

10-21-2016

Declaration of P. Arrington

Paul L. Arrington

Attorney, Barker Rosholt & Simpson, LLP

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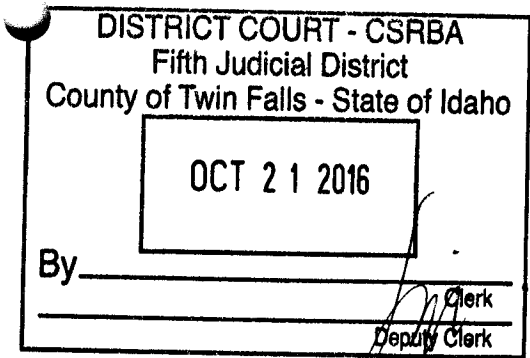
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Attorneys for Hecla Limited



**BEFORE THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re CSRBA

Case No. 49576

Subcase No. 91-7755, *et al.*

**DECLARATION OF PAUL L.
ARRINGTON**

PAUL L. ARRINGTON, hereby declares and states as follows:

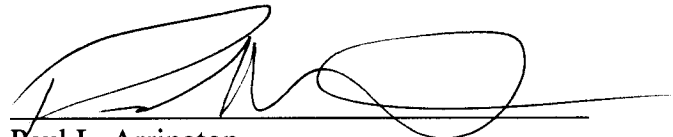
1. I am a duly licensed attorney in the State of Idaho and an associate at the firm Barker Rosholt & Simpson LLP, attorneys for the Hecla Limited. I am over the age of 18 and have personal knowledge of the documents and legal proceedings pertinent to this matter.
2. Attached hereto, as Exhibit A, is a true and correct copy of the letter from John A. Sims to E. A. Hayt, Commissioner of Indian Affairs, dated October 13, 1879.
3. Attached hereto, as Exhibit B, is a true and correct copy of a letter from Mr. Atkins to the Secretary of the Interior, dated February 7, 1888.
4. Attached hereto, as Exhibit C, is a true and correct copy of an excerpt from the report on status of negotiations with the Coeur d'Alene Tribe, dated December 7, 1889, prepared by T.J. Morgan.
5. Attached hereto, as Exhibit D, is a true and correct copy of the Senate Resolution, dated January 23, 1888.

///

///

I declare under penalty of perjury under the laws of the State of Idaho that the foregoing is true and correct.

Dated this 21st day of October, 2016.



Paul L. Arrington

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of October, 2016, a true and correct copy of the foregoing was mailed with sufficient first-class postage addressed to the following:

Original to:

SRBA Court
253 3rd Avenue North
Twin Falls, ID 83303-2707

Copies to:

John Cruden / Vanessa Boyd Willard
U.S. DEPT. OF JUSTICE
Environment and Natural Resources
550 W. Fort Street, MSC 033
Boise, ID 83724

Howard A. Funke / Kinzo H. Mihara
Dylan Hedden-Nicely
HOWARD FUNKE & ASSOCIATES, P.C.
P. O. Box 969
Coeur d'Alene, ID 83816-0969

Christopher Meyer / Jeffrey Fereday / Michael
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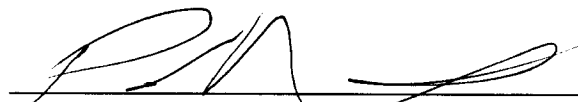
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Coeur d'Alene, ID 83814

John McFaddin
20189 S. Eagle Peak Road
Cataldo, ID 83810

William Green
2803 N. 5th Street
Coeur d'Alene, ID 83815



Paul L. Arrington

Exhibit
A

Chilled

Bellevue W.D. Oct 13th 79

Mr. G. C. [unclear]

Commissioner of Indian Affairs
Washington D.C.

I have the honor to report that it has
come to my knowledge that the
contract for furnishing ties & timbers
for the [unclear] of the S. P. R. R. now in
progress, [unclear] between the [unclear]
of [unclear] and the [unclear] [unclear]
contractors furnishing a large amount
of the ties and timbers required from
the [unclear] their Indian reservation,
claiming that the land grant to the
S. P. R. R. Co. was made previous to the
withdrawal of the lands for the purpose
of an Indian reservation, and that
under said grant, they have the right
to use any timber or other material
required in the construction of the road.

with the result
If the designs of the few
be carried into effect
it will give great dissatisfaction
to the public and may lead to serious
consequences. I would respectfully
request the right of the
public to be considered
in the exercise of
its authority
I wish to take
in the committee I
think it is important that the
committee should remain
in a position of active survey, as the
country around it is being rapidly altered
and it is necessary that the reser-
vations law should be clearly defined

Very Respectfully

Your Obedt Servant

W. S. And by

Exhibit
B

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington, February 7 1888.

