I had previously received a letter from Major Garnett U.S.A. recommending you for the place.

In reply I have to say that while it would afford me pleasure to confer the appointment on you yet the instructions from the Department ordering a retrenchment of the expenses of the service together with the exhausted state of the appropriation for the present fiscal year utterly preclude my making any such appointment for the present.

I have recommendations now before Congress for an m???? of agent and correspondending estimate for funds. In the event of my recommendations being adopted the agent will be appointed by the President.

I am sir respectfully etc.

J.W. Nesmith, supt. Ind. Affairs O and W T

to A.H. Morse esq.

Fort Simcoe, W.T.



Salem, Oregon, August 30, 1858

Sir:

I received your letter of the 24th inst. this morning.

In reply to your interrogations I have to say that I have not changed the opinion which I expressed to Brig. Genl<sup>l</sup> Clarke in June, 1857 in relation to the propriety of preventing persons from settling in the Indian country beyond the limits upon which we then agreed.

There is not one foot of land in Oregon and Washington Territory East of the Cascade Mountains to which the Indian title has been extinguished nor can it be extinguished until the treaties receive the constitutional ratification of the President and Senate.  
p. 259.

The laws of Congress excluding settlers from the Indian country are stringent in their character and have been extended over the district of country referred to. I have no alternative but to attempt their execution.

As the mail is about to close I have not time to go into a detailed statement of my views upon the subject and the laws of Congress upon which they are based. I would however desire to call your attention to the provisions of the act of Congress of June 30th, 1834 and particularly to the 10th section of said act which is as follows: And be it further enacted that the superintendent of Indian Affairs and Indian agents and sub agents shall have authority to remove from the Indian country all persons from thereon contrary to the law and the President of the United States is authorized to direct the military force to be employed in such ????

Person doubtless find it desirable to settle in that portion of the country opposite the Dalles and it is to be regretted that Congress has not given authority for doing so until such authority is given by the



the ratification of the treaties. I shall regard it my duty to enforce the laws...

If the restrictions to settling opposite the Dalles should be removed or violated and the country throw open to settlement the same demands would be made in relation to the Walla Walla Valley and in fact of all portions of the Indian country.

The late act of Congress providing for an extension of the government surveys east of the mountains in <sup>no way</sup> ~~.00000~~ modified or affects the existing laws in relation to intercourse with the Indian tribes. Such acts authorizing surveys, like ... locating military roads in the Indian country, the government has always claimed the right to exercise in the absence of treaty stipulations

Very Respectfully

etc.

J.W. Nesmith, Supt. Ind. Affairs

O and W T

Major W.W. Mackall

A.A. Gen. U.S.A.

Port Vancouver, W.T.



Office Supt. Indian Affairs  
Salem, Oregon, Sept. 6, 1858

Sir:

Referring to your letter of August 4th from its tenor I am led to conclude that my report of Col. Steptoe's disaster has failed to reach you. The information however will be forwarded at length in my annual report which left here by the last steamer.

Since forwarding my annual report nothing definite has been heard from the movement of the troops except the affair between Maj. Garnett and the Yakima Indians on the 15th of August, an account of which taken from the Columns of the Oregon Times ?? Newspaper I herewith enclose.

Nothing has recently occurred to change the temper or disposition of the Indians on the reservations and so far as hostiles are concerned they are confined to the Indians east of the Cascade Mountains in Washington Territory. Reports are continually reaching this office of the number of persons on their way to Fraser River mines by the route east of the Cascades in Washington Territory.

A rumor reached here today that Joel Palmer est. late supt. Ind. Affairs, for Oregon together with his party of one hundred and twenty five men are on their way to the mines had been massacred by the Indians north of Snake River in Washington Territory, if true it must have occurred near the place where Col. Steptoe ~~was~~ was defeated.

I am not inclined to place much confidence in the rumor. Owing to the great distance of the hostile Indians from the settlements, together with the difficulties of communicating with the troops in the field it necessarily requires some considerable time to learn of what is actually transpiring.

