

TABLE ROCKS, 1853

*“The white man is as plenty away over
the mountains as the trees in the woods.”*

TYEE JOE AND GENERAL JOSEPH LANE AGREED, AT THE END OF the battle of August 24, to meet seven days later at Table Rocks. The tyees needed several days to assemble Indians hiding out in the hills so that all could hear the momentous discussions that would, they hoped, finally bring peace. A feeling of harmony settled in during the next few days, as tempers cooled and both sides grazed their horses together on the open meadows near the massive rock formations. Still, when the appointed date came, the tribes were not ready to talk. Tyees Joe and Sam knew Lane well and trusted him. Tyee John (Tecumtum, “Elk Killer”), the Shasta warrior who had defeated the Americans in his home Applegate Valley, however, was much less familiar with Lane. As Joel Palmer wrote in his diary, the other tribal members must have been even more apprehensive, for when he and Lane went out to meet with the Indians “but a few could be found. They appeared treachery on our part and are very shy. It is with the utmost difficulty that they can be approached.”

Nevertheless, Palmer and Lane pushed forward, toward a treaty. Lane held a council on September 4 with several Takelma tyees: Joe, Sam, Jim, George, and Lympy. The talks led to a preliminary treaty on September 8. This peace and friendship treaty, which laid the groundwork for the formal and comprehensive negotiations two days later, described the territorial limits of the Upper Rogue River tribes, declared peace, and, while it did not identify a par-

ticular locale, promised a permanent home for the tribes. The document did not refer to the most sensitive issue of all, the sale of tribal land. On September 9, Palmer held another council with tribal members and, in an emotional presentation, urged the tribes to cede most of their aboriginal lands to the United States because of the force and inevitability of the flood of settlers: “The white man has come and they will continue to come for they are as plenty away over the mountains as the trees in the woods.”

By this time, the Table Rocks area had become the site of a major assemblage. Hundreds of Indian people rode in. Several companies of troops arrived in order to beef up the American military presence. And many leaders, Indian and white, were in attendance. As one historian accurately put it, “The occasion was a remarkable one; and brought together many remarkable individuals.” The principal Takelma, Athapaskan, and Shasta tyees were there. On the American side, save for the territorial governor, the leading dignitaries in the state came to Table Rocks to resolve the bitter conflict that was of such moment in the Oregon Territory and California.

To the Americans, the occasion carried significance far beyond the Rogue River country. The agreement signed on September 10, 1853, signaled the implementation of a newly formed federal policy calling for permanent tribal reservations, where Indian people could learn the art of agriculture and become “civilized.” The Table Rock document broke new ground in another respect: it was the first ratified land treaty with Indian tribes in the American West.

Lane, fresh from reelection as Oregon’s territorial delegate to Congress, and Joel Palmer, just installed as superintendent of Indian Affairs in May, acted as lead representatives for the United States. Palmer, who had farmed in Indiana and served in the state legislature, came west by wagon with his family in 1845 and quickly joined the inner circle of Oregon politics. By 1847, he held three posts at once in the short-lived provisional government—superintendent of Indian Affairs, commissary general for the Cayuse War, and peace commissioner. An adventurer and outdoorsman, he took a pack train down to the California gold fields in 1850 before returning to Dayton in the Willamette Valley to farm and engage in various business enterprises.

Palmer—who would be the dominant figure in Indian Affairs during the critical years of 1853–1856, when Indian land title was extinguished in most of Oregon and the western Oregon tribes were removed en masse—came to the Indian superintendency with respect across the board. His political connections and tenure as commissary general (he was sometimes referred to as “General”) sat well with the whites. Of Quaker upbringing, he had a deep-



Joe Lane, left, and Joel Palmer represented the United States during the early and mid-1850s, when the tribes of the Upper Rogue River Valley were so prominent because of their numbers, strategic land holdings, and imposing military strength. The work of the two men led to the creation of the Siletz Reservation. Lane, a former general and governor of the fledgling Oregon Territory beginning in 1850, gained the trust of tribal leaders, although he later opposed the interests of western Oregon Indians when he was a United States senator. Palmer, superintendent of Indian Affairs for the territory from 1853 to 1856, was accorded broad discretionary powers not usually vested in superintendents in order that Oregon Indian policy would be conducted with humanity and in accordance with treaties. In the early 1870s, Palmer served as Indian agent for the Siletz Reservation. *Courtesy of Oregon Historical Society, nos. bb003659 (Lane) and bb006242 (Palmer).*

dyed sympathy for the tribes and wanted to do well by them consistent with the political realities of the era. Palmer “seems to have had an unusual amount of compassion and understanding of our people’s situation—at least for a man of his time,” wrote Siletz tribal historian Robert Kentta. “He would soon be known and respected among our people by a name that translates as ‘knows in his head.’”