Your Honorable,

The Secretary of the Interior.

I have the honor to acknowledge the receipt, by your
reference the 28th ultimo for report, of a resolution of the
Senate of the United States, of January 25, 1888, as follows:

"Whereas it is alleged that the present area of the Coeur
d'Alene Indian reservation, in the Territory of Idaho, embraces
480,000 acres of land; that there are, according to the sta-
tistics in the Indian Bureau, only about 476 Indians in the
tribe now occupying such reservation, or more than 1,000 acres
to each man, woman and child; that Lake Coeur d'Alene, all the
navigable waters of Coeur d'Alene River, and about 20 miles of
the navigable part of St. Joseph River, and part of St. Mary's,
a navigable tributary of the St. Joseph, are embraced within
this reservation, except a shore-line of about 3½ miles at the
south end of the lake, it being alleged that this lake and its
rivers tributary constitute the most important highways of
commerce in the Territory of Idaho, and are in fact the only
navigable waters, except Snake River, now used for steam-boat
navigation in the Territory; that all boats now entering such
waters are subject to the laws governing the Indian country
and all persons going on such lake or waters within the res-
ervation lines are trespassers; and

Whereas it is further alleged that the Indians now on
the reservation are located in the extreme southwest corner
of the same, around De Smet Mission, near the town of Farnham-
ton, in Washington Territory, where the land is good for agri-
culture, and it being further alleged that all that part of said
reservation lying between Lake Coeur d'Alene and Coeur d'Alene
River, and that part between the Coeur d'Alene River and St. Jo-
seph River, in the Territory, is to the precious metals, and
that the same is of great value, and should be reserved for the
benefit of the people of the Territory, and that the same should

Resolved, That the Secretary of the Interior be, and he is hereby, directed to inform the Senate as to the extent of the present area and boundaries of the Coeur d'Alene Indian reservation in the Territory of Idaho; whether such area includes any portion, and if so, about how much of the navigable waters of Lake Coeur d'Alene, and of Coeur d'Alene and St. Joseph Rivers; about what proportion of said reservation is agricultural, grazing, and mineral land, respectively; also the number of Indians occupying such reservation; also on what portion of such reservation the Indians now thereon are located, also, whether, in the opinion of the Secretary, it is advisable to throw any portion of such reservation open to occupation and settlement under the mineral laws of the United States, and if so, precisely what portion; and also whether it is advisable to release any of the navigable waters aforesaid from the limit of such reservation."

Agreeably with the directions contained in said resolution I have the honor to state:

1st. The Coeur d'Alene reservation, in the Territory of Idaho, embraces an area of 596,500 acres, or 935 sq. miles.

It lies in the northern portion of said Territory, between the 47th and 48th parallels of north latitude, and has for its western boundary the dividing line between Idaho and Washington Territories.

It is somewhat in the shape of a scalene triangle with one of its points cut off, its longest side (east boundary line) being about 42 miles, and its shortest (north boundary line) about 33 miles long. The west line is about 39 miles

See the Official map of Idaho (1883) and sundry other

maps showing the same to embrace all the

waters of Lake Coeur d'Alene, except a very small fragment cut off by the north boundary of the reservation which runs "in a direct line" from the Coeur d'Alene Mission to the head of Sockane River.

This lake is about 35 miles long and from 2 to 5 miles wide.

The Coeur d'Alene river traverses the reservation for a distance of about 25 miles, entering the reservation from the east, and emptying into Lake Coeur d'Alene.

The St. Joseph River also flows through the reservation, entering from the east, and finding its outlet in said lake.

The Coeur d'Alene River is navigable in its entire course through the reservation, and steamers ply from the head of the lake to the mouth of the river, and thence up the river to the Old Mission on the east line of the reservation, a river passage of about 25 miles. How much farther the river is navigable toward its source and beyond the limits of the reservation I have no means of knowing.

I am unable to furnish any information as to how much of the St. Joseph's River is navigable, or whether indeed it is navigable at all. From the maps it would appear to be quite unimportant to the Coeur d'Alene River.

