

900 16-1865
No. 85 1/2.

BLACKFOOT AGENCY,
Fort Benton, M.T., July 12, 1865.

Dear Sir: I have the honor to report my safe arrival at this agency this day. I find matters relative to the Indians in rather an unsettled condition, and all kinds of exaggerated reports in circulation as to their hostile intentions.

I am not yet sufficiently informed to express an opinion of the extent of damage to be apprehended from this outbreak, but will ascertain immediately, and transmit all information to you as early as possible. I learn that the Piegans and Gros Ventres still remain true, the Bloods and Blackfeet being the bands that have committed the hostilities. Under the circumstances, I hope no time will be lost in sending troops to this point; the necessity for so doing must be apparent to you.

I am, very respectfully, &c.,

GAD. E. UPSON,
U.S. Indian Agent for Blackfoot Nation.

HON. WILLIAM P. DOLE,
Commissioner Indian Affairs, Washington, D.C.

No. 85 3/4.

DEPARTMENT OF THE INTERIOR.
OFFICE INDIAN AFFAIRS, March 24, 1865.

Sir:

COPY.

September 20, 1913.

The Commissioner,
of the General Land Office,
Washington, D. C.

Sir:-

By the treaty of October 17, 1855, between the United States and the Blackfeet Nation of Indians, (11 Stat. L. 657) the said Indians agreed that a certain tract of country as therein described should remain a common hunting ground for the period of ninety-nine years. See designation No. 398, maps Montana 1 and Wyoming 1, Royce's Indian Land Cessions.

By the Act of Congress of March 1, 1872, (17 Stat. L. 32) a portion of the country in question was embraced within the Yellowstone National Park, when established by that Act. It appears that the balance of said tract of country has been opened to settlement and entry, and I desire to be informed when and by what authority that action was taken. This information is wanted to be used in a case pending in the Court of Claims.

Yours respectfully,

Copy.

DEPARTMENT OF COMMERCE

Bureau of the Census

Washington, D. C.

December 23, 1913.

Sir:

In reply to your letter of December 22: According to the returns of the Census of 1910, the population of the places requested by you is as follows:

	Population, 1910.
Boulder Valley	Not incorporated.
Bozeman city	5,107
Butte city	39,165 ✓
Dillon city	1,835
Helena City.....	12,515
Virginia city	467
White Sulphur Springs town ...	417

Very respectfully,

(Signed) Wm. J. Harris,

Director.

Mr. Charles A. Maxwell,
Evans Building,
Washington, D.C.

COPY.

DEPARTMENT OF THE INTERIOR

✓

Office of Indian Affairs

Hunting Ground
Reserved to
Blackfeet In-
dians.

Washington,

Feb. 3, 1914.

Mr. C. A. Maxwell,
Attorney and Counsellor at Law,
Evans Building,
Washington, D.C.

Sir:-

The Office has received your letter of December 5, 1913, asking to be informed when and by what authority certain lands reserved to the Blackfeet Indians as a common hunting ground by the treaty with the said tribes of October 17, 1855, (11 Stat. L., 657) were opened to settlement without the consent of said Indians and without any consideration passing to them.

Your attention is invited to the agreement ratified May 1, 1888 (25 Stat. L. 114) made with the Gros Ventre, Piegan, Blood, Blackfoot and River Crow Indians. Article 2 of said agreement reads as follows.

The said Indians hereby cede and relinquish to the United States all their right, title and interest in and to all the lands embraced within the aforesaid Gros Ventre, Piegan, Blood, Blackfoot and River Crow Reservation not herein specifically set apart and reserved as separate reservations for them, and do severally agree to accept and occupy the separate reservations to which they are herein assigned as their permanent home, and they do hereby severally relinquish to the other tribes or bands their right, title, and interest in and to the same, reserving to themselves only the reservation herein set apart for their separate use and occupation."

The reservation established by the above agreement for the Blackfeet Indians is bounded as follows:

Beginning at a point in the middle of the main channel of Marias River opposite the mouth of Cut Bank Creek;

thence up Cut Bank Creek in the middle of the main channel thereof, twenty miles, following the meandering of the creek; thence due north to the northern boundary of Montana; thence west along said boundary to the summit of the main chain of the Rocky Mountains, thence in a southerly direction along the summit of said mountains to a point due west from the source of the north fork of Birch Creek; thence due east to the source of the said North Fork; thence down said North Fork to the main stream of Birch Creek; then down Birch Creek, in the middle of the main channel thereof, to the middle of the main channel thereof, to the place of beginning.

