

AGREEMENT WITH THE SHOSHONE AND BANNOCK
INDIANS.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A communication from the Secretary of the Interior, with papers and draught of "A bill to accept and ratify an agreement made with the Shoshone and Bannock Indians for a surrender of a portion of Fort Hall Reservation."

FEBRUARY 7, 1888.—Referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith a communication of 4th instant from the Secretary of the Interior, submitting, with other papers, a draught of "A bill to accept and ratify an agreement made with the Shoshone and Bannock Indians for the surrender and relinquishment to the United States of a portion of the Fort Hall Reservation, in the Territory of Idaho, for the purposes of a town-site, and for the grant of a right of way through said reservation to the Utah and Northern Railway Company, and for other purposes."

The matter is presented for the consideration of Congress.

GROVER CLEVELAND.

EXECUTIVE MANSION, *February 7, 1888.*

DEPARTMENT OF THE INTERIOR,
Washington, February 4, 1888.

The PRESIDENT:

I have the honor to submit herewith a copy of a letter of 3d instant from the Commissioner of Indian Affairs, presenting, with accompanying maps and papers relating to the subject, a draught of "A bill to accept and ratify an agreement made with the Shoshone and Bannock Indians for the surrender and relinquishment to the United States of a portion of the Fort Hall Reservation, in the Territory of Idaho, for the purpose of a town-site and for the grant of a right of way through said reservation to the Utah and Northern Railway Company, and for other purposes."

The facts and circumstances which influenced the Department to authorize the negotiation of the agreement are briefly as follows:

First. The Utah and Northern, and Oregon Short Line Railroads cross each other, and form a junction at a point within the boundaries of the reservation known as Pocatello Station, where a settlement has gradually grown up, composed mainly of employes of said railroads, with their families, together with other people drawn thereto, for whom sufficient land is represented to be absolutely needed for dwelling and for other purposes, to avoid the conflicts and troubles with the Indians arising from trespass upon the reservation; and,

Second. To ascertain and fix the compensation that should be paid to the Indians for land occupied by the Utah and Northern Railway Company as right of way, station grounds, etc., upon the reservation for its line of road, running north and south, already constructed and in operation. The right of way of the Utah and Northern Railway Company through the reservation, granted by the act of July 3, 1882 (22 Stat., 148), for its Oregon branch running east and west, reported as subsequently assigned to the Oregon Short Line Railway Company, is 100 feet wide, except at Pocatello Station, where it is 200 feet wide, with an additional tract at that point comprising 30.45 acres for station purposes, making a total of about 772 acres, for which it was required to pay \$6,000, being at the rate of about \$7.77 per acre.

Under the law granting the right of way (200 feet wide) to the Utah and Northern Railway Company through the public lands (17 Stats., 612), as subsequently amended (20 Stats., 241), that corporation filed in the Department a series of fifteen maps of definite location of its road, eleven of which were approved March 6, 1882; the other four, showing the line of the road through the Fort Hall Reservation, were disapproved March 27, 1882, for the reason that the law granting right of way through the public domain did not entitle it to go through the Indian reservation, which is not public lands within the meaning of the act, and, further, that the consent of the Indians had not been formally obtained, and no compensation had been made to them for the land occupied, the road having already been constructed. A detailed history of this matter is set out in a message sent by you to Congress on the subject December 21, 1885, and printed in Senate Ex. Doc. No. 20, Forty-ninth Congress, first session.

Congress at its last session had under consideration a bill (S. 2789) to authorize negotiations with the Indians for cession of additional land, etc., required for the purposes now under consideration, which was passed by the Senate and favorably reported to the House by the Committee on Indian Affairs, but did not become a law.

