

Medicine men.

Report of Commissioner of Indian affairs 1895.

Grand Ronde agency, Ore. Aug 23, 1895.

the medicine men still have a great hold on the Indians of this reservation. Whenever any of them are sick they will call in one of these frauds and night after night one can hear the monotonous music of their medicine doctors. These medicine men lose no opportunity to cause the Indian to lose confidence in the agency physician who is most competent and reliable.

I have informed all medicine men that I will not issue anything to them and I believe that I will break up this pernicious practice.

Commissioner of Indian Affairs--1896

(P 25)

Allotments and patents, listing of those issued

..Schedules of the following allotments have been received in this office but have not been finally acted upon....Yakima, in Washington, 1,866...

(P 83)--Mineral Entries on the North Half of the Colville Reservation, Wash..

By the act of Congress which became a law without the President's approval on July 1, 1891 (Stat. 27, L 62) it was provided that after the lands should have been surveyed and allotments made to the Indians who elected to remain on the north half of the Colville Reserve, that portion of the reservation should, by proclamation of the President, be restored to the public domain, and be disposed of under the general laws applicable to the disposition of public lands. As the required surveys have not been completed such Executive proclamation has not yet been issued...

..March 21, 1896 the office laid all the facts before the Department and the opinion was expressed that the rights of the Indians were being invaded..

(P 98)

Referring to remarks in the annual report of 1895 in regard to infringement by whites of the fishery rights held by the Yakima Indians under treaty concluded with them June 9, 1855 (12 Stat. L. 951) I have to say further that every effort has been made by this office to protect these Indians in such treaty rights, but not always with success. It is still a troublesome and perplexing question.

The fishery rights of these Indians and the stipulations of their treaty were brought before and defined by the supreme court of Washington Territory, January 25, 1887, in the case of The United States v Frank Taylor reported in the Pacific Recorder, volume 13, page 333. Under that decision

the Indians have the right to use and enjoy their fisheries as they have done before the conclusion of the treaty of 1855; and the court held that when a person obtained, under an act of Congress approved subsequently to the treaty, a patent to land abutting upon the steamwater fisheries and erected and maintained thereon a fence which obstructed the approach to the fishery which had been reserved by treaty to Indians, equity would interfere by an injunction and cause the removal of the obstruction; and that persons so obtaining patents hold such lands encumbered and charged with such easements and rights.

This decision was a victory for the Indians, reversing the judgment of the district court, which had been against them; but Agent Erwin Yakima Agency, Wash., states in his report of February 2, 1895, that although the supreme court of Washington Territory remanded the case for further proceeding, in accordance with the stipulations contained in the decree, it was never prosecuted beyond that point, as he was informed.

(P 99) Since that decision of 1887 was rendered, the Winans Bros, the Seufert Bros and others have erected fish wheels in the Columbia River denied the Indians the right to fish therein, and obstructed their ingress and egress there.

The commissioner of public lands for the State of Washington has published various notices of applications by certain parties to purchase shore lands along the Columbia River between the high and low water marks.

The infringement of the fishery rights of these Indians by the whites above named and the application to purchase from the State of Washington shore lands along the Columbia have been laid before the Department of Justice with recommendation that the United States attorney for the State of Washington be instructed to take such action in each case as might be necessary to protect the rights of the Indians.

By Department reference I received a communication dated January 22, 1896 from the Attorney General inclosing copy of one dated the 15th of that month

from William H. Brinker, United States attorney, stating that on July 11, 1805, he filed a bill in equity in the United States circuit court for the southern division of the district of Washington in the name of the United States on behalf of the ~~defendants~~ Yakima Nation of Indians against Winans Bros. to enjoin the defendants from interfering with those Indians in taking fish from the Columbia River at the Tum Water Fisheries; that a temporary injunction was issued on the same date; that on October 7 the defendants filed a demurrer to the bill; that on November 18 the demurrer was argued and submitted and taken under advisement by the court, which had not then (January 15) been decided; that on November 19 a stipulation was filed permitting the Indians and the defendants to fish in common until the final hearing in the case, and that the injunction, as modified by the stipulation is still in force.