It appears from this agreement of May 1, 1888 supra, that the Blackfeet Indians ceded all their right, title and interest in and to all lands which they owned or in which they had any interest at the time of the making of said agreement. While there is no express reference in this agreement with the Blackfeet Indians to the common hunting ground reserved to them by the treaty of October 17, 1855 supra, the Office believes that the agreement of 1888 is sufficiently broad enough to cover that territory.

In this connection your attention is also invited to a decision of the Supreme Court of the United States in the case of Lone Wolf vs. Hitchcock (187 U. S. 553) which bears upon the right of Congress to pass a law in conflict with Indian treaties. Chief Justice White, who rendered the opinion in that case, says:

The power exists to abrogate the provisions of an Indian treaty though presumably such power will be exercised only when circumstances arise which will not only justify the Government in disregarding the stipulation of the treaty, but may demand in the interest of the country and the Indians themselves, that it should do so. When, therefore, treaties were entered into between the United States and a tribe of Indians it was never doubted that the power to abrogate existed in Congress, and that in a contingency such power might be awaited of from considerations of governmental policy, particularly if consistent with perfect good faith towards the Indians.

Respectfully,

1-FRB-29

C. F. Hauke 2nd Asst. Comm.

COPY.

October 28, 1914.

The Commissioner,
of the General Land Office,
Washington, D.C.

Sir:-

Please inform me, for use in the Court of Claims, the number of acres of land that inured to the benefit of the Northern Pacific Railroad Company under the Act of Congress incorporating said Company (13 Stat. L. 367) withing the following described tract of Country viz:-

"Commencing at the mouth of the Muscle Shell River; thence up the Missouri River to its source; thence along the main range of the Rocky Mountains, in a Southerly direction, to the head waters of the northern source of the Yellowstone River; thence down the Yellowstone River to the mouth of twenty-five Yard Creek; thence across to the head waters of the Muscle Shell River, and thence down the Muscle Shell River to the place of beginning. (See Royce's Indian Land Cessions in the United States, numbers 398 and 399 Montana Map No. 1 and 398, Wyoming Map No. 1.)"

Very respectfully,

COPY.

The Commissioner
of Indian Affairs,

Sir:-

I acknowledge receipt of your letter of the 3rd instant, (Land Allotments 142378, 1913) in reply to mine of December 5, 1913, asking certain information in relation to the lands reserved for a common hunting ground by the Blackfeet treaty of 1855. You quote from the Blackfeet agreement of May 1, 1888, and say:- "It appears from this agreement of May 1, 1888, supra, that the Blackfeet Indians ceded all their right, title and interest in and to all lands which they owned or in which they had any interest at the time of making said agreement.

While there is no express reference in this agreement with the Blackfeet Indians to the common hunting ground reserved to them by the treaty of October 17, 1855, supra, the office believes that the agreement of 1888 is sufficiently broad to cover that territory". In reply I beg to say that there is no such language as used in your letter, contained in the said agreement. By that agreement certain small reservations were set apart for the several subdivisions of the Blackfeet nation of Indians out of their then existing reservation, "and they do hereby severally relinquish to the other tribes or bands respectively occupying the other separate reservations, all their right, title and interest in and to the same, reserving to themselves only the reservations herein set apart for their separate use and occupation". And by article two of said agreement the said Indians cede and relinquish to the United States all their right, title and interest in and to all the lands embraced in their original reservation not set apart as separate reservations by the said agreement. But there is nothing contained in said agreement to warrant the statement made in your letter that the Indians "ceded all their right, title and interest in and to all lands which they owned or in which they had any interest at the time of making said agreement".

My inquiry was for information as to when and by what authority the lands in question were opened to settlement and entry, and not as to whether the Indians had ever ceded or relinquished their title to the said lands. These lands were opened to settlement many years before the agreement of 1888 was made.

(Signed) C. A. Maxwell

Never answered by Indian Bureau.