As the embarrassments of the situation, resulting from the rapid growth of population of the town within the limits of the reservation and upon the land of the Indians, were daily increasing, the Department, in order to place the matter in shape for definite and speedy action by Congress, instructed one of the United States Indian inspectors and the United States Indian agent for the Fort Hall Indian Agency to confer with the Indians, examine the whole matter, and prepare a plan for the settlement of the questions involved. They called the Indians together in council, to whom, it is reported, they carefully and fully explained the matters, and negotiated with them the agreement herewith submitted, by which the Indians cede and relinquish to the United States, to be disposed of for town-site purposes, at Pocatello, or otherwise, as Congress may direct, for the benefit of the Indians, a tract of 1,840 acres of land, saving therefrom as much as has been here-

tofore and is by the present agreement relinquished to the United States for the use of the Utah and Northern and the Oregon Short Line railroads, all of which is more clearly shown in the accompanying plats.

The right of way to the Utah and Northern Railway Company through the reservation, north and south, provided for in the agreement, is 200 feet wide (the same as allowed to it through the public domain); this, with the right of way 200 feet wide at Pocatello Station, already granted by law (22 Stat., 148) to the same company for its line running east and west, make a total width of 400 feet as right of way for the two roads at that point, and the 30.45 acres already granted by law for station and depot purposes to one road, together with the 20 acres for like purposes provided by this agreement for the other road, make a total of 50.45 acres for station and depot purposes for the two roads at their junction at Pocatello Station. The two roads at that point are constructed and run for some distance on the same road-bed, and use in part the same rails (one being a narrow-gauge road); in view of which it is considered by the Department that the right of way to the Utah and Northern Railway Company for its road running north and south should be there limited to 100 feet in width, making a total right of way 300 feet wide for both roads at Pocatello Station. The draught of the bill has been so framed as to provide for this limitation; this, with the ample station and depot grounds there, would seem to afford sufficient land for the ordinary legitimate business of the two railroads, reported by the Commissioner of Railroads to be now under one and the same management—that of the Union Pacific Railway Company.

The Utah and Northern Railway Company seeks further to obtain at the same point 59.09 acres for workshops, 11.01 acres for stock-yards, and 53 acres for water reservation and pipe line, aggregating 123.10 acres, all of which is more clearly shown by the accompanying plat, and for which it is stipulated in the agreement that the railway company shall pay at the same rate as for its right of way—\$8 per acre. No provision is made in the draught of bill for ratification of so much of the agreement as relates to these tracts, as no reasons apparently exist why the railway company should have a monopoly of the water right which it seeks to acquire for the pipe line, or why it should not be required to purchase such additional land as it may need within the limits of the proposed town site in open market and subject to due competition in order that the fullest possible pecuniary results may inure to the Indians therefrom.

The draught of bill provides that the land ceded for the town-site (except the portions heretofore granted and those now proposed to be granted for railroad purposes) shall be surveyed and laid out in lots, appraised, and sold at public auction to the highest bidder, the proceeds to be deposited in the Treasury to the credit and for the benefit of the Indians. It also provides for access to and use by the citizens of the town in common with the Indians of the water from any river, creek, stream, or spring flowing through the reservation lands in the vicinity of the town-site.

I have the honor to recommend that the subject be laid before Congress for its early consideration and action.

I have the honor to be, very respectfully, your obedient servant,
WM. F. VILAS,
Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 3, 1888.

SIR: Referring to Department letter of the 7th April last, relative to the embarrassing condition of affairs at Pocatello, on the Fort Hall Reservation, Idaho Territory, arising out of the demands of the Utah and Northern Railway Company for more land, and the influx of a large foreign element mainly in the employ of the railway companies at that point, and concurring in the recommendations theretofore made by this office, viz:

That an officer of the Department, of judgment and experience, be dispatched to the Fort Hall Reservation, with instructions to thoroughly examine the whole question at issue; ascertain the requirements of the Utah and Northern and the Oregon Short Line railway companies at Pocatello, and the actual necessity for and object of such requirements; confer with the resident Indian agent and the representative men of the Indians on the subject, and generally to devise some plan of proceeding appropriate to the situation and best adapted to meet the wants and interests of the Indians, the general public, and the railway companies; with power to procure all needful papers or agreements from the Indians, in order to effectuate such plan, for submission to Congress for ratification at the ensuing session.

Also directing the preparation of necessary instructions for the guidance of the persons to be intrusted with such duties, I have the honor to report that such instructions were duly prepared and approved by the honorable Secretary on the 16th of May last.