I do not p 263

apprehend that there is any concert between the hostile Indians east



Office Supt. Ind. Affairs

Salem, Oregon Sept. 30, 1858

Sir:

By advice from Walla Walla I learn that the command of Col. Wright had a battle with the combined hostile tribes at the Four Lakes in the Spokane Country on the 1st inst in which 67 Indians are reported as known to have been killed without any loss on the part of the troops.

Since that time the Col. has continued his march to the Coeur d'Alene Mission having had several skirmishes with the Indians in which a large number of their horses have been captured and killed--besides a great quantity of their property captured and destroyed.

At the last advices the Col. Expected to return from the expedition with his command and contemplated reaching Walla Walla by the 15th of October.

I understand that Col. Wright reports the war closed and that the Indians are now suing for peace. These representations are doubtless true, yet there is great danger of the government officers being deceived by the pretended submission of the Indians. And I only regard it as a ruse on their part to rid themselves of the presence of the military.

If the troops are withdrawn from the country they will again resume a hostile attitude and repeat their former acts of robbery and murder.

The only way that peace can be maintained among those people under existing circumstances is to overawe them by the presence of military posts in their country.

I ~~xxx~~ learn from private advices from Washington that blame has attached to ~~the~~ ~~office~~ this office because more full and earlier reports have not been made of the condition of Indian affairs



and the operation of the troops to ~~the~~ the northward of Snake River.

The military officers of course report nothing to me and I have not up to the present date seen an official report from that department upon the subject of the present ~~h000~~ hostilities. I have  
no p 277

agent residing among the hostile Indians neither had I any that could be sent to accompany either of the military expeditions and I did not believe the circumstances warranted me in incurring the expenses incident~~al~~ to keeping a contract express running a distance of five or six hundred miles into the interior.

~~OddeOdOdOdOdOdOdOd~~ To have visited the region myself would have been to neglect the other ~~inpx~~ important business of the office.

I have not regarded any of the settled portions of Washington or Oregon Territories in danger from the Indians east of the Cascade Mountains and to the northward of Snake river, therefore my energies have been particularly directed to the maintenance of peace with the Indians upon the reservation and near the settlements.

As soon as Commissioner Mott closes his investigations ~~at~~ at this office I design accompanying him on a tour for the purpose of visiting the principle tribes in Oregon and Washington east of the Cascade mountains and will probably be absent from this office six or eight weeks.

Several white persons have recently been killed by the Indians in the neighborhood of Puget Sound. By the indefatigable exertions of Agent Simmons the murderers have been arrested and turned over to the civil authorities for trial.

Things remain quiet upon the reservation with the exception of the mumnering of the Indians in consequence of the reduction of their rations accompanied with threats to leave the reservations and return to their old homes ~~OddeOdde~~ where they can obtain a more bountiful subsistence by forage upon the settlements. Yours etc. J. W. Nesmith  
to Charles E. Mix, Commissioner Ind. Affairs Wash D.C.



Office Supt. Ind. Affairs

Salem Oregon November 1st, 1858

Sir:

Having just returned from a tour , in company with Commissioner Mott east of the Cascade mountains I avail myself of the earliest opportunity of communicating to you the result of my observations together with hurried? such business statements of the condition of Indian affairs there as my limited time before the close of the mail will permit.

Mr. Mott and myself visited Warm Springs Reservation upon which are located the Wascoes, Tyeh and Dechutes numbering about twelve hundred souls. The habits and condition of these people are better than they have been at any time within the last ten years and their present prosperous condition is greatly owing to the efforts of Mr. Dennison, their agent.

Although the treaties with them were not ratified I took the responsibility of directing Agent Dennison to remove them from the Dalles to their present location eighty miles south of the Columbia River upon the ground assigned them by the treaty of June 25, 1855. They are now removed from the evil influence of bad white men , are sober and industrious and doing all they can to support themselves by cultivating small patches of ground.

None of them have been engaged in the recent hostilities yet they complain bitterly at the delay on the part of the government in ratifying and complying with the provisions of their treaty.