Sent to Senator Myers.

COPY.

The Secretary of the Interior,
Washington, D. C.

Sir:-

In the Report of the Secretary of the Interior for the fiscal year ending June 30, 1912, page 36, it is stated that "In the Yellowstone (Park) "the gross receipts in 1911 aggregated \$12050.039. Be pleased to inform me the gross amount received from said park, all sources, since its establishment by the act of Congress of March 1, 1872. (17 Stat., L. 32)

Very respectfully,

COPY.

DEPARTMENT OF THE INTERIOR

Washington

Feb. 23, 1915.

Hon. H. L. Myers,
U. S. Senate.

My dear Senator:-

Your letter of the 22nd instant has been received, enclosing a communication from Richard C. Adams, representative of the Delaware Indians, Bond Building, Washington, D. C. requesting information as to the gross receipts in Yellowstone Park from the creation of this reservation to date.

In response thereto, I have to state that it appears from the records of the Treasury Department that the first receipts from revenues in this park were in 1887. From that time up and to including July 1, 1914, the total receipts from all sources in the Yellowstone Park aggregated \$119,120.51.

The letter of Mr. Adams is herewith returned as requested.

Cordially yours,

(Signed) B. Sweeney,

Assistant Secretary.

Enclosure #5036.

1470
1233

COPY.

UNITED STATES SENATE
Committee on Public Lands

Washington, D. C.
March 8, 1915.

Dear Mr. Adams:-

I submitted your letter of the twenty-first ult. to the Interior Department and asked for the information desired by you. About ten days ago I received the enclosed answer. I have been so exceedingly busy in the last ten days that I have not attempted to keep up with my correspondence; hence, I am now inclosing the accompanying departmental letter. It may, or may not, be what you want.

Yours truly,

(Signed) H. L. Myers.

Mr. Richard C. Adams,

City.

M/B.

Washington, D. C.

COPY.

April 2, 1915.

Mr. Charles A. Maxwell,
Evans Building,
Washington, D.C.

My dear Sir:-

This office is in receipt of your letter, dated March 17, 1915, requesting information as to when and by what authority the land established as the Hunting Ground for the Blackfoot Indians, by the treaty of October 17, 1855 (11Stat., 657), was opened to settlement and entry;

I have to advise you that by the terms of the above mentioned treaty certain lands in Montana and Wyoming were set aside as a common hunting ground for the Blackfoot Nation of Indians. However, the United States retained the sovereignty in the above mentioned lands and by acts of Congress the said lands have, at various times, been restored to settlement and entry, such right being vested in Congress.

If you will describe the particular tract in which you are interested, by legal subdivisions, section, township, and range this office will endeavor to give you more definite information.

Very respectfully,

C. M. Bruce,
Assistant Commissioner.

3-30 Dic. AAH.

April 5, 1915.

The Commissioner,
of the General Land Office,
Washington, D.C.

Sir:-

I am in receipt of your letter of the second instant (504,920 "G" C.W.S.) in reply to mine of the 17th ultimo, requesting information as to when and by what authority the lands were reserved as a common hunting ground by the treaty of October 17, 1855, with the Blackfoot Nation of Indians, were opened to settlement and entry.

You say that by Acts of Congress the said lands have, at various times, been restored to settlement and entry, such right being vested in Congress. In reply I beg to state that there is no such authority vested in Congress.

By Article 6, Clause 2, of the Constitution, treaties are declared to be the supreme law of the land, and it has been universally held by the Courts that there is no power vested in the Congress of the United States to interfere with or destroy vested property rights secured by treaty or otherwise.

Congress has no constitutional power to settle or interfere with rights under treaties, except in cases purely political. (Holden v. Joy, 17 How. 247; Wilson v. Wall, 6 Wall. 89; Insurance Co. v. Canter, 1 Pet. 542; Doe v. Wilson, 23 How. 461; Mitchell, et al v. United States, 9 Pet. 749; United States v. Brooks, et al, 10 How. 460; the Kansas Indians, 5 Wall, 737; 2 Story on the Constitution 1508; Foster, et al v. Nelson, 2 Pet. 254; Crews, et al v. Burchman, 1 Black, 356; Worcester v. Georgia, 6 Pet. 562; Blair v. Pathkiller, 2 Georgia 407; Harris v. Barnett, 4 Black, 369; and Mr. Webster, speaking of the obligation of a treaty said:

"A treaty is the supreme law of the land. It can neither be limited nor modified nor altered. It stands on the ground of national contract, and is declared by the constitution to be the supreme law of the land, and this gives it a character higher than any act of ordinary legislation. It enjoys an immunity from the operation and effect of all such legislation." (Opinion quoted in Senate Report No. 93, thirty-sixth Congress).