These instructions were addressed to Inspector R. S. Gardner and Agent Peter Gallagher (in charge at Fort Hall Agency), severally detailed by order of the Department for the purposes mentioned.

I have since received, by Department reference, for proper consideration and action, the report of Messrs. Gardner and Gallagher, dated 30th May last, transmitting, as the result of a council held by them with the Shoshone and Bannock Indians, an agreement made on the 27th May last, by which—

(1) The said Indians agree to surrender and relinquish to the United States all their estate, right, title, and interest in and to so much of the Fort Hall Reservation as is comprised within the following boundaries, that is to say:

The west half of section 25; all of section 26; the east half of section 27; the northwest quarter of section 36; the north half of section 35; the northeast quarter of the southwest quarter of section 35; and the northeast quarter of the northeast quarter of section 34, all in township 6 south, of range 34 east of Boise Meridian, Idaho Territory, and containing an aggregate area of 1,840 acres more or less (see diagram accompanying report), saving and excepting so much of said described tracts as has heretofore and is thereby relinquished to the United States for the use of the Utah and Northern and the Oregon Short Line railways respectively.

The land so relinquished to be surveyed (if it shall be found necessary) by the United States, and laid off into lots and blocks as a town-site, and after due appraisal thereof, to be sold at public auction to the highest bidder, at such time, in such manner, and upon such terms and conditions as Congress may direct.

The funds arising from the sale of said land, after deducting the expenses of survey, appraisal, and sale, to be deposited in the Treasury of the United States, to the credit of said Indians, and to bear interest at the rate of 5 per centum per annum; with power in the Secretary of the Interior to expend all or any part of the principal and accrued interest thereof for the benefit and support of said Indians in such manner and at such times as he shall see fit. Or said lands so relinquished to be disposed of for the benefit of said Indians in such other manner as Congress may direct.

Said agreement, after reciting that in or about the year 1878, the Utah and Northern Railway Company had constructed a line of railroad running north and south through the Fort Hall Reservation, and had since operated the same, without payment of any compensation

whatever to the said Indians for or in respect of the lands taken for right of way and station purposes, further provides :

(2) That upon payment to the Secretary of the Interior, for the use and benefit of the tribes of Indians parties thereto, of the sum of \$3 for or in respect of each and every acre of land of the reservation taken and used for the purposes of its railroad, the said Utah and Northern Railway Company shall have and be entitled to the right of way, not exceeding 200 feet in width, through the Fort Hall Reservation, extending from Blackfoot River, the northern boundary, to the southern boundary thereof, together with necessary grounds for station and water purposes, according to maps and plats of definite location to be thereafter filed by said company with the Secretary of the Interior, and to be approved by him.

It is lastly provided by said agreement—

(3) That all unexecuted provisions of existing treaties with the Shoshone and Bannock Indians not thereby affected shall remain in full force, and that said agreement shall take effect only upon ratification by Congress.

The agreement is executed by 311 of the chiefs, headmen, heads of families, and individual members of the Shoshone and Bannock tribes of Indians, officially certified as constituting a clear majority of all the adult male Indians of said tribes occupying or interested in the lands of the Fort Hall Reservation, in conformity with the 11th article of the treaty of July 3, 1868 (15 Stat., 673), which provides :

No treaty for the cession of any portion of the reservations herein described which may be held in common shall be of any force or validity as against the said Indians unless executed and signed by at least a majority of all the adult male Indians occupying or interested in the same; and no cession by the tribe shall be understood or construed in such manner as to deprive without his consent any individual member of the tribe of his right to any tract of land selected by him, as provided in Article VI of this treaty.

I submit herewith for the consideration of Congress a draught of proposed legislation to carry said agreement into effect.

The lands are to be surveyed, appraised, and sold to the highest bidder for cash, and the proceeds invested for the benefit of the Indians, in conformity with said agreement.

By the act of Congress approved July 3, 1882 (22 Stats., 148), granting to the Utah and Northern Railway Company a right of way through the Fort Hall Reservation for the purposes of the Oregon branch running east and west, there was granted (*inter alia*) to said railway company a right of way not exceeding 200 feet wide at Pocatello aforesaid, and in addition thereto the use of a tract of ground at that point containing 30.45 acres for depot and station purposes. (See H. R. Ex. Doc. No. 18, Forty-seventh Congress, first session.)