The location of the reservation is shown on the map of the State of Idaho, and is also shown on the map of the Territory of Idaho.

reservation has been surveyed, I am unable to furnish anything more than a rough estimate of the areas of the several classes referred to. From a rude sketch of the reservation prepared by the Farmer in charge, with a view to showing as nearly as possible the character of the lands embraced within the reservation, I should judge that at least one-third of the entire area of the reservation is agricultural, one-third mountain and timber, and the remainder, hilly and probably suitable for pasturage.

I enclose a copy of the map or sketch, and invite especial attention to it as giving the most satisfactory information obtainable from the records of this Office. It is drawn upon a scale of 2 miles to the inch.

It will be observed that the lands in the extreme northern portion of the reserve, west of the lake, for a distance of ten or twelve miles south, are described as "timbered lands on mountains, with small valleys of pasture lands." From thence south to the hills south of the Farmington Landing road they are set down either as 1st or 2d class "Agricultural lands", and so of all the lands lying directly south of the "timbered lands" until the "hill land" is reached. Then south of the "hill land" a strip extending along the entire course of Hammond's road is set down as "Agricultural lands", and the remainder of the reservation is described as "Agricultural lands".

line of the reservation also east of the lake, are lands described as "mineral lands".

A strip one half mile wide on both sides of the Coeur d'Alene river, along its entire length, is described as "Fertile Valley, occupied every Spring."

South of the Farmington road and along the entire east line of the reservation, is a broad strip varying from 2 to 8 miles wide described as "All hill land; is timbered and soil 3d rate, in places rocky."

The west side of Coeur d'Alene lake appears to be skirted all along with timbered mountains or hills.

A map accompanying the report of an inspection made in 1886, by Lieut. Col. H. M. Lazelle, 23d Infantry, Actg. Inspector General, Department of the Columbia, with reference to the sale of liquor upon the Steamer "Coeur d'Alene", within the navigable waters of the reservation, will be found valuable as showing the location of the neighboring towns and mines with reference to the reservation, the Steamboat route through Lake Coeur d'Alene and the Coeur d'Alene river, the wagon roads and trails crossing the reservation, mountain passes, and the location of the various towns and mines in the neighborhood of the reservation.

It might be proper to state here that Inspector Gardner who visited the Coeur d'Alene reservation in September, of last year, places a much smaller estimate upon the quantity of agricultural land within the reservation than the farmer's map would indicate; but he could hardly be expected to have as perfect a knowledge of the reservation as the resident farmer in charge.

Inspector Gardner says:

"The land embraced in the Coeur d'Alene reserve 598,500 acres, is in Idaho Territory. It is rough and very mountainous and not more than 50,000 or 60,000 acres susceptible of profitable cultivation. x x. A large portion of the Reservation is heavily timbered."

The number of Indians occupying the reservation as per last census taken June 30, 1877, is 487.

I believe all, or nearly all, live on that portion of the reservation lying south of the Lake Coeur d'Alene and St. Joseph's River, and not far from the Old Mission on Hangman's Creek.

The question which remains to be answered is, whether it would be proper to reserve any portion of the said reservation for the purpose of settling upon the same the white population of the Territory.

in the resolution from the limits of said reservation.

In approaching this question, I deem it proper to refer briefly to the character and condition of the Indians occupying the reservation, and the situation of affairs as existing amongst them.

There are few Indians in the entire country, if we except the five civilized tribes, who are as far advanced, and even they need not be excepted in any comparison either of their virtues, habits of industry, loyalty, or ambition to attain a higher stage of civilization.

They cultivate the soil extensively, live in comfortable houses, dress like the whites, wear short hair, and in all other respects live and do as white people do. Their houses are painted inside and outside, their barns are well built and commodious, and they have all the improved farm implements and machinery. They own large bands of cattle, and horses, and an abundance of hogs and poultry.

The Northwest Indian commission in the report of its recent visit to these Indians, said:

Each one has a comfortable house on his farm, and nearly all the equally comfortable houses at the mission, which the Indians call a village. They reside on well tilled farms, and have a large number of horses, cattle, hogs, and poultry.

children who are at the Mission schools. x x Long experience in self-reliance and traffic with the neighboring whites has made them cautious, shrewd, and provident in the use of money. We learned that their trade in one town adjacent to the reservation, amounts to about \$25,000 yearly. x x A better ordered and better behaved Indian community can nowhere be found."