The Supreme Court of the United States in the case of Leavenworth, etc. R. R. vs. the United States (92 U. S. 742) said:

"As the attempted transfer of any part of an Indian reservation secured by treaty, would also involve a gross breach of public faith, the presumption is conclusive that Congress never meant to grant it."

"We go further and say that whenever a tract of land

shall have been legally appropriated to any purpose, from that moment the land thus appropriated becomes severed from the mass of public lands and that no subsequent law, proclamation or sale, would be construed to embrace or operate upon it, although no reservation were made of it."

The Courts have also held that the Indians' right to occupancy is as sacred as the fee, and until that right is extinguished by cession to the United States that right cannot be disturbed.

The Blackfoot Nation of Indians has never ceded or relinquished their right to these lands by any valid treaty or agreement, and applying the decision of the courts above quoted it is plain that no act of Congress opening the lands in question to settlement and entry is of any validity.

As to your statement that these lands were opened to settlement and entry, at various times, by act of Congress, I desire to say that I have thoroughly examined the statutes and record, and can find no such act of Congress. If there be any such act of Congress, be pleased to give me a reference to it.

In reply to your statement that if I will give you a description of the lands, by section, township, and range, you will endeavor to give me more definite information, I have to say that I cannot do this. There are over 12,000,000 acres of these lands and their description can only be obtained from the records of your office.

Very respectfully,

C. A. Maxwell.

General Land Office.
COPY.

Washington, D. C.

April 22, 1915.

Information.

Charles A. Maxwell,
Evans Building,
Washington, D. C.

My dear Sir:

This office is in receipt of your letter, dated April 5, 1915, relative to lands established as the hunting ground for the Blackfoot Indians, by the treaty of October 17, 1855 (11 Stat., 657).

In reply I have to advise you that if you will describe any tract by legal subdivision, section, township, and range in which you are interested, and inquire as to how it was opened to entry, this office will endeavor to give you the desired information relative thereto.

Very respectfully,

(Signed) C. M. Bruce.

Assistant Commissioner.

4-16 Dic. AAH.

Dept. of the Interior,
General Land Office.

April 24, 1915.

The Commissioner,
of the General Land Office,
Washington, D. C.

Sir:-

I am in receipt of your letter of the 22nd instant (504920, "G" CW W. S.) in relation to the lands reserved as a common hunting ground by the treaty of October 17, 1855, with the Blackfeet Nation of Indians (11567) wherein you say that if I will describe any tract by legal subdivisions, section, township, and range, and inquire as to how it was opened to entry, your office will endeavor to give me the desired information relative thereto.

In reply, I have to say that I do not desire the information relative to any particular tract of land, but to all of the lands described in the treaty. The treaty gives the description of the land by metes and bounds, and it seems to me that it would be a very easy matter for you to obtain the information you desire from the records of your office, they being the only source of information on the subject.

You state in your letter of the second instant that the said lands, by acts of Congress, have, at various times, been restored to settlement and entry. In reply to that letter, I stated in mine of the 5th instant that I have thoroughly examined the statutes and records and can find no such act of Congress, and if there be any such act, I request that I be given a reference thereto. It is hardly to be presumed that your office would make such a statement unless there be some foundation therefor, and I renew my request to be furnished a reference thereto.

This is a very important matter to the Indians whom I represent, and if their lands were opened to settlement and entry by Congress such action was void. (See reference to decisions of the Courts on the subject, set out in my letter of the 5th instant).

Very respectfully,

(Signed) C.A. Maxwell.

CAM/ON.

COPY.

The Commissioner
of Indian Affairs,
Washington, D.C.