Subsequently the Utah and Northern Railway Company assigned all rights and privileges acquired under said act to the Oregon Short Line Railway Company, operating said east and west road.

Accompanying this report will be found a copy of a certified plat marked "Exhibit VIII, Pocatello," filed by the Utah and Northern Railway Company, showing not only the present right of way and station grounds in use by the Oregon line at Pocatello, but also the quantity of additional land alleged to be required "for the actual and necessary uses of the Utah and Northern and the Oregon Short Line railway companies conjointly in the proper and legitimate prosecution of their railroad business at that point," and within the limits of the proposed town-site, the exterior boundaries of which are colored yellow.

From this plat it will be seen that the Utah and Northern Railway Company now seeks to additionally acquire at Pocatello —

| | Acres. |
|---|---------------|
| For right of way for north and south road 200 feet wide | 41.43 |
| For station grounds | 20.00 |
| For workshops | 59.09 |
| For stock-yards | 11.01 |
| For water reservation and pipe-line | 53.00 |
| Total | 184.53 |

The water reservation of 40 acres is wholly within the proposed town-site. The pipe-line, 13 acres, is partly within the proposed town-site and partly on the Indian reservation, and, together with the reservoir-site shown on the plat, has certainly, so far as the lands south of the Port Neuf are concerned, been appropriated by the railway companies, without any authority of law.

In regard to the proposed water reservation, Messrs. Gardner and Gallagher, in their report transmitting the agreement, say :

* * * By reference to map, Exhibit No. 1, it will be seen that 40 acres of section 35, to wit, the northeast quarter of the southwest quarter, is included in the town-site of 1,840 acres.

This piece of land is valueless for town-site purposes, but of value to the railway company for a water-right. The land mentioned is a mountain ravine, the greater portion rough and rugged, and we would respectfully recommend that the railway company be given the privilege to purchase the same at \$8 per acre. This action taken in conformity with proceedings of council, as will be seen by reference to proceedings of same, Exhibit No. 3, page 10. It is proper to remark that the company has now a pipe-line up and through the ravine, and are utilizing the water therefrom.

And in reference to the tract for workshops, they say :

Referring to the 20 acres allowed by law in addition to the right of way, would say that we are convinced that this amount is entirely inadequate for the company's shops, round-houses, etc., and we would recommend that, in addition thereto, they be allowed to purchase about 30 acres or more, as per price agreed upon between said railway and commission appointed to make appraisement, when lands are surveyed and laid out into lots and blocks. The situation and necessity for said land will fully appear in maps and plats hereinafter filed.

I submit the foregoing recommendations with the suggestion, however, that if the railway companies actually need more land at Pocatello than what is included in the customary right of way and station grounds, no reason apparently exists why they should not be required to purchase such additional land in open market, and subject to due competition, in order that the fullest possible pecuniary results may inure to the Indians from the sale of the lands.

I think, also, that the attention of Congress should be especially invited to the all-important question of a proper supply of water for the town, and that due provision should be made therefor, so as to prevent a monopoly of water-right in the hands of the railway companies.

Inasmuch as conflicting opinions seem to prevail as to the source or sources from which the town will derive its supply of water, I have deemed it advisable, as matter of precaution, to insert in the bill a clause providing for the use by the citizens of the town, in common with the Indians, of the waters of any river, creek, stream, or spring flowing through the reservation lands in the vicinity of the town, with the right of access at all times thereto, and the right to construct, operate, and maintain all such ditches, canals, works, or other aqueducts, drain and sewerage pipes, and other appliances on the reservation, as may be necessary to provide the town with proper water and sewerage facilities.