In addition to the influential James Nesmith, a future superintendent of Indian Affairs and United States senator, and LaFayette Grover, a future con-

gressman, senator, and governor, another Oregon luminary, Judge Matthew Deady, attended the treaty council. A lawyer who joined the bar in Ohio, Deady crossed the country to Oregon in 1849. He gained election to the territorial assembly the next year and then secured appointment to the Territorial Supreme Court. At statehood in 1859, he became Oregon's first United States district judge, holding that position until his death in 1893. He is regarded as one of Oregon's greatest judges.

While Deady stood up for African Americans and Chinese immigrants as his tenure on the bench went on, he did not generally champion the concerns of minority groups in his early professional years. He supported slavery in the 1850s and had no particular sympathy for the travails of Chinese laborers in the mining camps or on the railroad crews. Like Palmer, however, Deady's experience with Oregon's Indian-white conflicts led him to conclude that the whites were usually the aggressors. In 1876, Deady, known for his careful writing style, wrote that "it ought never to be forgotten, that in all disputes and controversies between the whites and Indians upon this Coast concerning the occupation of the soil (or almost anything else for that matter) it may be safely assumed that the latter are not in the wrong."

One of the judge's earliest exposures to such wrongs came on September 3, 1853, when he rode on horseback to hold court in Jacksonville and then to participate in the Table Rock Treaty convocation. He stopped over at the Bates House, in the territory of the Grave Creek Athapaskans, and was confronted by the barbarism in southern Oregon that did such violence to the most basic principles of American law:

There I found Captain J. K. Lamerick, in command of a company of volunteers. It seems he had been sent there by General Lane after the fight at Battle Creek, on account of the murder of some Indians there, of which he and others gave me the following account:

Bates and some others had induced a small party of peaceable Indians, who belonged in that vicinity, to enter into an engagement to remain at peace with the whites during the war which was going on at some distance from them, and by way of ratification of this treaty, invited them to partake of a feast in an unoccupied log house just across the road from the "Bates House," and while they were partaking, unarmed, of this proffered hospitality, the door was suddenly fastened upon them, and they were deliberately shot down through the cracks between the logs by their treacherous hosts.

Near by, and probably a quarter of a mile this side of the creek, I was shown a large round hole into which the bodies of these murdered Indians had been unceremoniously tumbled. I did not see them, for they were covered with fresh earth.



The massacre at Grave Creek underscored how agonizing a path the peacemakers had to walk. Local miners and settlers wanted extermination, not accommodation. In early September, a letter to the *Oregonian*, referring to Palmer and Lane, warned that “the whites of Rogue River valley will pay but little attention to any treaty stipulations entered into by those in authority with the Indians,” and the *Oregon Spectator* observed that “extinction of the entire race in that region is the almost unanimous sentiment.” Tribal and federal leaders, however, all of whom felt the many wounds and losses of the collision of the two races, pressed ahead with determination if not certitude.

In terms of substantive issues, the Indians wanted an end to the botched and unwise federal policies, actions, and inactions of the past several years. They were being overwhelmed by people who had no respect for Indian land rights or lives. Leaving aside the Americans’ inability to control their own people, two practices especially rankled: the unratified treaties and the efforts to remove the Indians of western Oregon to lands on the eastern side of the Cascade Range.

From the beginning of American settlement in Oregon, state and federal officials were well aware of Indian land title and the need to obtain tribal land before homesteading could legally begin. Lane, as the first territorial governor, made the necessity of extinguishing Indian title the first topic in his initial speech to the territorial legislature. The subject was directly raised in Congress. Despite the continuing conflicts between settlers and Indians, Congress passed the Donation Land Act in 1850 without dealing with Indian title one way or the other. This shortsighted action immediately led to increasingly heated disputes over landownership between settlers and Indians, especially in the Willamette and Rogue River valleys.