Furthermore, the Coeur d'Alene Indians have been for many years the firm friends of the whites. A notable instance of this was the part they took in the memorable Nez Perce outbreak of 1878. They not only shielded and protected the whites in that disastrous war, to the fullest extent of their power, but guarded their property at the peril of their own lives, when a large portion of the white population had fled the country for safety.

When peace was restored the people acknowledged their good services and thanked them in formal terms, promising also to assist them in obtaining permanent title to their homes.

I have said this much in order to show that the Coeur d'Alene Indians are quite intelligent and fully capable of conducting their relations to their white neighbors, and

which public necessity or convenience would seem to require, and at the same time to show that they are deserving of fair and honest treatment from the whites.

The one thing that has given them trouble has been the fear of losing their homes. They have watched the progress of white settlement in the surrounding country, the discovery of valuable mines, the building of railroads &c., &c., and all this has made them apprehensive lest in some way their reservation might be wrested from them.

In 1884 their Agent reported as follows:

"The rapid progress they are making, and the great interest manifested by them in their farm work, in their fences, cultivation, in improving the breed of their horses and cattle, and in fact in all things, is commendable.

"It was feared in the early spring that the great rush to the Coeur d'Alene gold mines would cause considerable trespassing upon their reserve, but happily so many other routes were opened to them that there were but few crossing the reservation, and now it has nearly ceased."

and again in 1895:

"The Coeur d'Alene of the Coeur d'Alene reservation is doing well, and is well supplied with stock, and is well improved."

"That they most dread is that their lands will be taken from them some day by the whites, or they be forced to take up small allotments, while now many of them have large fields inclosed with post and board fences, or good, substantial rails. Some half-dozen of them have 200 acres of land under cultivation."

And in 1888:

"There has been much talk of late by the whites of having their reserve thrown open to settlement which has troubled Saltice, their Chief, very much. He, however, felt somewhat satisfied when I assured him that if such steps were taken by the Government, he and his people would receive their land in severalty before the whites would be permitted to enter."

I have taken some pains to ascertain by reference to the correspondence and otherwise whether the Indians would be likely to consent to a reasonable reduction of their reservation, and I am satisfied that they would, upon anything like just and reasonable terms, and my own opinion is that the reservation might be materially diminished without detriment to the Indians, and that changes could be made in the boundaries of the reservation, so as to include all of the navigable water courses of the country, and to exclude the land which is now included in the reservation, but which is not navigable water.

compensation for any lands so taken.

Just what portion of the reservation and navigable waters should be segregated from the reservation, I am unable to say. That I think should be determined by negotiations with the Indians.

As bearing upon the subject of the enquiries presented in the Senate Resolution, I quote the following from the report of Inspector Gardner already cited.

" On the north and east side of the reserve (Coeur d'Alene) is a section of very mountainous country, known as 'Wolf Lodge District'. The Indians do not see this, and only occasionally go there hunting for elk and deer. The mountains in this district are said to contain large quantities of valuable minerals. Already prospectors have made their appearance and are only deterred from developing same by occasional presence of the military, who would eject them, and the Agent would cause their arrest for trespassing on an Indian Reservation. For farming, grazing, or, in fact, for any purpose whatever this mountain district is approximately valueless to the Coeur d'Alene Indians, but could be advantageously utilized by the whites in developing the mineral resources of same. And, in view of these facts, I see no reason why proper legislation should not be had authorizing the Indians to dispose of their title to same to the United States."

I also quote the following from a report by Special Agent [Name] of this Bureau, who visited the Coeur d'Alene Indians [Date] August 1881.

consistently on this portion of the reserve, and it seems next to impossible to keep them off with the means at hand. They are doing no injury, however, further than simply locating mining claims with a view to their possession when that part of the reserve is opened to settlement, as it seems to be believed by them it will be at an early day.

It may be proper to add that the Special Agent found the Indians decidedly opposed to taking their lands in severalty under the General Allotment Act. This may be accounted for in part, I think, by the fact that some of them have individually much more land under cultivation than they would be entitled to under that act, and they naturally desire to keep all they have.

Upon this subject the Special Agent says:

"While on the reserve we held a general and well attended council of the Indians in order to obtain their views in regard to taking their lands in severalty, and after a clear understanding as to what was desired by the Government, they decided by a unanimous vote adversely to taking in severalty otherwise than they now hold them. These Indians as you are doubtless aware, are settled on farms of their own selection, are self-supporting and making gratifying progress in agriculture, while they have good schools and their children generally being educated."