To further effectuate said agreement, the bill also provides for the grant to the Utah and Northern Railway Company of a right of way, not exceeding 200 feet in width (except such portion of the road where the Utah and Northern and the Oregon Short Line Railways run over the same, or adjoining tracks, and then only 100 feet in width), from Blackfoot River, the northern boundary of the Fort Hall Reservation, to the southern boundary thereof, with necessary grounds for station buildings, depots, machine shops, side tracks, turn-outs, and water stations, not to exceed in amount twenty acres for each station, to the extent of one station for each 10 miles of road, according to maps and plats of definite location thereof respectively, to be filed by said company with, and approved by, the Secretary of the Interior; the compensation to be paid by the railway company for the use and occupancy of such lands being \$8 per acre for each and every acre of land so taken and used for such right of way and station grounds.

The funds derived from this source are to be invested for the benefit and support of the Indians in like manner as is provided with regard to the funds arising from sale of the town-site lands.

The usual provisions in regard to construction and operation of railroads on Indian reservations are incorporated in the bill.

Copies of the more material papers in the case accompany the draught of the bill, which is now submitted with a recommendation for its transmission to Congress for early consideration and action.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 5, 1887.

SIR: I am in receipt, by Department reference for report, of a letter from Messrs. Shellabarger & Wilson, of this city, dated the 10th ultimo, wherein, referring to a personal interview that day had with you in relation to additional lands required by the Utah Northern and the Oregon Short Line Railway Companies at Pocatello, on the Fort Hall Indian reservation, they invite attention to their letter of May 24, 1886, on the subject, and request that some one be sent to meet the Indians and a representative of the company for the purpose of adjusting the matters in question, subject to ratification by Congress.

Action on the last above-mentioned letter of Shellabarger & Wilson was postponed pending the result of measures (S. 2789 and H. R. 9378) introduced at the first session of the Forty-ninth Congress, authorizing the Secretary of the Interior to negotiate with the Shoshone and Bannock tribes of Indians for a cession to the United States of their title to so much of the lands of the Fort Hall reservation as are required for the purposes of the Utah and Northern Railway Company in the operation of its railroad running north and south through said reservation; also for a like cession to the United States of such additional lands at Pocatello Station as shall be demonstrated to the satisfaction of the Secretary of the Interior to be actually necessary to the Utah and Northern Railway Company and the Oregon Short Line Railway Company for railway purposes, and in the transaction of their authorized and legitimate business at that point, the result of such negotiations to be embraced in a written agreement to be signed by the requisite number of Indians in conformity with the provisions of the treaty of July 3, 1868 (15 Stat., 676), and returned to the Secretary of the Interior, who was thereby directed to report his action to Congress.

At the second session of the Forty-ninth Congress S. 2789, above mentioned, was passed by the Senate in amended form; was favorably reported by the House Committee on Indian Affairs (H. R. Report 4131) and placed on the House Calendar, but owing to the great pressure of other business was not reached before the adjournment. The meas-

ure is therefore dead, and hence the renewal, in order to save time, of Messrs. Shellabarger & Wilson's application.

With their application of May 24, 1886, there was filed in this Department a plat showing the location of the Utah and Northern and the Oregon Short Line Roads, respectively, at Pocatello, and of the additional lands required by them at that point.

From the certificate of the resident engineer appended thereto, it appears that "the additional ground necessary to said railway companies for railway purposes in the transaction of their business at that place," embraces an area of 1,680 acres, less 78.59 acres, heretofore granted to the Utah and Northern Railroad Company, or in round numbers, about 1,600 acres.

In the absence of further explanation, and the want of practical knowledge on the subject, it does appear to me that this is an unreasonably large quantity of land to be required for railroad purposes alone, at any one single point.

Within the experience of this office, no railroad company has hitherto required such an extent of land for railway purposes on an Indian reservation as is here asked for.

In the case of the agreement made between the Sioux Indians and the Chicago, Milwaukee and St. Paul Railway Company in 1880 (hitherto unconfirmed by Congress) for a right of way through the Great Sioux reservation in Dakota, 640 acres on the west side of the Missouri River, was the limit granted "for freight and passenger depots, warehouses, machine shops and foundries, steam-boat and ferry landings, for all other railway purposes, for the residence of employes, and for no other purposes," whilst on the east side of the Missouri, on the Crow Creek reservation, were granted to the same company 188 acres for similar purposes.