I am now in receipt, by Department reference, of a communication dated March 23, 1896, from the Attorney-General, stating among other things, that the treaty of 1855, with these Indians established a kind of servitude in the ceded lands in the nature of a right of temporary injunction in favor of the tribe or tribes which had at least the right of occupancy of the lands, that, the treaty being the supreme law of the land, the State of Washington, while the owner of shore lands, with power to sell them can not deprive the Indians by law, patent or otherwise of this right; that he has not doubt that the courts would enjoin all persons interfering with the exercise of the right; that a suit or suits for injunction could be instituted against past or future purchasers of land which includes place where Indians are accustomed to fish, and that all such purchasers could be forbidden to interfere with the Indians, and that the purchasers themselves would doubtless prevent others from interfering. The Attorney General then suggested that it might be well to have the attention of the government at Washington (P 100) called to the matter, with a view of securing legislation which would protect the Indians in the enjoyment of their rights.

In view of all the facts in the case, I recommended, April 2, 1896, that the attention of the governor of the State of Washington be called thereto, with request that the legislature of that State be asked to enact such legislation as would practically protect the Indians in the free enjoyment of their fishery rights.

Very respect. etc.

D. M. Browning, commissioner,

the Secretary of the Interior.

(P-309)

... There are three reservations under the jurisdiction of this agency, namely the Colville, Spokane and Coeur d'Alene.

(areas described)

Colville Reservation census

Lakes 284

Okanogans 528

Colvilles 269

San Poels, Nespilems, estimated 312

Columbias 316

Nez Perce (Joseph's Band) 152

total 1,861

Spokane Reservation

Lower Spokanes (Lot's Tribe 332)

Upper and Middle Spokanes (Enoch's Band) 190

total 8 633

Coeur d'Alene Reservation

Coeur d'Alenes 488

Upper and Middle Spokanes (Louie's band) 145

total 633

Not on any reservation

(Grand total 2 1600)

I forward herewith under separate cover a correct census of all but the San Poels, Nespilems and Calispels, who are estimated. The San Poels and Nespilems will not give any information concerning themselves...

(P 317)

Report of Yakima Agency, Yakima Agency, Wash., Fort Simcoe, August 23, 1896

Irrigation... On February 10, 1896, the Department granted authority to prepare detailed plans and estimates for a system of irrigation work with a view of taking water out of the Yakima River and constructing a large canal from the proceeds arising from the sale of the Wenatshapam Fishery. This fishery was purchased by a commission composed of Col. John Lane and myself. The treaty was signed January 1894. The agreement was subsequently approved by act of Congress and \$20,000 appropriated to pay the purchase price.

...One of the articles of the treaty provided that the Indians should have the right to decide in general council how the money should be expended. (money dispersal arguments and content recounted)

(P_319) Fishery... The Old Tumwater Fishery is causing considerable excitement (court case recited briefly)... The case comes up for hearing in November and I trust the United States district attorney will be successful in gaining the case for the Indians... (property fenced, fish wheels built, Indians "wild with rage, claiming they have no place to fish")

Indian Legislation, Passed during the First Session of the Fifty-Fourth Congress, (pps 413-471, with proclamations)

Commissioner of Indian Affairs--1897

(P 5) Education

In 1890 The first experiment was made with reference to the education of Indian pupils with white pupils in the public schools of the different States and Territories. Circulars were addressed to county superintendents and others, expressing the desire of the Indian Office that they would cooperate with it in securing the admission of Indian children to the white schools. Contracts for such pupils were made first in 1891 for such pupils at the rate of \$10 per capita per quarter, based upon the average attendance maintained. Strong inducements were placed before the public schools to reach out and gather in the prospective Indian citizens, and by educating them on an equal plane with the white people better fit them for assuming in the future the duties and responsibilities of citizens.

