

**SENATE, 47TH CONGRESS, 2RD  
SESSION, EX. DOC. NO. 44:  
MESSAGE FROM THE PRESIDENT  
OF THE UNITED STATES**

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**VARIOUS**

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MESSAGE FROM THE PRESIDENT  
OF THE UNITED STATES**



M E S S A G E

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

*A letter from the Secretary of the Interior respecting the ratification of an agreement with the confederated tribes of Flathead, Kootenay, and Upper Pend d'Oreilles Indians, for the sale of a portion of their reservation in Montana Territory.*

JANUARY 19, 1883.—Read and referred to the Committee on Indian Affairs and ordered to be printed.

*To the Senate and House of Representatives:*

I transmit herewith a communication from the Secretary of the Interior, with a draft of a bill and accompanying papers, to accept and ratify an agreement with the confederated tribes of Flathead, Kootenay, and Upper Pend d'Oreilles Indians, for the sale of a portion of their reservation in the Territory of Montana, required for the Northern Pacific Railroad, and to make the necessary appropriation for carrying the same into effect.

The subject is presented for the consideration of the Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, January 19, 1883.

DEPARTMENT OF THE INTERIOR,

Washington, January 16, 1883.

SIR: I have the honor to submit herewith for your consideration a draft of a bill prepared in the office of Indian Affairs "to accept and ratify an agreement with the confederated tribes of Flathead, Kootenay, Upper Pend d'Oreilles Indians for the sale of a portion of their reservation in the Territory of Montana, required for the Northern Pacific Railroad, and to make the necessary appropriation for carrying out the same," together with the accompanying papers and maps mentioned in the letter of the Commissioner of Indian Affairs, also herewith.

The measure has my approval, and I respectfully request that it may be transmitted for the consideration of the Congress.

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

H. M. TELLER,

Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
*Washington, January 13, 1883.*

SIR: I have received by department reference, for examination, a report made to you under date of 29th November last by Mr. Joseph K. McCammon, Assistant Attorney-General, special commissioner appointed by you on the 22d July last to treat on behalf of the United States with the confederated tribes of Flathead, Kootenay, and Upper Pend d'Oreilles Indians, inhabiting the Jocko or Flathead Reservation in the Territory of Montana, for the extinguishment of their title to lands of the reservation required for the purposes of the Northern Pacific Railroad, in accordance with the provisions of section 2 of the act of Congress approved July 2, 1864 (13 Stat., 365), setting forth the result of his negotiations in that behalf with said Indians.

With said report are transmitted an agreement entered into with said Indians by Mr. McCammon, on the part of the United States, dated September 2, 1882; a map of definite location of the Northern Pacific Railroad upon and through said reservation, marked A; five descriptive plats of grounds required for station-houses, &c., marked B, C, D, E, and F, respectively; three plats marked plat K, sheet 1, plat K, sheet 2, plat K, sheet 3, showing the line of route on a more extended scale, and a schedule marked K, containing a descriptive list and valuation of improvements of certain individual Indians of said confederated tribes affected by the passage of the road through the reservation. There is also transmitted a copy of a verbatim report of the conference held by the commissioner with the Indians.

By the terms of said agreement the said confederated tribes surrender and relinquish to the United States all their right, title, and interest under the treaty of July 16, 1855 (12 Stat., 975), in and to a strip of land not exceeding 200 feet in width, that is to say, 100 feet on each side of the line as laid down on the map of definite location (A), wherein said line runs through said reservation, entering the same at or near the summit of Corrigan Defile, passing by the valley of Findlay Creek to the Jocko, along the Jocko to the Pend d'Oreilles River, and down the valley of the Pend d'Oreilles, passing out of the reservation at or near the mouth of the Missoula River, said strip of land to be used by the Northern Pacific Railroad Company, its successors or assigns, as a right of way and road-bed, and containing 1,300 acres. Also in and to five certain pieces or parcels of land situate along and adjoining said strip of land, hereinbefore described, as the same are delineated on the plats or maps thereof, marked respectively B, C, D, E, and F, and aggregating 130 acres, the same to be used by said railway company for the purposes of station-houses, depots, sidings, &c.

In consideration of the cession of said lands, amounting in the aggregate to 1,430 acres, the United States agrees to pay to the said confederated tribes the sum of \$16,000, being at the rate of \$11.18 per acre, to be deposited in the Treasury of the United States to the credit of the said confederated tribes, upon ratification of said agreement by Congress and necessary appropriation made therefor, said sum to be expended for the benefit of said Indians in such manner as the Secretary of the Interior may direct.