In conclusion I will state that in my opinion these In-

Indians have all the original Indian rights in the said lands

and have retained the same ever since they were first

settled on the reserve, and have never parted with any

of the same, and that they are entitled to the same

and the Secretary of the Interior to negotiate with them "for the cession of their lands outside the limits of the present Coeur d'Alene Reservation to the United States." Pursuant to that authority negotiations were conducted with them, in March last, and an agreement concluded which is now before Congress for ratification. The agreement is published in House Ex. Doc. No. 63, 50th Cong. 1st Sess., p. p. 53-56.

It should be stated also that provision is made in said agreement for the removal and settlement upon the Coeur d'Alene Reservation of the Upper and Middle bands of Spokane Indians, now residing in and around Spokane Falls, in Washington Territory, and also the Calispel now residing in the Calispel Valley, and any others of the non-reservation Indians belonging to the Colville Agency, and it is confidently hoped and expected that if the agreement is ratified and confirmed the Spokes, numbering between 350 and 400 souls, will be removed and settled there.

However there undoubtedly is an abundance of good farming land in the extreme southern portion of the reservation for the Indians who will be likely to go there, and such to

be expected that when the present agreement shall have been ratified and confirmed it will be necessary to negotiate with the

the cession of such portions of their reservation as they do not need, including all or a portion of the navigable waters, upon fair and very reasonable terms.

In addition to the two maps spoken of in this report, I transmit, herewith, a tracing of the Official map of the survey of "so much of the outboundaries of the Coeur d'Alene Indian Reservation, in Idaho, as are not marked by prominent natural boundaries and by the surveyed line between Idaho and Washington Territories", as surveyed, in 1858, by Darius F. Baker, U. S. Deputy Surveyor.

A copy of this report is herewith enclosed, and also the Senate Resolution.

Very respectfully,

Your obedient servant,

J. D. Atkins

Commissioner.

Exhibit C

living upon said reservation," upon condition that the agreement of March 26, 1887, with said Indians, now before Congress (see House Ex. Doc. 63, Fiftieth Congress, first session, p. 33), shall be duly ratified by Congress.

The commissioners, in presenting this agreement, say:

In consideration of the fact that there is but very little agricultural land in the territory negotiated for, that it is the universal desire of the inhabitants of the Northwest that this land be opened to public domain, the great demand and the scarcity of timber adjacent to this section of the country, the prospects of vast mineral wealth which would be of great benefit to capital seeking investment, and the small value this land is to the Indians, the commissioners deem the bargain an excellent one, the price very reasonable, much lower than could have been expected, and hope that in this purchase you will realize, as they do, the importance of this land being made useful to the growing States and Territories.

The Commissioner of Indian Affairs in his report herewith reviews the provisions of the agreement and refers to previous reports showing the character and condition of these Indians.

It is believed that this agreement is the best that can be made, and it is submitted with the recommendation that it be transmitted to Congress for such action as may be deemed proper.

I have caused two maps to be prepared for the information of Congress, showing the Cœur d'Alene Reservation and the lands therein ceded by this agreement.

I have the honor to be, very respectfully, your obedient servant.

JOHN W. NOBLE,
Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 7, 1889.

SIR: The fourth section of the act making appropriations for the current and contingent expenses of the Indian Department, etc., approved March 2, 1889 (25 Stats., 1002), provides as follows:

That the Secretary of the Interior be, and he is hereby, authorized and directed to negotiate with the Cœur d'Alene tribe of Indians for the purchase and release by said tribe of such portions of its reservation not agricultural, and valuable chiefly for minerals and timber, as each tribe shall consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by Congress, and for the purpose of such negotiation the sum of \$2,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated; the action of the Secretary of the Interior hereunder to be reported to Congress at the earliest practicable time.

In pursuance of this provision a commission, composed of Hon. Benjamin Simpson, of Selma, Ala.; Hon. John H. Shupe, of Oakland, Oregon, and Napoleon B. Humphrey, esq., of Albany, Oregon, was appointed in May last, and under instructions of June 13, 1889, proceeded to the Cœur d'Alene Reservation in the discharge of its duties, arriving there on the 5th of August following.

The commissioners report that they held frequent councils with the Indians, explored the mineral portions of the reservation lying in the northern part thereof, and finally, on September 9, 1889, concluded an agreement with the Indians whereby they cede and relinquish to the United States a very considerable portion of their reservation, valuable chiefly for minerals and timber, upon terms advantageous as they believe both to the Indians and the Government. The area of the ceded territory is estimated at 184,960 acres, or 289 square miles.