Sir:-

By the treaty of October 17, 1855, with the Blackfeet Nation of Indians, (11 Stat. 1. 657) certain territory, as therein described, was to remain a common hunting ground for the period of ninety-nine years (See No. 398 Montana Map No. 1, and Wyoming map No. 1, Royce's Indian Land cessions). By the act of Congress of March 1, 1872, (17 Stat. L. 32) certain portions of the lands so agreed to be a common hunting ground/ were embraced within the Yellowstone National Park, established by that act.

It appears that the balance of the land so to remain a common hunting ground, has been opened to settlement and entry, without the consent of the Indians and without consideration passing to them. I shall be pleased to be informed when and by what authority said lands were opened to settlement and entry. None of the lands herein referred to, so far as I can learn, have ever been ceded or relinquished by the Blackfeet Nation of Indians.

The cities of Helena, Butte, Bozeman, Virginia City, Warm Springs, Dillon, and Boulder Valley, are located upon the land referred to, and presumably the whole territory has been taken up under the laws of the United States providing for the disposition of public lands.

Very respectfully,

(Signed) A. C. Maxwell

No. 398 Montana Map, No. 1.

BLACKFEET INDIAN RESERVATION

Original area thereof -----	21,651.300	acres.
Present area of Blackfeet reservation -----	959.644	"
" " " Fort Belknap " -----	487.000	"
" " " Peck " -----	1,776.000	"
Total -----	<u>5,252.644</u>	"
Amount ceded -----	18,418.556	"

CONSIDERATION

Fort Peck	\$160.000	.. 10 years, -----	\$1,600.000
Fort Belknap	115.000	.. " "	1,150.000
Blackfeet	150.000	.. " "	<u>1,500.000</u>
		Total -----	\$4,350.000

Consideration per acre about \$.23.

Gross receipts from the Yellowstone National Park for the year 1911, were \$1,050,039 - (Annual Report of the Secretary of the Interior for the year 1912, page 86).

It is evident from the location of said Park, and the amount of the lands of the Blackfeet nation embraced therein, that this large receipt of money was derived from the lands of said Indians - Of course, large sums of money were received in years prior to the year 1911.

February 27, 1922.

MEMORANDUM FOR Mr. BARLOW:

Subject: Contracts to Influence Legislation

A careful search of the United States statutes fails to reveal any provision in regard to contracts to influence legislation, or lobbying contracts. The law seems pretty well covered, however, by numerous decisions on the subject. The American and English Encyclopedia of Law, Vol. 9, P. 898, et seq., states that contracts having for their objects the improper influence of legislation or legislative bodies are juridicially void. Cases are cited, among others that of *Bartle v. Nutt*, 4th Peters, 183. There is a note in 4th Peters which gives the distinction between proper and improper services. In this note the law as set forth seems to be that where the services contracted for are to use personal influence or other improper means for the procuring of a public act, or influence for the procuring of the passage of a private act, that such contract is void. It is otherwise for an agreement to compensate an attorney for advocating a bill before the legislature or its committee, or an agent who goes before them to make necessary explanations.

In conclusion, the situation can be summed up as follows: There is no specific statute prohibiting the advocating or influencing of legislation by attorneys or private interests under a contract whereby the attorneys are to receive compensation therefor. Court decisions are favorable where the services of the attorney are confined to a proper presentation of the case upon its merits before the legislative assembly. Where the contract is for the use of a ^{im}proper influence, or personal influence, with the legislature or its members, regardless of the merits of the claim, then such contract for compensation by the attorney is void as against public policy.

J. G. C.

Walter T. Piggott Lumber Co.

Windsor, Ont. September 27th., 1922.

RECEIVED

SEP 29 1922

Messrs Serven, Joyce & Barlow,

1321 F. Street, Northwest,

WASHINGTON, D. C.

Severn, Joyce & Barlow.

Dear Sirs:

Your letter dated September 23rd enclosing file in connection with our informal complaint against the Interstate Commerce Commission to hand.

In a letter dated July 17th we mailed you original freight bills in connection with this claim and we note that you have not returned them with our file.

Kindly let us have these freight bills by return mail or in the event of their not being in your possession please obtain same and return to us.

Yours very truly,

WALTER T. PIGGOTT LUMBER COMPANY

Per *W. T. Piggott*

GHE/AM

September 29, 1922.