The United States further agrees upon like ratification and appropriation to pay to the individual Indians, members of said confederated tribes, whose names appear on the schedule marked K, annexed to said agreement, the several sums set opposite their respective names, amounting in the aggregate to \$7,625, as full compensation for damages to im-

provements, or fenced or cultivated fields, which they may sustain by reason of the surrender and relinquishment of said lands, or any part thereof as aforesaid, such compensation to be expended for the benefit of such individual Indians, or paid to them in cash, in the proportions to which they may severally be entitled appearing by said schedule, as the Secretary of the Interior may direct.

It is further stipulated in said agreement that all provisions of existing treaties with said confederated tribes, not affected thereby, shall remain in full force and effect, and that said agreement shall be subject to ratification by Congress.

I have carefully examined said agreement with accompanying maps and schedule, and have the honor to return the same herewith, with the recommendation that they severally receive your approval.

I also submit, herewith, for transmission to Congress the draft (in duplicate) of a bill to accept and ratify said agreement with the confederated tribes of Flathead, Kootenay, and Upper Pend d'Oreilles Indians, of the 2d September last, also copies (in duplicate) of the agreement in question, maps, reports, and other papers hereunder mentioned, and necessary to a full understanding of the matter by Congress.

Mr. McCammon's report with accompanying papers are herewith returned with the request that when they shall have been approved they again be returned for the files of this office.

Very respectfully, your obedient servant,

H. PRICE,  
*Commissioner.*

The Hon. the SECRETARY OF THE INTERIOR.

[Inclosure.]

1. July 22, 1882.—Copy letter of Secretary of Interior detailing Mr. McCammon to proceed to Flathead reserve.

2. Same date.—Copy department instructions to Mr. McCammon.

3. November 29, 1882.—Copy report of Mr. McCammon on negotiations with Flathead Indians, with accompanying papers, viz:

(a.) Minutes of conference with the Indians.

(b.) Agreement, dated September 2, 1882, between the confederated tribes of Flathead, Kootenay, and Upper Pend d'Oreilles Indians, resident on the Jocko (or Flathead) reserve, Montana, of the one part, and the United States of America, represented by Joseph K. McCammon, Assistant Attorney-General United States, of the other part, for cession of land required for the purposes of the Northern Pacific Railroad.

(c.) Map of definite location of the Northern Pacific Railroad upon the Flathead reserve, marked A.

(d.) Descriptive plat of grounds required for station purposes marked B.

(e.) Descriptive plat of grounds required for station purposes marked C.

(f.) Descriptive plat of grounds required for station purposes marked D.

(g.) Descriptive plat of grounds required for station purposes marked E.

(h.) Descriptive plat of grounds required for station purposes marked F.

(i.) Map of route, extended scale, plat K, sheet 1.

(k.) Map of route, extended scale, plat K, sheet 2.

(l.) Map of route, extended scale, plat K, sheet 3.

(m.) Schedule of improvements belonging to individual Indians of said confederated tribes, affected by the passage of the road, marked K.

4. Draft of a bill to accept and ratify said agreement of September, 2, 1882, and to make the necessary appropriation for carrying out the same, for transmission to Congress.

5. January 13, 1883.—Copy report of Commissioner of Indian Affairs to accompany the same.

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No. 1.

DEPARTMENT OF THE INTERIOR,  
Washington, July 22, 1882.

SIR: You are hereby detailed to proceed to San Francisco, Cal., to superintend the opening of bids, award of contracts, &c., for certain supplies for the Indian service, to furnish which, bids will be opened by you in that city on August 15, 1882.

When the said business at San Francisco shall have been completed, you will proceed thence, via Ogden, to the Flathead Indian Agency in Montana, on the business set forth in detailed instructions this day addressed to you, on the conclusion of which you will return to Washington.

Very respectfully,

H. M. TELLER,  
Secretary.

Hon. JOSEPH K. McCAMMON,  
Assistant Attorney-General, present.

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No. 2.

DEPARTMENT OF THE INTERIOR,  
Washington, July 22, 1882.

SIR: You having been designated in department letter of this date to proceed to the Flathead (Jocko) Indian reservation in Montana, for the purpose of conferring and arranging on the part of the United States with the Indians on said reservation for the extinguishment of their title to so much of the land of that reservation as is required for the right of way for the Northern Pacific Railroad through it, the following information and instructions are furnished for your guidance in the premises.