In the same year, Congress adopted the Oregon Indian Treaty Act, which authorized commissioners (in practice, the U.S. superintendent of Indian Affairs for Oregon) to negotiate land treaties with tribes. Reflecting the view of Lane and Samuel Thurston, the territorial delegate, the statute directed that the negotiations with western Oregon tribes include cessions of their ances-

tral lands and “if found expedient and practicable, for their removal east of [the Cascade] mountains.”

The threat of moving tribes across the Cascades fouled up the treaty negotiations. None of the tribes wanted to go. The salmon were fewer and the vegetation was different. There were no treasured acorns from the black oak trees. It was colder and arid across the mountains. The tribes there would object to having foreign tribes brought in. Most of all, for the western tribes it meant leaving their homelands. All the ancestors, all the memories were there.

When Superintendent Dart and Territorial Governor Gaines went out to negotiate in 1851, the “east of the Cascades” policy put them in a bind. The tribes—whether from the Willamette Valley, the Columbia Valley, or the Coast—held their ground and insisted on reservations within their ancestral territories. Then, when Dart and Gaines sent their nineteen treaties to Congress, Joseph Lane, the new territorial delegate, blocked ratification—in significant part because the proposed reservations lay west of the Cascades. In turn, the tribes, in addition to despising the “east of the Cascades” policy, were frustrated and angry with the Americans’ on again–off again practice of negotiating treaties but failing to ratify them.

By 1853, a revised national Indian policy had crystallized and Table Rock was a proving ground. For its first half-century, the United States took the easy course (for the Americans if not the tribes) of designating areas to the west of settlement as “Indian country” or the “Indian territory.” The assumption was that this land could safely be set aside for tribes because it was unlikely to be needed for settlement, at least not in the foreseeable future. The first such line was drawn in 1796 and ran through Cleveland, then southwest through Ohio and Indiana, then southeast through Kentucky, Tennessee, the Carolinas, and Georgia. American citizens would settle east of the line. To the west would be Indian country.

As the East began to fill up, Congress moved the line farther west. By the 1840s, the Indian country consisted of the land west of the Louisiana, Arkansas, Missouri, Iowa, and Wisconsin borders. The most notable series of events involved the “Trail of Tears,” the heartrending removals in the 1830s of the so-called Five Civilized Tribes—the Cherokee, Chickasaw, Choctaw, Creek, and Seminole—from their homes in the southeast to the “Unorganized Indian Territory” (later, the state of Oklahoma). The southeastern states simply refused to tolerate the existence of the tribes within state boundaries. Their success, greatly aided by President Andrew Jackson, in enlisting federal troops to remove Native people to the Indian country both brought unmiti-

gated tragedy to the Five Civilized Tribes and epitomized how the pressure for land was trampling American ideals of respecting minority rights: at the same time that Chief Justice John Marshall was handing down one of his most luminous opinions, acknowledging the right of tribes to be free of state laws, Congress at the behest of the states was granting the president unfettered power to abrogate treaties and remove the southeastern tribes from their homelands.

The notion of a separate Indian territory west of American settlement finally blew apart during the James Polk presidency of 1845–1849, with the nation's greatest spate of expansion through the annexation of Texas and treaties with Mexico and England. The United States held, as against all European nations, all land between the Rocky Mountains and the Pacific. Indian title remained in place. Now it was clear that Americans wanted to settle all of it.

The transfer of Indian responsibilities from the War Department to the new Department of the Interior in 1849 provided the opportunity to reformulate Indian policy and institute the reservation system. When Luke Lea took office in 1850 as commissioner of Indian Affairs, he was handed the task of developing an Indian policy to replace the “Unorganized Indian Territory” approach. Lea, a Mississippi lawyer who took for granted the inferiority of Indians, believed that, although it would take time and effort, Indians could be assimilated into the general society. Until then, the tribes must be kept separate: “Civilization and barbarism . . . cannot coexist together.” This would be accomplished by permanently setting aside separate, isolated tracts of land for tribes. Lea formally announced the new policy of creating a reservation system in his 1850 annual report to the Congress:

There should be assigned to each tribe, for a permanent home, a country adapted to agriculture, of limited extent and well-defined boundaries, within which all, with occasional exceptions, should be compelled constantly to remain until such time as their general improvement and good conduct may supersede the necessity of such restrictions. In the mean time the government should cause them to be supplied with stock, agricultural implements, and useful materials for clothing; encourage and assist them in the erection of comfortable dwellings, and secure to them the means and facilities of education, intellectual, moral, and religious.