They however declare their determination to abstain from hostilities , Mr. Mott and myself had councils with them as well as with delegations of Cayuses and Nesperces whom we met at the Dalles in all of which the Indians expressed a determination to remain friendly with the whites and to be controlled by the government agents. Mr. Mott will doubtless report to you more fully the result of our conferences.



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Office Supt. Ind. Affairs,  
Salem Oregon, November 2, 1858

Sir:

When at Fort Vancouver I had a conversation with General Harney in relation to sending troops to Colville this fall. The Gen'l had not at that time determined upon the subject.

In the event that troops are to be sent there the present season I desire to send an agent of this department with them and have to request that you will do me the favor to appraise me as to the time the troops will probably march.

The agent whom I design sending to Colville is not at present assigned to duty and will not be assigned a district until I am advised relative to the Colville expedition.

Respectful y etc.

J.W. Newsmith,

Supt. Ind. Affairs, O W T.

Capt. A. Pleasanton,

AAA Genl' U.S.A.

Fort Vancouver, W.T.



Dalles Oregon Oct. 23, 1858

Sir:

In view of the fact that the geographical position of your agency naturally brings you in contact with great numbers of poor and destitute Indians belonging to Washington Territory and there being no agent belonging to that Territory in your neighborhood, to relieve the wants of such destitute persons I have deemed it proper to herewith place in your hands the sum of two thousand dollars from the appropriations for defraying the expenses of the removal and subsistence of the Indians in Washington Territory to the Reservations, thereon, aiding them in procuring their own subsistence, purchase of provisions and presents and compensation of laborers and other employees for the fiscal year ending June 30th, 1859.

This sum you are directed to disburse exclusively for the benefit of such destitute Indians belonging to Washington Territory as shall during the coming winter ~~be~~ visit your agency. You will also make small presents to the chiefs of the Washington Territory tribes visiting the Dalles as you may think proper.

For this sum you will render separate abstracts in your accounts under the proper head of appropriations and forward a copy of this letter with each set of your account.

Very respectfully etc.

J.W. Nesmith, Supt.

O and W T

A.P. Dennison,  
Indian Agent  
Dalles, O.T.



Office Supt. Ind. Affairs

Sir:

Salem, Ore. Nov. 7, 1858

There is a report in circulation here that General Harney has issued orders rescinding the orders issued by General Clarke forbidding settlement in the Indian country and in the neighborhood of military posts east of the Cascade mountains. If such an order has been issued by the commanding general I have to request that I be furnished with a copy of the same.

The effect of such an order would be to change the policy heretofore present toward the Indians in the superintendency and the important results likely to flow from it is my apology for troubling you for a copy of the order.

Very Respectfully

Your etc.

Capt. A. Pleasanton

J. W. Nesmith,

A. A. A. General U. S. A.

Supt. Ind. Affairs O W T

Fort Vancouver W. T.







aboriginal inhabitants.

The act of Congress of August 14, ~~185~~ 1848 organizing the territory of Oregon and that of September 27th, 1850, making donations to settlers therein embraced territory wholly within the Indian country as it was described by the law of the land and regarded by common consent and no provisions even previously made by treaty by which the prior rights of occupancy on the part of the Indians had been changed or in any way modified.

The congressional action marked by so under ?? ... departure from the usual course in similar cases it is well known was the work of necessity and not of choice.

Large number of white inhabitants even already settled and had been born in the country before our government obtained the exclusive jurisdiction over it by the Treaty of June 15, 1846. Under this state of affairs legislation was attempted to be conformed to the existing state of things and the question as to what is and what is not Indian country has constantly presented an embarrassing question to the officers of the government ~~whax~~ within the limits of the superintendency