By the first section of the act of July 3, 1864 (13 Stat., 365), incorporating the Northern Pacific Railroad Company and making a grant of lands thereto, Congress authorized and empowered the said company to lay out, locate, construct, furnish, maintain, and enjoy, a continuous railroad and telegraph line, with the appurtenances, beginning at a point on Lake Superior in the State of Minnesota or Wisconsin, thence westerly by the most eligible railroad route as should be determined by said company within the territory of the United States on a line north of the forty-fifth degree of latitude, to some point on Puget Sound.

By the second section of said act Congress granted the said company the right of way through the public domain for the construction of said railroad and telegraph, to the extent of 200 feet in width on each side of said railroad, including all necessary grounds for station buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, and water stations; and also provided that the United States should extinguish as rapidly as might be consistent with public policy, and the welfare of the Indians, the Indian title to all lands falling under the operation of the act and acquired in the donation to the road.

By the second article of the treaty between the United States and the confederated tribes of Flathead, Kootenay, and Upper Pend d'Oreilles Indians, concluded at Hell Gate, in the Bitter Root Valley, July 16, 1855 (12 Stat., 975), duly ratified and proclaimed, a tract of country therein described in the then Territory of Washington, but now included within the boundaries of the Territory of Montana, was set apart by specific boundaries for the use and occupation of the said confederated tribes, and as a general Indian reservation, upon which may be placed other friendly tribes or bands of Indians of the Territory of Washington who may agree to be consolidated with the tribes parties to said treaty under the common designation of the Flathead Nation.

The third article of said treaty provides that, "if necessary for the public conven-



fence, roads may be run through the said reservations, and on the other hand the right of way, with free access from the same to the nearest public highway, is secured to them, as also the right in common with citizens of the United States to travel upon all public highways."

The eighth article of the treaty between the United States and the Flathead Nation and other Indians concluded at the council ground on the Upper Missouri, near the mouth of the Judith River, in the Territory of Nebraska, October 17, 1855 (11 Stat., 657), duly ratified and confirmed, declares that, "for the purpose of establishing traveling thoroughfares through their country, and the better to enable the President to execute the provisions of their treaty, the aforesaid nations and tribes do hereby consent and agree that the United States may, within the countries respectively occupied and claimed by them, construct roads of every description, establish lines of telegraph and military posts, use materials of every description found in the Indian country, build houses for agencies, missions, schools, farms, shops, mills, stations, and for any other purpose for which they may be required, and permanently occupy as much land as may be necessary for the various purposes above enumerated, including the use of wood for fuel and land for grazing, and that the navigation of all lakes and streams shall be forever free to citizens of the United States."

The Northern Pacific Railroad Company now desires the extinguishment of the Indian title to so much of the lands of the said reservation, upon and along the line of its road as defined, as indicated in the second section of said act before noted, for the purposes of a right of way and road bed, including all necessary grounds for station-buildings, workshops, switches, side tracks, turn-tables, and water-stations.

By virtue of the provisions of said act, it becomes the duty of the government to extinguish the Indian title to the lands in said reservation, required for the purposes aforesaid, which must be done by agreement, duly entered into between the United States and the confederated tribes of Indians occupying or interested in the reservation.

The railroad company has filed a map of its line of route through the reservation, which will be found herewith, marked A, and plats and description of the location and extent of lands required for station-buildings, &c., designated upon the papers, also herewith, marked E, F, G, H, I, J.

In a map of location (on a more extended scale) filed by the company, a copy of which marked B accompanies these instructions, the right of way for about 40 miles through the reservation is laid down on a maximum scale of 400 feet wide, as granted to the company through the public lands, embracing an area of 2,660.39 acres. Station grounds, &c., as designated on plats marked E, F, G, H, I and J, including right of way through the same, embrace an area of 341.96 acres; making the aggregate quantity of land applied for by the company 2,432.37 acres.

The entire distance covered by the certified map (A) of location through the reservation is 53.26 miles, on which six stations, one for about every 8½ miles, are designated, and for which 341.96 acres, including right of way, are alleged to be required, equivalent to about 57 acres for each depot or station, or an average of 34 acres, without right of way.

In the agreement with the Crow Indians in Montana, August 22, 1881, through whose reservation this same railroad runs for a distance of 11½ miles, ten stations were allowed, averaging 26 acres each, exclusive of right of way.