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I have the honor to herewith submit the final report of the commission (dated September —, 1888), the agreement entered into with the Indians, and the minutes, or more properly the reports, of the several councils held with them.

The cession is described in the first article of the agreement as follows:

Beginning at the northeast corner of the said reservation, thence running along the northern boundary line north sixty-seven degrees twenty-nine minutes; west to the head of the Spokane River to the northwest boundary corner of the said reservation; thence south along the Washington Territory line 12 miles; thence due east to the west shore of the Coeur d'Alene Lake; thence southerly along the west shore of said lake to a point due west of the mouth of the Coeur d'Alene River, where it empties into the said lake; thence in a due east line until it intersects with the eastern boundary of said reservation; thence northerly along the said eastern boundary line to the place of beginning.

The principal consideration agreed upon is found in the second article, which reads as follows:

And it is further agreed in consideration of the above, that the United States will pay to the said tribe of Coeur d'Alene Indians the sum of \$500,000, the same to be paid to the said tribe of Coeur d'Alene Indians upon the completion of all the provisions of this agreement.

Article 3 prescribes the manner of payment as follows:

It is further agreed that the payment of the money aforesaid shall be made to the said tribe of Indians pro rata, or share and share alike for each and every member of the said tribe as recognized by said tribe now living upon said reservation.

It would appear from the language of the two articles together that the money is to be paid to the Indians per capita, cash in hand.

As, according to the last census, the tribe numbers five hundred and twenty men, women and children, each would receive about \$960 of the consideration named.

A further and in itself important stipulation and consideration is found in the fourth article, as follows:

It is further agreed and understood that this agreement shall not be binding upon either party until the former agreement now existing between the United States by the duly appointed commissioners and the said Coeur d'Alene tribe of Indians, bearing date of March 26, 1887, shall be duly ratified by Congress, and in the event of the ratification of the aforesaid agreement of March 26, 1887, to be and remain in full force and effect, but not binding upon either party until ratified by Congress.

The agreement of March 26, 1887, to which reference is meant, was made in pursuance of authority contained in the Indian appropriation act, approved May 15, 1886 (24 Stats., 44), and was submitted to Congress, by the President, January 9, 1888.

The Coeur d'Alene Indians laid claim to a vast area of country outside of their present reservation, including the site of the present flourishing city of Spokane Falls and other now populous communities.

Their claim was based upon original possession and occupancy.

A full history of the case, and the agreement itself, may be found in House Ex. Doc. No. 63, Fiftieth Congress, first session, two copies herewith.

When the Commissioners whose work is now under consideration approached the Indians upon the subject of relinquishment of some of their reservation lands, they absolutely refused to entertain any proposition of that kind until the old agreement was ratified.

Finally, however, after much argument and entreaty they consented to relinquish the lands the Government proposed to purchase, at the price named (\$500,000), upon the express condition that the old agreement should be ratified and carried into effect; and accordingly a pro-

COEUR D'ALENE INDIAN RESERVATION.

vision for the ratification of said agreement was inserted in the agreement. (Article 4.)

In reporting upon this point the Commissioners say:

The Commissioners were made aware of the stern fact that they were contending with obstacles that threatened to overthrow all business plans they had formed, and presented formidable barriers to the consummation of a treaty. The Indians, while kind and courteous, were reluctant upon business propositions from the fact that other business transactions with them had been neglected; and the failure of Congress to ratify the last treaty, together with the dilatory manner of the railroad company in making payment for right of way, were weapons they used against overtures of the Commissioners for the purchase of any more land. They displayed surprising business sagacity, coupled with an exalted idea of the fulfillment of promises. Much time was consumed in appeasing the grievances they fostered and in establishing confidence with them. They finally consented to dispose of a portion of the land that is inclosed in this treaty, they insisting upon making the line. The exorbitant price asked, and the small amount of land offered, precluded any bargain, and thus matters stood for two councils following.

After they had been shown the benefits to accrue from the sale of these lands, and the assurance by the Commission of the ratification of the former treaty—a clause being inserted bearing upon the fulfillment of the provisions of the former treaty—the sale was consummated and the agreement signed accompanying this report.