Walter T. Piggott Lumber Co.,
Windsor, Canada.

Gentlemen: In re: Your claim against the
Interstate Commerce Commission.

Your letter of the 27th instant received and contents thereof noted. The original freight bills in connection with this claim were filed by us with the Interstate Commerce Commission, and were sent by them to F. R. Lewis, Traffic Manager, Duluth, South Shore & Atlantic Railroad Co., Duluth, Minn., and have not as yet been returned by him to the Interstate Commerce Commission.

We immediately made inquiry at the Commission and were informed that these freight bills should be returned by Mr. Lewis within the next week, and as soon as returned by him, would be sent to us, and we will then forward them to you.

Yours very truly,

SERVEN, JOYCE & BARLOW,

By _____

B-c

Helena, Montana, March 18th 1923.

Mr. Henry W. Schon,
344 D. Street,
Washington, D.C.

Dear Mr. Schon:

You will be surprised to have a line from the writer I am sure, but some years ago you were good enough to have sent to me a small picture of the late Father De Smet, wearing a beard, and which picture I carefully treasure along with my collection of books re the father.

A short time ago, Mr. D.W. Greenburg, of # 1121 Northwestern National Bank Building, Portland, Oregon called on me and I found the gentleman much interested in Northwestern History. At the time he happened to have with him the enclosed copy of a letter, (a copy of which I enclose), and he was kind enough to leave it with me. We looked thru quite a number of books at the time, and it was my misfortune to have mislaid the item, until yesterday. I have made a copy of the letter, (literally), and not having forgotten your courtesy to me some years ago, thought you might find some interests in reading it. It is true that the letter does not shed much light on any particular phase of De Smet's history, nor does it help us in deciphering the several Indian Chiefs who were photographed with De Smet at the time in Portland, but I am convinced that the picture was taken by your late father, and as I am under the impression that you wrote that he was in San Francisco and not in Portland, the matter is of interest. So, I am sending to you the letter just as it was left with me. Should you care to look it up, you will find the picture in one of the 4 volumes of Chittenden and Richardson's 'Life of Father De Smet.' The title is Father De Smet and the Indian Chiefs. (My books are packed away, so I can not give you the volume and page.)

May I ask if you have any reference as to either Hon. John Mc Bride, or to G. Collier Robbins ? Mr. Greenburg does not seem to know these people. There may be some reference to Robbins, in your father's papers. At any rate he gave the "dinner".

Also he says that Father De Smet wrote the names of the Chiefs.

H.W.S. # 2.
3/18/23.

In event that you are acquainted with Mr. John Carter, whose office address is Severance, Joyce and Barlow, 1321 F. Street, Washington D.C. you might find it of interest to call him up as he is well acquainted with me, and can tell you of my interest in Western matters. I am well enough known to Mr. Carter to bespeak for you a pleasant interview on a matter of this kind, as he too is interested in Indian matters. ✓

May I ask for a line from you at your convenience on the matter of the enclosed copy of letter? With kind respects, allow me to be,

Yours very truly,

Charles N. Kessler,

by CK

Copy from Chandler, Helena, Mont.

San Diego, California, February 25th, 1899
Hon. John R. Mc Bride;

My dear Sir:

During the Indian War

of Oregon and Washington, War of 1855 and 6 you will remember that General (Phil) (this should be W.S. Henry was sent out by the War Department with a regiment of soldiers who interned at Fort Vancouver. Father De Smet was the Chaplain of the regiment, but previous to commencing hostilities against the Indians, he sent Father De Smet up with a message to the Indians that they must surrender one of the principal chiefs of the hostiles to him unconditionally at Vancouver and unless they done so he would send up troops enough to exterminate every one of them. The result was that Father De Smet influenced them to comply and return with him to Vancouver although they all expected to be hung or shot. When they arrived they were placed in a stockade surrounded by a guard of soldiers. The next day General Henry met them and a treaty was made, the Indians agreeing to lay down their arms. This closed the war. General Henry then instructed Father De Smet to take them with him to Portland and Salem in order to convince them of the power of the whites. I invited them to my house to dinner and afterwards had their photos taken, Father De Smet WRITING THEIR names. I should think that it would be a matter of interest to the people of Washington to see a reproduction of the photo, as there must be many descendants of those chiefs now living who would like the pictures of Father De Smet and the Indians. Will you kindly see the publishers of the Spokesman- Review and see if they will reproduce it ?