The right-of-way act of 1875 (18 Stat., 462) allows "not to exceed in amount 20 acres for each station to the extent of one station for each 10 miles of its road." By the same act, the right of way allowed is limited to "100 feet on each side of the central line of said road," whilst the right of way to the Northern Pacific Railroad (13 Stat., 365) is to the extent of 200 feet in width on each side of said railroad, where it may pass through the public domain, including all necessary ground for station buildings, &c.

By telegram of the first instant, addressed to Hon. Martin Maginnis, and repeated to this department by him, the Northern Pacific Railroad Company signified its willingness to accept a right of way 200 feet wide through the reservation.

It has further been decided to allow only five stations for buildings, &c., within the reservation, to be as near as conveniently may be 10 miles apart, and to be about 26 acres in area, in addition to the right of way.

The president of the railroad company was advised by department letter of July 19, 1882, to have prepared a new map of the line of the road through the reservation showing the right of way 200 feet wide, and the location and area of the five stations for buildings, &c., with plats and full description thereof, to be allowed, all of which to be furnished you at the Flathead (Jocko) reservation, on or before the 23d of August, proximo.

It having been reported to the department through the Indian Office that the projected road passes through or otherwise damages sundry cultivated fields, inclosures, and other valuable improvements belonging to individual Indians, occupants of the reservation, you will, in company with the Indian agent, make a thorough personal

examination of all property which may be so affected or damaged, and from the best disinterested evidence you can procure upon the question of value, make a careful appraisalment thereof (exclusive of the value of the land itself, which is common property), and of the amount of compensation to be paid by the United States to such individual Indian or Indians therefor. You will embody such appraisalment in the form of a tabular statement, to be prepared by you in accordance with the form marked K herewith inclosed, and make the same a part of the agreement hereinafter mentioned.

The Commissioner of Indian Affairs has been directed to instruct Agent Ronan, in charge of the agency, to prepare a list of the adult male Indians of the reservation, and to have everything in readiness for the assembling of the Indians in council at such time as you may designate by letter to him; and that you will reach the agency about the 22d of August, proximo.

You will fully explain to the Indians assembled in council the nature and object of the agreement which it is proposed to make between them and the United States, the objective points of the road, and the line of route which it will follow through the reservation, as shown by the map furnished by the railroad company, and the location and extent of land required for station buildings, &c.

You will advise the Indians to agree upon a fair and reasonable compensation to be paid by the government for the quantity of land required by the railroad company, impressing upon them the opinion held by the department that the construction of the road will advance their welfare, be beneficial to the Indian service, and subserve a general public interest in the vicinity through which it will pass.

The whole subject having been fully explained to and understood by the Indians, the amount of compensation to be paid by the United States to the confederated tribes for the lands to be surrendered, agreed upon, and also compensation to individual Indians for damages, &c., as hereinbefore provided, and all other necessary preliminaries having been arranged, you will reduce the terms of the agreement to writing substantially in form inclosed herewith.

It is proposed that the amount of money to be paid by the United States for the lands surrendered shall, upon ratification of the agreement by Congress and necessary appropriation therefor, be deposited in the Treasury of the United States to the credit of the confederated tribes, and be expended for their benefit in such manner as the Secretary of the Interior may direct, and that under like conditions the amount of compensation awarded to individual Indians for damages shall be expended for their benefit or paid to them in cash, in the proportions to which they may be severally entitled thereto, in the discretion of the Secretary. All this you will cause to be fully explained to the Indians, as also the fact that, except as to the quantity of lands the title to which may be extinguished by said agreement, all the stipulations of existing treaties, so far as the same are unfulfilled, will remain in force.

The agreement should be executed and signed by at least a majority of all the adult male Indians occupying or interested in the reservation lands, and must be certified and attested in form transmitted herewith.

Upon the ratification of the agreement by Congress the lands mentioned therein will become a part of the public domain of the United States and subject to the provisions of the charter act of July 2, 1864, hereinbefore referred to, of the privileges of which act the company can then avail itself.

You are authorized to disregard so much of the foregoing instructions as you may deem the best interests of the United States and the Indians require.