These grants were independent of a right of way 200 feet wide, and grounds for station purposes not exceeding 160 acres at any one given point, on said reservations.

So, also, in the case of the agreement made between the Sioux Indians and the Dakota Central Railway Company, in the same year (hitherto also unconfirmed), for a right of way through the Great Sioux reservation, 640 acres was the limit of land granted on the reservation west of the Missouri River "for a freight depot and for the residence of its employes necessarily engaged in the operation of its road, and in forwarding freight transported by said company to the Missouri River, and for no other purpose."

This also was independent of a right of way 200 feet wide, with grounds for station purposes not exceeding 160 acres at any one point on the reservation.

All these grants I consider to have been excessive in extent, and under the most liberal scale of allowance far beyond the necessary and actual requirements of the railway companies.

If, as I have reason to believe, the real object of the railway companies in the present instance is to found a nucleus around which to establish a town at Pocatello, there are, I submit, other ways more directly conducive to the interests of the Indians concerned, and of the public at large, by which this can be accomplished.

In this connection I invite your attention to the following extracts from reports recently made on the subject by experienced officers of the Department, who have been on the ground and familiarized themselves with the situation.

In a report made by Special Agent Parsons to this office, on the 9th of January, 1886, after referring in detail to the encroachments already made by the Utah and Northern Railway upon the reservation lands at Pocatello station, he writes:

" * * * The geographical and railroad situation of Pocatello are such that if room is given a considerable town is certain to spring up. In my judgment, such a town would be of great value to the Indians on the reservation in furnishing them a convenient market for all the hay, grain, and provisions they can produce, and would aid materially in spurring up the Indians to cultivate the soil and acquire habits of industry. A great difficulty on many reservations is that the Indians have no market for their products and no one to employ them at labor. It seems to me, therefore, that if instead of permitting the railroad and others to trespass on the reservation at Pocatello, and, after they had occupied the land without authority of law, permitting an act to go through Congress curing these unlawful acts, the Indian Office should secure legislation which will authorize the appointment of commissioners to set off and sell town lots in the neighborhood of Pocatello station, in such quantity and at such price as the demand may justify, the proceeds of such sales to be covered into the United States Treasury for the benefit of the Fort Hall Reservation Indians. By some such method as this the people desiring to occupy land for dwelling and business purposes may be able to procure it, railroad shops and establishments for the smelting of ores may be erected, a substantial and thriving town created, and a fund for the support of the Indians be obtained. At the same time a good market will be furnished where thrifty and industrious Indians may sell their labor and their wares and products at good prices. This would be very much more satisfactory to the Indians, and in accordance with sound business principles, than to permit the railroads and others to trespass on the res-

ervation, and then see a curative act of Congress "condone all their illegalities, while the Indians are arbitrarily deprived of the land which was solemnly set aside for their use."

From the synopsis of a report made by Inspector Gardner to the Department, on the Fort Hall Agency, July 1, 1886, I make the following extract:

"Recommends that Congress pass the necessary act authorizing an agreement to be made with the Fort Hall Reservation Indians to dispose of certain lands in township 6 south, of range 34 east.

"Should the necessary act be passed by the present Congress and the consent of the Indians obtained, I would further recommend that the land be surveyed and laid out into lots and blocks, and that the same be appraised by three disinterested persons who shall take and subscribe an oath to faithfully and impartially perform their duties as appraisers of said lots and blocks; and that after said survey and appraisement has been made and approved that the said lots and blocks be advertised for at least four weeks, and then offered for sale at public auction in front of the Pacific Hotel building, in Pocatello, Idaho. Should the act hereinbefore referred to be not passed at this Congress, I would respectfully recommend that Department order of October 17, 1885, directing that the agent of the Fort Hall Agency 'be directed to clear the reservation at once of all the parties who are found to be improperly or unlawfully thereon,' be suspended until such time as proper legislation can be had upon the subject. The railway company have located their principal offices here and have made substantial improvements. If citizens were enabled to purchase lots and locate here, Pocatello would soon be the largest city in the Territory. As it now is, there is no one engaged in trade upon the reservation here but the licensed traders."