...In order to overcome the prejudice of the whites, the amount to be paid for the education of Indian pupils was purposely fixed at a rate higher than that usually expended for public school advantages but with all these inducements there was an enrollment last year of only 303, with an average attendance of 194, a decrease respectively of 110 and 100 from the year previous.. (P 6 lists schools, Washington No. 87, King county, 15 pupils

(P 33) Yakima Reservation, Wash.--May 4, 1896, the Department approved plans for a system of irrigation of the Yakima Reservation, the cost to be paid from the proceeds of the sale of the Wenatshapam fishery, belonging to the Indians of that reservation amounting to some \$171,000. Dec. 14, 1896 authority was granted for the expenditure of \$3,090 for the construction of distribution laterals, etc., ...

In a report dated June 30, 1897, William H. Redman, engineer in charge of the construction, gives the following summary of the work done:

There are 15.47 miles of main canal with a carrying capacity of 314 cubic feet of water per second with 13.06 miles of lateral ditches leading therefrom for the distribution of water...

The above provision does not include provision made near the head of the main canal (about 3,000 feet below the intake of the Yakima River) for the turning of about 200 cubic feet of water per second into a natural slough which runs in a southeasterly direction) nearly parallel with the Northern Pacific Railway* a distance of about 12 miles, emptying into Toppenish Creek, and which slough will also serve as a canal from which many lateral ditches can be constructed for the distribution of its water. By construction of more lateral ditches from these several sources of supply fully ~~80,000~~ 50,000 acres of the very best soil can be irrigated...

Agent Erwin states that this irrigation system stands second in magnitude in the State of Washington...

(P-288)-- Report of Colville Agency, Colville Agency, Miles, Wash. Aug. 15, 1897

...there are three reservations under jurisdiction of this agency.. the census just taken shows a total population of 3,393 on the three reservations, of whom about 10 per cent are mixed bloods.. This is an increase over the year previous of 225 and is accounted for in the fact that a more careful census was taken...and we obtained a count of people who have heretofore been estimated..

There are eleven different tribes or bands of Indians residing on the three reservations

(P 289)-Colville ~~xxxx~~ reservation shows 2,070 census and seven tribal listings.

(P 297)--Report of Yakima Agency, Yakima Indian Reservation, Fort Simcoe, August 31, 1897

(P 298)-Fisheries--The rights of the Indians in the Wisham fishery case have not yet been determined. For four years I have endeavored to get this matter settled About all that has been accomplished is the filing

in the United States court. The case has been pending for some time, but for some reason there has been no trial. The Indians are very impatient, and contend that the delay is working a very great hardship; that the white men are fencing up all the fisheries, building fish wheels and traps, thus depriving them of their accustomed fisheries, which was one of the considerations of the treaty ...

Indian commission - On March 20 the Indian commission to treat with the Yakimas for a part of all of their surplus lands held their first council. Since... (P-299* then several other councils have been held but the commission is making but little progress. There are 600,000 acres of surplus lands on this reservation and a large majority of the Indians derive little or no benefit from them, for they have but no stock except a few cayuses, and it is impossible to utilize them. If they could be induced to sell, the money derived therefrom would enable them to build comfortable homes and improve their allotments..

Palouse Indians - In compliance with an official order I made a visit in April to the Palouse River for the purpose of inducing the Palouse Indians to move to this reservation. I found about 75 of them living on a barren sand bar at the mouth of the Palouse River. Here they have lived for more than one hundred years. This was originally the home of Kamaiakun, the chief, who made the Yakima treaty with Governor Stevens in 1855. Strange to say after making the treaty neither he nor the tribe ever came to the reservation. The whole tribe have only about 10 acres of land in cultivation scarcely enough to supply one Indian family. Up to a short time ago they have derived their support from catching salmon a few miles from the Indian village. The Palouse River falls over a rock 160 feet high. The salmon at one time ascended the river by tens of thousands. They were unable to get beyond the falls, and the Indians caught them in large quantities but this is a thing of the past. Last year the Indians caught only two salmon at the falls) the fish wheels and nets along the

Columbia River catch them ~~and they continue~~ before they get ~~here~~ there) but the changed conditions have not changed their minds and they continue to cling tenaciously to this barren spot where their children were born and their mothers and fathers have died...I respectfully renew my suggestion that they ~~be~~ be forcibly removed to either the Nez Perce, Umatilla or Yakima reservations...

L.T. Erwin, U.S. Indian agent...