The following books and papers are furnished for your use in the prosecution of the duties to which you are assigned:

- Copy of Indian Office report to the department of February 6, 1882, with inclosures.
- Department letter to President Villard, February 11, 1882.
- President Villard's reply, February 16, 1882.
- Letter from President Villard to department, June 14, 1882.
- Indian Office report to department of June 22, 1882.
- Department letter to Indian Office, July 1, 1882.
- Telegram from Hon. Martin Maginnis, July 1, 1882.
- Letter from President Villard to the department, July 3, 1882.
- Certified map of definite location of Northern Pacific Railroad through Flathead Reservation, A.
- Map of definite location (extended), B.
- Descriptive plate of station grounds, &c., marked E, F, G, H, I, and J.
- Form of proposed agreement certificates, &c.
- Form of tabular statement of individual damages.
- Report of Commissioner of Railroads, 1881, containing legislation for Northern Pacific Railroad, pp. 136, &c.
- Printed copy of treaty with Flathead, &c., Indians of July 16, 1855.
- Extract from treaty of October 17, 1855, relative to construction of railroads on reservation.

FLATHEAD AND OTHER INDIANS.

7

Copy of General Land Office regulations respecting right-of-way railroads, forms for verifications of maps, &c.

The return of the inclosures above noted is respectfully requested with your report. You will please acknowledge the receipt of this letter of instructions and transmit the agreement, when finally completed, with your report to this department.

Very respectfully,

H. M. TELLER,  
Secretary.

Hon. JOS. K. McCAMMON,  
Assistant Attorney-General,  
Washington, D. C.

DEPARTMENT OF THE INTERIOR,  
Washington, November 29, 1882.

SIR: I have the honor to inform you that in accordance with your letters of July 22, last, after having completed the business which you directed me to undertake, I proceeded from San Francisco via Ogden, Utah, and Butte City and Deer Lodge, Mont., to the Jocko or Flathead Reservation in the northwestern corner of the Territory of Montana, arriving there on the 30th of August. A large number of Indians, estimated to be between six and seven hundred men, women, and children, had been assembled by the agent. I found that white men living on the border of the reservation had, with the aid of whisky, somewhat inflamed a portion of the Indians, chiefly the young men, against the object of my visit, and during the whole period of my visit I had to contend with this feeling, as will more fully appear by the minutes of the council which I inclose in this communication.

Notwithstanding these influences, the Indians consented to sign the agreement, which is transmitted herewith, together with map A, descriptive plats B, C, D, E, and F, also plat K 1, 2, 3, and a schedule marked K, which contains a descriptive list of improvements affected by the right of way of the Northern Pacific Railroad.

The terms of the agreement made with the confederated tribes of the Flathead, Kootenais, and Upper Pend d'Oreilles Indians resident on the Jocko or Flathead Reservation in Montana, are briefly stated, that a strip of land not exceeding 200 feet in width, aggregating about 1,300 acres, together with about 130 acres for station purposes are ceded to the United States, the consideration being \$16,000, which is at the rate of \$11.15 per acre. And further, the United States agrees to pay to individual Indians \$7,625 as compensation for damages to improvements of fenced or cultivated fields, which may be sustained by reason of the surrender and relinquishment of the lands above described. The right of way projected through the reservation extends about fifty-three miles in a northwesterly and westerly direction.

In conformity with my instructions, I made a personal examination of most of the improvements injured or destroyed by the right of way, in company with several competent persons whose opinion I sought before determining the sum to which I thought the owner in each case to be entitled. Having fixed a standard, I requested Mr. Ronan, the agent, to continue the appraisement which I have adopted, having had each particular farm not visited by me described by several persons who were familiar with the improvements, their general value, &c. I should state that the acreage in each particular farm interfered with furnishes little test of the amount of damage done, inasmuch as the questions of tillage, style of fence, or the character of the dwelling-house and out-buildings, or whether the right of way ran directly through the middle of the farm or only touched its border, were the vital matters to be considered.

I will submit in a few days a report with special reference to the desire of the Indians on the Flathead Reservation to have their lands extended from the present northern line up to the international line between the United States and the Dominion of Canada.

I am under obligations to Maj. William H. Jordan, Third Infantry, U. S. A., commanding at Fort Missoula, Mont., who was at the agency during the negotiations, for valuable assistance. His presence undoubtedly contributed largely to the restoration and continuance of good order. Agent Ronan and other employes at the agency did all in their power to further the object of my visit.

I am, very respectfully, your obedient servant,

JOSEPH K. McCAMMON,  
Assistant Attorney-General.

Hon. HENRY M. TELLER,  
Secretary of the Interior.