This major shift in policy had its inconsistencies. How could Indians be assimilated while kept separate? How could lands be permanently set aside if

the ultimate goal was assimilation? But the charge—the creation of “permanent homes”—was clear, and federal officials set out to implement it.



Joel Palmer, convinced that white settlement could proceed in a way humane to the tribes, found the new policy entirely consistent with his own views. His compassion and idealism came out in his June 1853 report to George Manypenny, now commissioner of Indian Affairs:

It is too clear to admit of argument—vice and disease, the baleful gifts of civilization are hurrying them away, and ere long the bones of the last of many a band may whiten on the graves of his ancestors. If the benevolent designs of the Government to preserve and elevate these remnants of the Aborigines are to be carried forward to a successful issue, there appears to be but one path open, —a home, remote from the settlements must be selected for them, then they must be guarded from the pestiferous influence of degraded whitemen . . . let comfortable houses be erected for them, seeds and proper implements furnished and instruction and encouragement given them in the cultivation of the soil; let school houses be erected and teachers employed to instruct their children, and let the missionaries of the gospel of peace be encouraged to dwell among them. Let completeness of plan, energy, patience and perseverance characterize the effort, and if still it fail, the Government will have at least the satisfaction of knowing that an honest and determined endeavour was made to save and elevate a fallen race.

As superintendent of Indian Affairs for the Oregon Territory, Palmer turned his attention to finding the best location for “a home, remote from the settlements” for the tribes of western Oregon.

In Palmer’s mind, the Oregon Coast presented by far the preferred option. The Willamette Valley would be a breeding ground for conflict: it already had many settlers and more were on the way. The “east of the mountains” policy was unworkable: the tribes would not agree to move there. But the Coast, though Palmer had not yet visited it, was so rugged that it would never have large numbers of whites. It did, he was told, have small valleys for the farming way of life that Palmer and the policymakers in Washington envisaged for Native peoples.

In the beginning, even though the poisonous atmosphere in southern Ore-

gon presented his greatest challenge, the superintendent apparently assumed that a large Coast Reservation would serve the tribes of the Willamette Valley and the Lower Columbia River. However, while a temporary site would initially be designated in the Table Rocks area, the impossibility of peaceful Indian-white relations in southern Oregon would soon cause federal officials to look elsewhere for a permanent home for the Upper Rogue River tribes. The early focus on the Coast, put forth by the chief federal Indian policymaker in the region, played a defining role in the climactic decisions of the mid-1850s regarding land and treaties.

During the summer of 1853 Palmer enlisted federal employees and several Indian tyees and planned an expedition to the Coast to evaluate the area's suitability for a reservation. The idea was to assess the area between Coos Bay and the Tillamook River, about 125 miles of terrain. In late August, the party was ready to embark. But events to the south intervened. The battle on Evans Creek had just concluded and Palmer received a missive from Joseph Lane that Palmer's attendance was "imperatively required." And so Palmer packed up and rode down to Table Rocks for the peace talks.



The atmosphere, the tone, of United States–Indian treaty negotiations varied from one tribe to another. All were solemn—the federal representatives had important business to do and tribal leaders knew that the proceedings were momentous in their peoples' histories. Still, some of the gatherings lacked a sense of loftiness. Several of the 1851 Anson Dart treaties with Willamette Valley and Columbia River tribes, for example, involved once-populous tribes that had been reduced by European diseases to just a few families. Other treaty convocations were large, formal gatherings filled with high ceremony. Two years after the Table Rock Treaty of 1853, Joel Palmer and the other Americans at the Walla Walla negotiations were awestruck as the Nez Perce rode in, "a thousand warriors mounted on fine horses and riding at a gallup, two abreast, naked to the breech-clout, their faces covered with white, red, and yellow paint in fanciful designs, and decked with plumes and feathers and trinkets fluttering in the sunshine."

The scene was also dramatic when Joseph Lane, Joel Palmer, Matthew Deady, and James Nesmith headed out on the morning of September 10 by horseback on the two-mile ride from Lane's camp on the meadow to the upthrusting edifice of Lower Table Rock. Against Nesmith's advice, the

American military force, numbering in the hundreds, remained on the valley floor. Nesmith warned Lane of the hundreds of Indians who had gathered at Table Rocks—danger lay ahead and the men should be accompanied by soldiers—but Lane, having promised Tyee Joe that he would come only with unarmed men, insisted on keeping his word.