And in a report to the Department of November 3, 1886, Inspector Thomas writes as follows:

"I desire particularly to call your attention to the settlement of the town of Pocatello, on the reservation.

"Pocatello is the junction of the Oregon Short Line Railroad and the Utah and Northern Railroad, both under the management and control of the Union Pacific Railway. Some few years ago the railroads were granted or given 40 acres of land out of the reservation at this point for their use and purposes. They erected a fine hotel, offices for the transaction of their business, and some dwelling-houses for the use of their employes. This brought in a great number of settlers, who have erected houses on Indian land. The business of the railroads increasing, they have been compelled to encroach upon the reservation. It appears to me the thing to be done is for the Secretary to have the authority and appoint a commission to come out here, confer with the Indians and railroad people, and sell off about 1,500 or 2,000 acres of this reservation to actual settlers. Let the money so received go to the Indians. This will be of great benefit to these Indians, as it will make a market at home for their crops, etc., and will be a great inducement to them to give their attention to farming, etc.

"As to compelling the whites who have come on this reservation at Pocatello to leave and abandon their property, it can not be done without the use of the military and perhaps some bloodshed."

It will be observed that these officers are unanimous in their recommendations for the establishment of a town at Pocatello, and of the manner in which it should be done.

If a precedent is wanting for such a course as is proposed by them it can be found in the case of the Umatilla Reservation in Oregon, where, by a comparatively recent act of Congress, August 5, 1882 (22 Stats., 297), authority was given to the Secretary of the Interior for the survey, appraisement, and sale (with consent of the Indians) of so much of said reservation (not exceeding 640 acres) adjacent to the town of Pendleton as might be necessary to allow that town proper and needful growth and extension.

Under this act the lands of the Umatilla Reservation, having first been surveyed and laid off into blocks and lots, were offered for sale at public auction in the town of Pendleton, in May, 1884, and nearly all disposed of at prices aggregating considerably more than the appraised value, which was \$31,024.95. At the date of the last information from the General Land Office on the subject (October, 1884) it was estimated that the total amount to be realized from the sales would probably be not less than \$60,000. The funds arising from the sale of these lands after deducting expenses were, under the act, to be placed in the Treasury to the credit of the Indians of the Umatilla Reservation, and bear interest at the rate of 5 per centum per annum; and the Secretary of the Interior was authorized to expend so much of the principal and accrued interest as he might see fit in the support of an industrial school for the Indians on said reservation.

Whilst the cases of Pendleton and Pocatello may not be parallel in point of location, the original town of Pendleton, which it was sought to enlarge by the acquisition of the Indian lands, being situate just on the edge of but outside the Umatilla Reservation, whereas Pocatello is in the very heart of an Indian reservation, I have nevertheless cited the case as an illustration of what has already been done by Congress, and of the practical workings of such legislation.

There is still another phase of this question to which I desire to draw your attention. By an agreement dated May 14, 1880, entered into with certain chiefs and headmen of the Shoshone, Bannock, and Sheepeater tribes of Indians, occupying the Fort Hall and Lemhi Reserves in Idaho, then on a visit to this city—subsequently executed by a majority of all the adult male Indians of the Fort Hall Reservation, in conformity with the provisions of the treaty of July 3, 1868 (15 Stat., p. 676), for certain considerations therein mentioned—the Lemhi Indians agreed to surrender their reservation, and to take up lands in severalty at Fort Hall, and the Fort Hall Indians agreed to cede to the United States a portion of the southern half of their reserve, embracing an area of 325,760 acres, and to take up allotments in severalty on the remaining lands of the reservation.

The Lemhi Indians subsequently refused to remove to Fort Hall.

At the first session of the Forty-seventh Congress a bill to effectuate the purposes of this agreement, except as to the Lemhi Indians, was favorably reported by the House Committee on Indian Affairs (S. Ex. Doc. No. 19, Forty-eighth Congress, first session), but Congress has hitherto failed to take final action in the manner, and the agreement consequently remains unratified.