In consideration of the fact that there is but very little agricultural land in the territory negotiated for, that it is the universal desire of the inhabitants of the entire Northwest that this land be opened to public domain, the great demand and the scarcity of timber adjacent to this section of the country, the prospects of vast mineral wealth which would be of great benefit to capital seeking investment, and the small value this land is to the Indians, the Commissioners deem the bargain an excellent one, the price very reasonable—much lower than could have been expected—and hope that in this purchase you will realize, as they do, the importance of this land being made useful to the growing States and Territories.

It will be proper to state here that it would cost the Government, in money, only \$150,000 (Art. 6) and the annual salary of three employes, physician, blacksmith, and carpenter, and the cost of needed medicines (Art. 12) to carry out the provisions of the old agreement, the ratification of which has been heretofore recommended by this office in submitting it to the Department for presentation to Congress; and a bill for that purpose passed the Senate September 20, 1888 (Cong. Record, vol. 19, part 9, p. 8755), but did not reach final action in the House, where it was referred to the Committee on Indian Affairs, September 24, 1888 (ib. p. 8993).

This office has no data or information other than that furnished by the Commissioners themselves as to the value of the lands the Indians agree to cede and relinquish to the United States by the terms of the present agreement.

It has not been the practice to pay such large sums of money to Indians cash in hand as is proposed in this case, but the Coeur d'Alene Indians are far advanced in civilization, and from what is known of their habits and past life it would not be unreasonable to assume that they would make just as good use of their money if paid in this way as they would if it were paid to them in smaller sums or expended for their benefit in the usual manner.

As showing the character and condition of these people, I quote the following from a recent report by this office (February 7, 1888), in response to a resolution of the Senate calling for certain information in respect of their reservation, etc.:

There are few Indians in the entire country, if we except the five civilized tribes who are as far advanced, and even they need not be excepted in any comparison either of their virtues, habits of industry, loyalty, or ambition to attain a higher stage of civilization.

They cultivate the soil extensively, live in comfortable houses, dress like the whites, wear short hair, and in all other respects live and do as white people do. Their faces are painted inside and outside, their houses are well built and commodious.

COEUR D'ALENE INDIAN RESERVATION.

they have all the improved farm implements and machinery. They own large bands of cattle and horses, and abundance of hogs and poultry.

The Northwest Indian Commission, in the report of its recent visit to these Indians,

said: "Each one has a comfortable house on his farm, and nearly all have equally comfortable houses at the mission, which together make quite a village. They remain on their farms during the week days, and on the Sabbath repair to their dwellings at the village to attend religious services and see their children who are at the mission schools. Long experience in self-reliance and traffic with the neighboring whites has made them cautious, shrewd, and provident in the use of money. We learned that their trade in one town adjacent to the reservation amounts to about \$25,000 yearly. A better ordered and better behaved Indian community can nowhere be found."

Furthermore, the Coeur d'Alene Indians have been for many years the firm friends of the whites. A notable instance of this was the part they took in the memorable Nez Percé outbreak of 1875. They not only shielded and protected the whites in that disastrous war to the fullest extent of their power, but guarded their property at the peril of their own lives, when a large portion of the white population had fled the country for safety.

When peace was restored the people acknowledged their good services and thanked them in formal terms, promising also to assist them in obtaining permanent title to their homes.

I have said this much in order to show that the Coeur d'Alene Indians are quite intelligent and fully capable of understanding their relations to their white neighbors, and that they would be likely to take a sensible view of any proposition for a change of the boundaries of their reservation which public necessity or convenience would seem to require, and at the same time to show that they are deserving of fair and honest treatment from the whites.

The one thing that has given them trouble has been the fear of losing their homes. They have watched the progress of white settlement in the surrounding country, the discovery of valuable mines, the building of railroads, etc., and all this has made them apprehensive lest in some way their reservation might be wrested from them.

The report of the Commission, the agreement, and council proceedings, with two copies of each, furnished by the Commission, are respectfully submitted for your action and transmittal to Congress as the act requires.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

(Original.)

Report of Coeur d'Alene Indian Commission, appointed March 2, 1899 (Stat., 1002).

OFFICE OF COEUR D'ALENE INDIAN COMMISSION,
Portland, Oregon, September, 1899.