Lane and two other men rode part of the way up the eastern flank until the thick chaparral of buckbrush and manzanita made further travel on horseback impossible. Nesmith described the scene:

We dismounted and hitched our horses and scrambled up for half a mile over huge rocks and through brush, and then found ourselves in the Indian stronghold, just under the perpendicular cliff of Table Rock, and surrounded by seven hundred fierce and well armed hostile savages, in all their gorgeous war paint and feathers. Captain Smith had drawn out his company of dragoons, and left them in line on the plain below. It was a bright, beautiful morning, and the Rogue River Valley lay like a panorama at our feet; the exact line of dragoons, sitting statue like upon their horses, with their white belts and burnished scabbards and carbines, looked like they were engraven upon a picture, while a few paces in our rear the huge perpendicular wall of the Table Rock towered, frowningly, many hundred feet above us.

Judge Matthew Deady also recalled the moment:

The scene of the famous “peace talk” between Joseph Lane and Indian Joseph—two men who had so lately met in mortal combat—was worthy of the pen of Sir Walter Scott and the pencil of Salvator Ross.

It was on a narrow bench of a long, gently sloping hill, lying over against the noted bluff called Table Rock. The ground was thinly covered with majestic old pines and rugged oaks, with here and there a clump of green oak bushes. About a half mile above the bright mountain stream that threaded the narrow valley below sat the two chiefs in council. Lane was in fatigue dress, the arm which was wounded at Buena Vista in a sling from a fresh bullet wound received at Battle Creek. Indian Joseph, tall, grave and self-possessed, wore a long black robe over his ordinary dress. By his side sat Mary, his favorite child and faithful companion, then a comparatively handsome young woman, unstained with the vices of civilization. Around these, sat on the grass Captain A. J. Smith—now General Smith of St. Louis—who had just arrived from Port Orford with his company of the First Dragoons;

Captain Alvord, then engaged in the construction of a military road through the Umpqua Canyon, and since Paymaster General of the U. S. A.; Colonel Bill Martin of Umpqua, Colonel John E. Ross of Jacksonville, Captain, now Gen. John F. Miller, and a few others. A short distance above us on the hillside were some hundreds of dusky warriors in fighting gear, reclining quietly on the ground.

The day was beautiful. To the east of us rose abruptly Table Rock, and at its base stood Smith's dragoons, waiting anxiously with hand on horse the issue of this attempt to make peace without their aid.

The talks did not begin immediately. The Takelma, Athapaskan, and Shasta representatives wanted Tye Jim, an accomplished negotiator and leader who had married Tye Joe's daughter, Mary, to participate in the talks. Lane had agreed. Jim had not arrived, and the tribal and American leaders took the opportunity to share a peace pipe. When Jim did make his appearance, he began the talks with a formal statement. According to LaFayette Grover, "I recollect he stood up there like a native orator, and began to talk. He spoke at least half an hour in the Indian dialect. There was no [Chinook] jargon about it. You never heard the most polished orator use more perfect intonations and gestures—and the effect [of it] was the effect of true oratory." Then Tye Joe spoke. The only known version of his remarks is by Grover:

He made his speech in his own tongue. He made his speech for us, and it was interpreted to us. He said: "We have sent for you to come here to make a treaty of peace. We inten[d] what we say. A few days ago some white men sent for the Indians to come in to Applegate creek to have a talk and to make peace. They went and while they were eating their feast the white men came in and killed them all. Now here you are, five of you. We sent for you to come here, and to leave the soldiers behind, six miles off. We told you to come without arms, that we wanted to make peace. We intended what we said. The white men killed the Indians when they said that to them. You are 5 & we are 200 all armed. We could kill you all now." But the Indian Chief meant what he said:

"The Indian is nobler than the white man." He spread himself up there and looked really a nobleman.

It confounds the mind that such a stately ceremony, with hundreds of Indians in attendance, took place at all. The germs had taken more than 80

percent of the population of these Upper Rogue River tribes, and hundreds had been lost to war and other killings. Yet the Indians knew how much was at stake, how the future of their nations hung in the balance. Further, they had some leverage. While the tribes currently held an advantage in rifles and other weaponry, the United States population and industrial capability assured that it would prevail in protracted conflict. But the Native fighting men had proven themselves magnificent warriors, and further combat would be costly to the Americans. The tribes found the resilience to rise up to their full height. The Americans had sent their top leaders and many battalions to bring an end to the major Indian conflict in the West, to obtain title to Indian land, and to implement the nation's new Indian policy. The talks were ready to begin.