Under the operations of the act of Congress above cited the principal part of the lands in Oregon west of the Cascade Mountains and a great portion west p. 301 of those mountains ~~on~~ what is now Washington Territory had been settled upon and rights acquired under the donation laws prior to the extinguishment of the Indian title and there yet remains large portions of land in Oregon and the greater portion of ~~thaxix~~ that in Washington west of the Cascade mountains which is now settled upon by claimants and which the Indians ~~kax~~ title has not been extinguished. No efforts have been made by me or to my knowledge by my predecessors to prevent settlement upon any lands in either territory west of the Cascade Mountains not included within Indian reservations established according



nor has there been any efforts made to enforce the intercourse laws within the region referred to except that for the punishment of selling liquor to Indians. The act of Congress making donations of land to actual settlers expired by its own admission(?) on the 1st day of December, 1855 . Under its operation but few settlers have established themselves east of the Cascade mountains and since the expiration of the acts referred to that country east of the Cascades excepting the portions to which rights had been acquired under the donation law has been treated and regarded by the military and officers of the Indian department here as Indian country within the meaning of the acts of Congress upon that subject.

In 1855 orders were issued by the military officers in command of the Department forbidding settlement east of the Cascade Mountains beyond the Dells of the Columbia. Again on the 29th of June, 1857 ( ? ? ? ? ) the order was reiterated by Gen Clarke commanding the department forbidding intrusion upon the land within certain specified limits and when the treaties had not been ratified

The second paragraph of that order (a copy of which I enclose) directing the commander of posts to "be at pains to explain to the Indians that they have the same right to their country now as they had before the treaties were made."

By reference to my annual report for 1857 ~~contains~~ contained in printed copy of Report of Commissioner Ind. Affairs Page 320 you will perceive that I directed Agent Lansdale to ~~assure~~ assure the Indians of the interior that their land should not be taken from them without receiving a fair compensation. Such explanations and promises have therefore always been made to these Indians by both the military and officers of the Indian department as to induce them to believe that settlers would not be permitted to occupy this country until the treaties with them had received validity by the constitutional



sanction of the president and senate of the U.S.

The history of the whole question shows that the military took the initiative in the enforcement of the intercourse law over this region and so strong have been their views upon this subject amongst intelligent army officers that Major (unintelligible..looks like B or C or Grier) commanding Fort "alla" alla, ~~xxxxxx~~ under the misapprehension that I had allowed persons to go there to trade under date of October 28 1858 as follows:

(See letter on file) On a recent visit in company with Commissioner Mott to the country east of the Cascade mountains we held several councils with the Indians of different tribes. They all complained of the intrusion of white settlers upon their lands before the ratification of the treaties. In every instance I promised them their country should not be thrown open for settlement until the treaties were ratified.

Under this state of facts and after having made these promises you may judge ~~if any~~ of my surprise on learning of the existence of General Harney's order promulgated without the knowledge of any officer of the Indian Department and while they were engaged in making promises to the Indians that they should be protected in their rights.

It is not pretended that any right can at present be acquired to their lands by settlers inasmuch as the donation laws have expired and in order to make them liable to be taken by preemption it is necessary that the Indian title should be extinguished and the lands surveyed--neither of which has been done.

Inasmuch as citizens have ~~xxx~~ never been prevented from locating near military posts west of the Cascades of course the order is only applicable to that portion of this superintendency east of these mountains. The word "near" leaves the question as to the proximity of the settlement with ~~xxxxxx~~ reference to the posts rather vague and indefinite, but is understood however and generally



interpreted as throwing open the entire country from the Cascades to the summit of the Rocky Mountains to immediate settlement p. 303

The Excepting of "Indian Reservations" made in the order (smearked nkly indicates a misapprehension (smeared) fact as there is no legally established Indian reservations within the limits of the country referred to.

In view of the foregoing facts I conclude that the country east of the Cascade Mountains not occupied under the provisions of the donation law is Indian country within the meaning of the acts of Congress upon that subject.