(P 387--~~329~~)--Indian Legislation passed During the Second Session of the Fiftyth ~~Fourth~~ Congress ...

~~Statistics~~ Statistics and index_430- 604

Religion. Pum Pum Yakima

From L.T. ~~Erwin~~ Erwin report of 1897 in commissioner of Indian Affairs.

There are two mission churches on the reservation, one Methodist and one Catholic. They report fairly good success during the year.

In addit on to these two churches there are two large tepees known as the Pum Pum churches. They ~~Odd~~ I am not posted as to their creed or belief. They have an idea however of a benevolent and omnipotent being. They represent him as assuming various shapes at pleasure but generally that of an immense bird. He usually inhabits the sun but occasionally wings his way through the aerial regions and sees all that is being done upon the earth. Should anything displease him he vents his wrath in terrific storms and tempests, ~~at~~ the lightning being the flashing of his eyes and the thunder the clapping of his wings.

To propitiate his favor they offer him annual feasts of roots and salmon the first fruits of the season. Aside from these two occasions little attention is paid to the service. The attendance has been on the wane several years and before long, I think, the P^um P^um ~~oods~~ worship will be a thing of the past.

Palouse Indians.

Commissioner of Indian affairs, 1897 from report of L.T. Irwin, agent, Yakima reservation.

In compliance with an official order I made a visit in April to the Palouse River for the purpose of inducing the Palouse Indians to move to this reservation.

I found about 75 of them living on a barren sand bar at the mouth of the Palouse river. Here they have lived for more than one hundred years.

This was the original home of Kamaiakum, the chief who made the Yakima treaty with Governor Stevens in 1855. Strange to say after making the treaty neither he nor his tribe ever came to the reservation. The whole tribe have only about 10 acres of land in cultivation, scarcely enough to supply one Indian family. Up to a short time ago they derived their support from catching salmon a few miles from this Indian village. The Palouse river falls over a rock 160 feet high. The salmon at one time ascended this river by tens of thousands. They were unable to get beyond the falls and the Indians caught them only in large quantities but this is a thing of the past. Last year the Indians caught only two salmon at the falls, the fish wheels and nets along the Columbia river catch them before they get there, but the changed conditions have not changed their minds and they continue to cling tenaciously to this barren spot where their children were born and their mothers and fathers have died.

I respectfully renew my suggestion that they be forcibly removed to either the Nez Perce, Umatilla or Yakima reservation.

Report of the Commissioner of Indian Affairs---1907

P-69

Court jurisdiction of allotments

In a case decided by the Supreme Court of the United States on Feb. 25, 1907 it was held that State courts are without jurisdiction over lands allotted to Indians. The case was of William McKay (substituted for Mary Kalyton) et al plaintiff in error v Agnes Kalyton by Louise Kalyton her guardian ad litem, and the suit was begun in the circuit court of Umatilla County Oregon and involved an allotment made under the Umatilla act of March 3, 1885(23 Stat L.340)....

(P 74-75)-Leasing of Indian lands "experimental policy"

Table p 75 Leases of allotted lands includes
Yakima, 138 farming.

(P 76) Table of grazing permits lists: Number of permits, 27,
1 year, 6, 2 and 1 month, 32,158 head of sheep, rate per head .20;
tax \$6,431.60.

(P 77) Sale of inherited lands for fiscal year ending June 30,1907
includes Colville 8 tracts, 588.85 acres , total proceeds 7,362, average
per acre 12.50

Yakima 30, 3,158.01 acres, total proceeds 114,801.52 average price
per acre 36.33.

P 100-101-Incorporating tribes, with Senate Bill (#.8286,introduced)
quoted

(P-132) Mineral Entries on Colville Reservation

..At the request of this Office an investigation of mineral entries
on the Colville Reservation, in Washington, has been made by representatives
of the General Land Office, and in a number of cases the locators have been
directed to show cause why their locations should not be cancelled

as being nonmineral. In many other cases where patents have been issued the Department of Justice has been requested to institute suits for vacating them. Most of these locations are reported to have been made in order to secure title to lands valuable for agricultural or town site purposes.