The formality of the occasion sharpened the gulf between the two cultures. During the days leading up to this final council, leaders from both sides had gone over the issues and doubtless reported back to their people. Nonetheless, the language differences made for slow-moving, laborious negotiations. If, as Nesmith reported, Tye Joe made a speech to Lane, it would have been translated from Takelman, then into the Chinook Jargon, then into English—and Lane's reply would have gone from English into the Chinook Jargon as translated by Nesmith and then into Takelman:

Long speeches were made by General Lane and Superintendent Palmer; they had to be translated twice. When an Indian spoke in the Rogue River tongue, it was translated by an Indian interpreter into Chinook or jargon to me, when I translated it into English; when Lane or Palmer spoke, the process was reversed, I giving the speech to the Indian interpreter in Chinook, and he translating it to the Indians in their own tongue. This double translation of long speeches made the labor tedious, and it was not until late in the afternoon that the treaty was completed and signed.

Federal-tribal treaty-making has always been plagued by the problem of language. With such large and often technical matters at issue, the question has often arisen as to whether the Indian and American negotiators fully understood each other. When the agreement was put in writing, it was always done in English—in words the Americans wrote and the Natives could not read.

In the Pacific Northwest, the common language was the Chinook Jargon. The Jargon, an amalgam of phrases from different tribes (principally the

Chinook), came into use before non-Indians arrived as a basis for discourse in the far-flung trade network among tribes with a large number of distinct languages. When foreign traders came, they learned the Jargon and contributed some words of their own. By the time of the Table Rock negotiations, the language had an estimated 250–500 words. Scholars of the Chinook Jargon emphasize the importance of the quality of the translations. “To a great extent, effective communication through the Jargon depends on the ingenuity and imagination of the speaker.” Thus, “the way a word is spoken has a tremendous influence on meaning.” In addition to the subtlety that is required to speak and understand the Jargon properly, discourse cannot be a wooden linguistic exercise and must take account of Native culture:

The most important knowledge to possess . . . is a thorough understanding of the Indian point of view; that is to say, how the Indian thinks, the mental process by which he arrives at an idea and, in addition to this, a knowledge of his method of expressing this idea. Without this knowledge you can never speak Chinook [Jargon], or any Indian language, fluently.

We do not know how accomplished James Nesmith and Robert Metcalfe, listed as interpreter on the treaty, were as translators in and out of the Jargon.

The Chinook Jargon was poorly suited to serve as the medium of discourse over grand abstract notions such as sovereignty, landownership, and the future relationship between the tribes and the United States. As explained by Judge George Boldt, who conducted the most far-ranging judicial examination of Pacific Northwest treaties and whose conclusions were affirmed by the United States Supreme Court in 1979: “The Jargon was capable of conveying only rudimentary concepts, but not the sophisticated or implied meaning of treaty provisions about which highly learned jurists and scholars differ.” The courts have developed common-sense rules for construing Indian treaties, requiring that all doubts be resolved in favor of the tribes—just as judges interpret residential leases and bank loans in favor of the tenant or the borrower and doubts are resolved against the landlord and the bank, the more powerful party and the one who drafted the document. The rules are even stronger for Indian treaties, where the United States is a trustee and is considered to be acting in the best interests of the beneficiaries, the tribes. Judge Boldt ruled, in a principle universally accepted in Indian treaty law, that “the treaty must therefore be construed, not according to the technical meaning of its words to learned lawyers, but in the sense in which they would naturally be

understood by the Indians. . . . How the words of the treaty were understood by this unlettered people, rather than their critical meaning, should form the rule of the construction.”

Any doubts, ambiguities, or uncertainty, then, in the words written down and agreed to under the cliff at Lower Table Rock, and approved by the United States Senate, should be resolved in favor of the Indians and in a manner consistent with their understanding.

The negotiations, although burdened by the re-translations of all the speeches, were orderly save for one exception. In the afternoon, a young Indian runner, sweating heavily and exhausted by his race from the Applegate Valley, broke into the proceedings, shouted out a brief speech, and collapsed. The congregated Natives were furious—the runner had reported that whites in Captain Owens’s volunteer company had tied an Indian named Taylor to a tree and shot him. Nesmith recalled: “I saw some Indians gathering up their lass-ropes, while others drew the skin covers from their guns, and the wiping sticks from their muzzle.”