I therefore conclude that the order of General Harney to give every encouragement to settle thereon is contrary to law and void and in support of my opinion I beg leave to refer you to the following among other laws upon the subject: 14th or 1st (Scribble then Thr?). Constitution of the U.S. gives congress the exclusive powers to regulate commerce with the Indian Tribes 2nd the ordinance of 13th July 1787 provides in its 3rd section that the utmost good faith shall always be observed towards the Indians, their lands and property shall never be taken from them without their consent etc. but "... founded in

justice and humanity shall from time to time be made for protesting wrongs being done to them," 3rd the people of Oregon in their act organizing a provisional government on the (blank) day of (blank) 1845 reenacted the very ~~xxx~~ language above quoted from the ordinance of ~~xx~~ 1787 4th Congress on the 14th day of August 1848 incorporated one ~~xxxxx~~ provision of the 14th section of the laws of Oregon extending the Ordinance of 1787 over said Territory. The same law and same section also gives force and vitality to the act of the provisional Government making it the law of the land. 5th I beg leave to refer you to the act of Congress of June 30th, 1834 ~~xxxx~~ which in its 7th, 8th, 9th, 10th and 11 sections not only protects the rights of the Indians



but provides for furnishing persons who infringe them and makes it the duty of the military and officers of the Indian Department to enforce them.

From the foregoing you will perceive that a difference of opinion exists between the command in general and myself relative to Indian Affairs within the superintendency.

As it will be useless for me to attempt to enforce the laws without the cooperation of the military I therefore submit the sub- p 304 ject to your decision and orders.

In the foregoing I do not ~~mean~~ desire to be understood as opposing the settlement of the Walla Walla or any other portions of our great interior. On the contrary I think that every consideration formed in good policy demands that the country be thrown open to settlement and have so stated in each of my annual reports.

I ~~mean~~ do think, however, that the rights of the Indians as recognized by the laws as well as the general usage and policy of the government should be protected. I therefore would again respectfully urge that the treaties now pending before the Senate be re ratified so that settlers who may choose to occupy the country may have some more stable and reliable tenor to their improvements than that to be derived from a ??(Mere? ) military order liable to be changed, modified or revoked by the next commanding officer.

Very Respectfully etc.

J. W. Nesmith, supt etc

Hon Charles L. Mix,  
Commissioner Ind. Affrs. Washington D.C.



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Office Supt. Indian Affairs

Salem Oregon, Dec. 13, 1853

Dear General:

I have to acknowledge the receipt of your letter of Nov. 3d informing me that you had urged upon the government the necessity of confirming the treaties negotiated by Gov. Stevens east of the Cascade Mountains. It affords me sincere pleasure to know that the views heretofore expressed by myself in relation to these treaties have your approbation and approval and that your recommendations will meet with the approval of the government and result in a speedy ratification of the treaties referred to. With a prompt ratification of the treaties and a compliance with the long deferred promises made to these Indians I am satisfied that there would be less trouble in our management and control while nothing would contribute in a greater degree to the opening up of a northern line of communication with the United States.

Allow me, general, to express to you my appreciation of your disposition to consult and confer with the officers of the Indian Department while the Territories of Washington and Oregon formed a portion of the military department under your command. I have to regret that your successor has seen fit to adopt a policy marked by so wide a departure from what is at least due to courtesy at the same time violation of the Acts of Congress in relation to our Intercourse Laws and in the utter disregard of the wishes of the Department and the rights of the Indians. /

I am etc.

J. W. Nesmith

Supt. Ind. Affairs

Brig. Gen. W. S. Clarke,  
U. S. Army commanding  
the Department of California  
Benecia, Cal.



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Office Supt. Ind. Affairs  
Salem, Oregon May 10, 1859

Dear Sir

Herewith I enclose to you a copy of a letter received from the Department by last mail notifying me that you have been appointed superintendent of Indian Affairs for Washington and Oregon Territories. While it would afford me great pleasure to be relieved from the toil ... and responsibility of the office at once, I have to suggest that owing to the accumulation of business and complicated matters growing out of the transactions of the present quarter as well as the necessity of to communicate with the Assistant Treasury (si of the United States at San Francisco that you would delay qualifying until the 1st day of next month by which time I can adjust my accounts and be ready to turn over the office with the business completed up to that time.

If my suggestions meet your approval I shall be pleased to hear from you by return of the bearer.

I am sir etc.

Edward Geary Est.

J.W. Nesmith, supt. Ind. Affairs.

Linn County, Oregon.