As the survey of the Colville Reservation has not been finished, allotment of lands on the south half of the reservation is not yet possible.

Yakima Reservation Boundary

(P132) On February 27, 1906, the General Land Office approved surveying contract No. 632 providing among other things for the survey of the boundaries of the Yakima Reservation, in Washington, by straight lines running from the headwaters of the South Fork of Atanum River to Spencer Point, thence to Conical Hump, thence to Grayback (P133) Peak and finally to the fifty-first mile corner on the old boundary line.

The Yakima Indians filed a protest against the location of the new boundary line because it eliminated 64,000 acres of land on the west and north of the boundary, then being demarked, which they claimed as part of the reservation. The Office reported to the Department on July 30 and August 16, 1906 that under the instructions issued in connection with contract 632 the surveys were made without reference to the claims of the Indians, and it was recommended that the surveyors be instructed to follow the boundary line of the reservation according to the wording of the treaty of June 9, 1855 (12 Stat.L, 951) This recommendation was approved by the Department August 24, 1906, and supplemental instructions were issued by the Commissioner of the General Land Office directing that the line be run on the ridge from the headwaters of the south fork of the Atanum River, around the headwaters of the Klickitat River by Spencer Point to Goat Rock, thence along the summit of the Cascade Mountains to Conical Hump, and thence by the blazed trees to Grayback Peak, this line following the treaty boundaries of the reservation as claimed by the Indians. The report of E.C. Barnard of the

Geological Survey, of his examination of this part of the boundary line (see H.Doc 621, 56th Cong., 1st sess.) gives this as the true boundary of the reservation as originally intended. He considers the important clause in the treaty to be that which makes the summit of the Cascade Mountains form a part of the western boundary.

In a suit in equity now before the circuit court for the State of Washington, instituted by the United States of America, complainant, against the Northern Pacific Railway Company and the Mercantile Trust Company defendants, for the purpose of canceling certain patents erroneously issued to the Northern Pacific Railway Company and the Northern Pacific Railroad Company, within the Yakima Reservation, it was essential to the Government's success to fix some definite boundary, and the assistant attorney general for the Department adopted the boundary recognized in the act of December 21, 1904 (33 Stat L 595), which is substantially the line run by contract No. 632. It is hoped that the court will take judicial notice of the boundary as fixed by treaty. If it does not do so, when this suit has finally been determined finally the question will have to be considered of the rights of the Indians to the lands lying between the straight line boundary run under surveying contract No. 632 and that along the summit of the mountains, for which the Indians contend.

Very respectfully your obedient servant

Francis E. Leupp, commissioner

The Secretary of the Interior

(Comment: This suggests need for some historical background on the establishment of Pinchot National Forest which would perhaps be in some forestry books, including one on Governor Pinchot himself, or in the Department of Agriculture Yearbooks, of which I have many.

Also in research library available: Manual of Surveying instructions for the Survey of the Public Lands of the United States....

Prepared in conformity with law under the direction of the
 Commissioner of the General Land Office
 January 1, 1890, Washington, Government Printing Office, 1890
 152 pps with charts.

(Page two contains this, addressed to
 Department of the Interior

General Land Office, Washington, D.C., December 2, 1889

Gentlemen: The following instructions, including full and minute
 directions for the execution of surveys in the field, are issued under
 the authority given me by sections 453, 456 and 2393, United States Revised
 Statutes, and must be strictly complied with by yourselves and your
 deputy surveyors, very respectfully, Lewis A. Groff, Commissioner
 to Surveyor General of the United States

P 9--Chapter Two

The General Land Office

Sec. 32: The Commissioner of the General Land Office shall perform
 under the direction of the Secretary of the Interior, all executive duties
 appertaining to the surveying and sale of the public lands of the United
 States, or in anywise respecting such public lands; and also
 such as relate to private claims of lands and the issuing of patents
 for all grants of lands under the authority of the Government (R.S. 453)

Also available: Report of the Commissioner of the General Land Office
 for the year 1866, 151 pps with charts, tables and large fold in map,
 showing public surveys in Washington Territory. Many "citations"
 on land, land grants, occupancy, homesteads, pre-emptions etc.