Lane, always resourceful, always keeping his eye on the objective, prevented an outbreak. He told the assemblage that Owens was “a bad man,” that he would be punished, and that the Americans would give compensation for Taylor’s death. The danger passed and the discourse returned to the treaty.



The fundamental principles of the Table Rock Treaty of September 10, 1853, were applied in the many treaties between the United States and Indian tribes that resolved land title to most of the Oregon and Washington territories. (The Washington Territory was carved out of the Oregon Territory in 1853.) The first to put into action the new national federal policy announced by Luke Lea, the treaty rejected extinction as an option, promised a permanent tribal homeland, and provided aid to the tribes in making the transition to an agricultural lifestyle. Isaac Stevens, governor and superintendent of Indian Affairs for the Washington Territory who negotiated Indian treaties from Puget Sound to western Montana, later expressed his gratitude to Joseph Lane for his example and tutelage in dealing with the tribes.

The Table Rock Treaty dealt with a number of relatively minor matters. The government agreed to provide farming equipment and clothing to Indians and to build houses for the three principal tyees, Joe, Sam, and John. The tribes guaranteed safe passage for whites traveling through their reservation. Crimes

committed by Indians against whites would be tried in federal courts. The United States promised to indemnify the tribes for horses or other property stolen by whites.

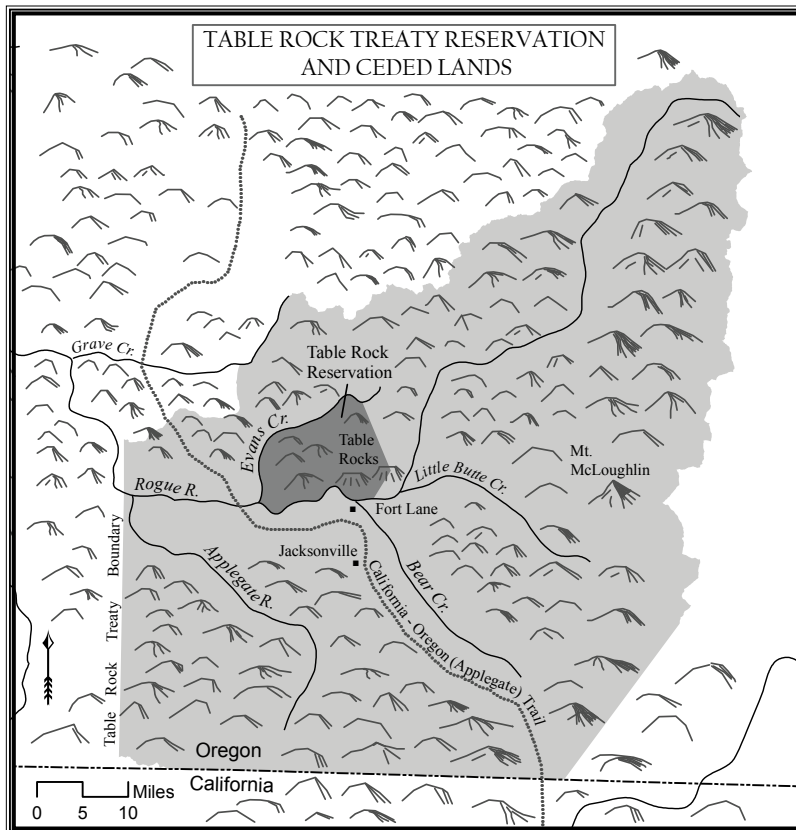
Land was the overriding issue. In article 1, Takelmas, Shastas, and Applegate Athapaskans ceded to the United States most of their aboriginal land in Oregon. The transfer encompassed the Upper Rogue River Valley, including the Applegate Valley, all the way to the crests of the Cascade and the Siskiyou mountains. This magnificent landscape of about 2,400 square miles held extraordinarily valuable resources, including the mineral deposits in the Jacksonville area and other goldbearing regions, old-growth forests, and broad valley floors for farming. As payment for the land, the United States promised to pay the tribes \$60,000, of which \$15,000 would be retained by the federal government to pay for “property of the whites destroyed by [the Indians] during the late war.”