Yours truly,

G. Collier Robbins.

(The foregoing copy from Mr. D.W. Greenburg, 1121 N.W. Natl Bank Bldg, Portland, Oregon in 1922. C.N.K. It refers to the picture of De Smet and the Indian Chiefs in Chittenden & Richardsons Life of Father De Smet.) The name General Henry should read Harney.

ABRAM R. SERVEN

ATTORNEY AT LAW

KELLOGG BUILDING, 1422 F ST., N. W.

WASHINGTON, D. C.

J. W. SMITH
J. G. CARTER
D. E. CAMPBELL
L. H. FISHER

December 17, 1928.

Hon. Lynn J. Frazier, Chairman,
Senate Committee on Indian Affairs,
Washington, D. C.

Dear Senator: In re: Legislative Status of S-1480, 70th
Congress, First and Second Sessions.

On May 18, 1928, the President sent to the Senate a veto message, withholding his approval of S-1480, which the presiding officer, after the message had been read, ordered, without objection, to be laid over for the day and be printed. (Cong. Rec. 70th Congress, First Session, pages 9409 and 9410).

Under Article 1, Section 7, Paragraph 2, of the Constitution of the United States, the President shall return a bill which he does not approve to the house in which it originated with his objections, "who shall enter the objections at large on their journal and proceed to reconsider it."

The question here presented is whether S-1480, having been returned to the Senate in the First Session of the 70th Congress and having been laid on the table, can be acted upon at the Second Session of the same Congress.

It has been held that the constitutional mandate that the House shall proceed to reconsider means that the House shall immediately proceed to consider it under the rules of the House, to refer, to commit, or to postpone to a day certain, are in order. (Speaker Gillett, May 15, 1924, 68th Congress, First Session, page 8663, 4 Hine's Precedents, pages 3545-3550).

A motion to refer a vetoed bill, either with or without the message, has been held within the constitutional mandate that the "House shall proceed to reconsider." (4 Hine's Precedents, page 3549).

It therefore appears in regard to S-1480 that the Senate has complied with this constitutional mandate referred to.

Rule 32 of the Standing Rules of the Senate provides "at the second or any subsequent session of a Congress the legislative business of the Senate which remained undetermined at the close of the next preceding session of that Congress shall be resumed and proceeded with in the same manner as if no adjournment of the Senate had taken place."

President Grant on July 14, 1870, returned to the Senate S-476 with his objections. The veto message was read and as it had been determined to end the session on the next day, a motion was agreed to that the message be printed and the matter laid over until the December session. (Veto Messages of the Presidents, pages 374-6).

On August 4, 1854, President Pierce returned a certain bill without his approval. The veto message was received during a night session and as no quorum was present it was not read. Congress adjourned two days afterwards and on the first day of the following session the bill was called up and on the 6th of December a vote was taken on the passage of the bill, the President's objections notwithstanding. (Veto Messages of the Presidents, pages 220-21).

A bill returned to the Senate with the President's objections is not only subject to Rule 32 of the Senate, but is also subject to all other rules thereof.

President Pierce, on August 14, 1856, returned a certain bill and veto message to the Senate. The veto message was immediately considered by the Senate and the bill failed to pass. The House was informed of this rejection and on August 16th the Senate requested the return of the bill. Thereafter, it was moved that the previous vote be reconsidered. A point of order was made against the motion and the President Pro Tem. decided the motion was in order and on appeal from his decision he was sustained. The previous vote was then reconsidered and the bill was passed. (Veto Messages of the Presidents, pages 257-8).

A similar precedent obtains in the House. (Veto Messages of the Presidents, page 257).

In consideration of the foregoing, it is submitted that S-1480 is still before the Senate, is highly privileged, and can be taken from the table for appropriate action by the Senate.

Respectfully submitted,

William S. Lewis,
A. R. Serven, and
John G. Carter,
Attorneys for the Lower Spokane and
Lower Pend D'Oreille Indians.

JGC/C

By (Sgd) John G. Carter.