Sir: The Commission appointed under authority of the act of Congress approved March 2, 1899 (Indian appropriation act), to negotiate with the Coeur d'Alene tribe of Indians for a portion of their reservation, valued chiefly for its timber and mineral, have the honor to submit the following report of their negotiations with the said Coeur d'Alene Indians, to accompany an agreement entered into with them for a portion of said reservation, as contemplated by said act:

The Commission arrived in Portland, Oregon, from their respective homes, August 1, met on the 2d, and effected organization on the 3d, secured clerical assistance, and proceeded to De Smet Mission, Coeur d'Alene Indian Reservation, August 5. Notification of the commissioners' arrival was sent Agent Hal J. Cole, and he met with them in the first council held with the Indians on August 14, at which meeting the business of the commissioners was made known to the Indians and the provisions governing negotiations carefully explained.

Permission was asked for the privilege of examining the lands sought, which was granted by the chief, who appointed two guides to accompany the Commission on their tour of inspection of the lands mentioned in the instructions.

The Commission proceeded August 16 overland from the southern boundary of the reservation northward to the confluence of the St. Joseph River with Lake Coeur d'Alene, passing in their journey over the rich agricultural land and the many well-cul-

Exhibit
D

50TH CONGRESS,
1st Session.

SENATE.

SET NUMBER

214

Mrs. Doo,
No. 36.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1888.—Ordered to be printed.

Mr. MITCHELL submitted the following

RESOLUTION:

Whereas it is alleged that the present area of the Cœur D'Alene Indian Reservation, in the Territory of Idaho, embraces 480,000 acres of land; that there are, according to the statistics in the Indian Bureau, only about 470 Indians in the tribe now occupying such reservation, only all the navigable waters of Cœur D'Alene River, and about 20 miles of the navigable part of Saint Joseph River, and part of Saint Mary's reservation, except a shore-line of about 3½ miles at the north end of the lake, it being alleged that this lake and its rivers tributary constitute the most important highways of commerce in the Territory of Idaho, and are in fact the only navigable waters, except Snake River, now used for steam-boat navigation in the Territory; that all boats now entering such waters are subject to the laws governing the Indian country and all persons going on such lake or waters within the Indian reservation lines are trespassers; and

Whereas it is further alleged that the Indians now on such reservation are located in the extreme southwest corner of the same around De Smet Mission, near the town of Farmington, in Washington Territory, where the land is good for agriculture; and it being further alleged that all that part of such reservation lying between Lake Cœur D'Alene and Cœur D'Alene River and that part between Lake Cœur D'Alene and Saint Joseph River is a territory rich in the precious metals and at the same time being of no real use or benefit to the Indians: Therefore,

Resolved, That the Secretary of the Interior be, and he is hereby directed, to inform the Senate as to the extent of the present area and boundaries of the Cœur d'Alene Indian Reservation in the Territory of Idaho; whether such area includes any portion, and if so, about how much of the navigable waters of Lake Cœur d'Alene, and of Cœur d'Alene and Saint Joseph Rivers; about what proportion of said reservation is agricultural, grazing, and mineral land respectively; also the number of Indians occupying such reservation; also on what portion of such reservation the Indians now thereon are located; also whether, in the opinion of the Secretary, it is advisable to throw any portion of such reservation open to occupation and settlement under the mineral laws of the United States, and, if so, precisely what portion; and also whether it is advisable to release any of the navigable waters aforesaid from the limits of such reservation.

50TH CONGRESS,
1st Session.

SENATE.

Mrs. Doo,
No. 37.

IN THE SENATE OF THE UNITED STATES.

LETTER

CLERK OF THE COURT OF CLAIMS, OF THE TRANSMITTING

The findings of fact and conclusions of law of said court in a certain application claim under the act approved January 20, 1885.

JANUARY 23, 1888.—Referred to the Committee on Claims and ordered to be printed.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, January 20, 1888.
SIR: Pursuant to the order of the Court of Claims I herewith transmit the findings of fact and conclusions of law filed January 9, 1888, in the following application claim under the act approved January 20, 1885, to wit:

In the matter of the ship *Jocanna*, Philip Fosdick at first, afterwards Zebbiel Coffin, master.

CLAIMANTS.

George S. Lamson, administrator *de bonis non* of Paul Gardner, George Gardner, Libni Gardner, and Zevas Gardner.
Philip Macy, administrator *de bonis non* of Obed Macy.
David P. Eldridge, administrator *de bonis non* of Sylvanus Macy.
Robert F. Gardner, administrator *de bonis non* of Prince Gardner.
T. B. Bleeker, Jr., Charles C. Leary, receivers of the New York Insurance Company.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

To the PRESIDENT PRO TEMPORE
OF THE SENATE OF THE UNITED STATES.