The tribes did not want to sell their land, and it was a delicate subject during the several days building up to the main treaty. The peace and friendship treaty signed on September 8, 1853, made no explicit mention of a cession of land although it did describe the aboriginal domain and promised that the tribes “shall hereafter reside in the place to be set apart for them.” When Palmer met with tribal members on September 9, he was disappointed by the small turnout. “I fear your people are not all here. Why should they be afraid to come and see us and hear us talk?” Knowing the widespread apprehension about the treaty in general and land in particular, Palmer made a long and impassioned plea for a land sale. He said this in the most detailed account that we have of the words spoken at Table Rock:

Our great chief, your father, who lives a long way over the mountains has sent us to see you and to talk with you—our chief has a good hart, he wishes all his read children to live in peace and be happy, he dose not want them to go to war with the whites or with one an other.—He has a great many red children. A long way to the east they are a happy people, they live in homes, have cattle, sheep, hogs, they raise wheat, corn, potatoes. . . .

We do not want to deceive you, but like our chief our harts are good and we give you good talk. . . .

The chief sent here to advice, protect and assist you, cannot see you all—but he will do all he can to prevent our people from doing you harm. If you are good and do not injure our people and their property. We think it is good that you should sell our great chief your land and then you can be supplied



with blankets, clothing & food—and have houses, cattle, & horses—and be taught how to grow wheate and other food and your children how to read and write so that when they are grown to be men and women they can understand good from bad, and now a greate deal like the good whites, and have good medicine when they are sick—and be warm in winter and [live] happy.

And now, I will make you a proposition, If you will sell our great chief your country as bounded & described in the Treaty of peace made and concluded yesterday between Genl. Jo Lane, and the chiefs of the Rogue River bands of Indians we will agree for our great chief on the part of the United States to give you [fifty five] sixty thousand dollars. Fifteen thousand . . . or so much of that sum as may be necessary to pay the amount of damages done to the property of the whites in the Rogue River Country.

Toward the end of his oration, Palmer drove his main point home: “The white man has come and they will continue to come. . . . We cannot stop them. It is no use to make war upon them for if one be kiled ten will come in his place.”

The provisions for tribal land evidenced the superior position of the United States. Article 2 of the treaty called for a reservation of just one hundred square miles, about 4 percent of the tribes' aboriginal domain. Though minuscule in comparison with the ceded land, the reservation preserved important tribal values and, at an average of eight miles north to south and thirteen miles east to west, had some size to it. It included all of Lower Table Rock, with its great cultural and spiritual meaning, and part of Upper Table Rock. Tye Sam's valley and other flatlands held traditional roots and tarweed seed-gathering grounds and were suitable for farming. The northern reaches, up to Evans Creek, offered forested lands and good hunting. Since the reservation bordered the Rogue River from above Upper Table Rock down to the mouth of Evans Creek, tribal members had excellent salmon fishing on a stretch of about fifteen river miles on the Rogue and on the east bank of Evans Creek as well. Painfully small, but good land, heartland.

The Table Rock Treaty came with a proviso that was rare among Indian treaties nationally but not in Oregon, where it was of great moment in the years to come. Palmer and Lane both feared that the local hatred might never relent and that continuing violent acts would make it necessary to remove the tribes to another location, far from populated areas. The treaty, therefore, provided that the tribes "shall be allowed to occupy temporarily" the Table Rock Reservation. The temporary reservation would remain fully in effect, as tribal land under federal protection, until replaced by a permanent home: Table Rock "*shall be deemed and considered an Indian reserve, until a suitable selection shall be made by the direction of the President of the United States for their permanent residence and buildings erected thereon, and provisions made for their removal.*"

The Table Rock Treaty was signed by Tyees Joe, Sam, Jim, John, and Lympy, on behalf of their peoples. Joel Palmer signed for the United States. The Senate ratified it seven months later.



The 1853 treaty guaranteed the tribes a permanent reservation. The initial reservation at Table Rock was "temporary," but the treaty required that it would remain in place indefinitely until a president declared a "permanent" reservation. The treaty allowed only those two outcomes: a temporary but ongoing reservation at Table Rock or a permanent one elsewhere.

The question soon became whether the Table Rock Treaty, and the six

other western Oregon treaties that followed its template, could hold. The law, even the supreme law of the land, can be overwhelmed when citizens take the law into their own hands and nowhere in American history has that been more prevalent than when an angry, determined, and violent majority sets its sights on the rights of a small minority.