I was recently informed by Hon. F. T. Dubois, Delegate-elect from Idaho, that the Fort Hall Indians still consider this agreement as binding on them; that they do not occupy any part of the reservation so agreed to be ceded, believing they have relinquished all claim thereto, and that they are continually inquiring, and do not understand why the Government does not carry out its part of the agreement in the payment of the consideration moneys thereby provided for.

The ratification of this agreement by Congress would open up a large tract of country to settlement, and possibly preclude the immediate necessity of a town at Pocatello, which, as I have before stated, is in the very heart of the Indian reservation, and does not fall within the limits of the country proposed to be ceded by the agreement of 1880.

Upon careful consideration of the entire matter, I am of opinion, and so recommend, that an officer of this Department, of judgment and experience, should be dispatched to the Fort Hall Reservation with instructions to thoroughly examine the whole question at issue, ascertain the requirements of the Utah and Northern and the Oregon Short Line Railway Companies at Pocatello, and the actual necessity for and object of such requirements, confer with the resident Indian agent and representative men of the Indians on the subject, and generally to devise some plan of proceeding appropriate to the situation and best adapted to meet the wants and interests of the Indians, the general public, and the railway companies, with power to procure all needful papers or agreements from the Indians, in order to effectuate such plan, for submission to Congress for ratification at the ensuing session.

Messrs. Shellabarger & Wilson's letter is herewith returned.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, April 7, 1887.

SIR: I have considered your report of 5th instant in relation to the request of the Utah Northern and the Oregon Short Line Railway Companies for additional lands at Pocatello on the Fort Hall Indian Reservation, which was the subject of a letter of the 10th ultimo addressed to this Department by Messrs. Shellabarger & Wilson, who, referring to their letter of May 24, 1886, upon the same subject, request that some one be sent to meet the Indians and a representative of the railroad company, for the purpose of adjusting the matters in question subject to ratification by Congress, which letter was referred to your office March 10, 1887.

You report that with the application of May 24, 1886, filed by Messrs. Shellabarger & Wilson, there was present a plat showing the location of the above-mentioned railways respectively at Pocatello, and of the additional lands required by them at that point, embracing an area of 1,680 acres, less 78.59 acres heretofore granted to the Utah and Northern Railroad Company, or in round numbers about 1,600 acres; and you state that in the absence of a further explanation and the want of practical knowledge on the subject, it does appear to you that this is an unreasonably large quantity of land to be required for railroad purposes alone at one single point.

Reference to and extracts from reports of Indian Inspectors Gardner and Thomas, and Special Agent Parsons, who have investigated this matter in connection with the affairs of the Fort Hall Agency, are made by you, showing their views and recommendations on

he subject to be unanimously in favor of disposal by and for the interest of the Indians of so much land at that point as the public welfare demands, to be laid off into lots and sold at public auction to the highest bidders.

As bearing on this phase of the matter, you refer to action taken by the Department in similar cases where land upon Indian reservations have been required for railroad and other public purposes, concluding as follows:

"Upon careful consideration of the entire matter, I am of opinion, and so recommend, that an officer of this Department, of judgment and experience, should be dispatched to the Fort Hall Reservation with instructions to thoroughly examine the whole question at issue, ascertain the requirements of the Utah and Northern and the Oregon Short Line Railway Companies at Pocatello, and the actual necessity for and object of such requirements, confer with the resident Indian agent and the representative men of the Indians on the subject, and generally to devise some plan of proceeding appropriate to the situation and best adapted to meet the wants and interests of the Indians, the general public, and the railway companies, with power to procure all needful papers or agreements from the Indians, in order to effectuate such plan, for submission to Congress for ratification at the ensuing session."

In view of the existing condition of affairs at the point designated on the reservation referred to, I concur in your views and recommendations, and the letter of Messrs. Shellabarger & Wilson is herewith returned; and you will cause to be prepared for the guidance of the person or persons who may be intrusted with the duty the necessary instructions and such papers as it may be found practicable to prepare in form.

It should be kept in view and distinctly understood that the preliminary action to be taken under these instructions is designed and intended only to procure necessary information and to ascertain the wishes of and to secure proper action by the Indians, to enable the Department to lay the matter before Congress with recommendation for such legislation as may hereafter be determined, upon more mature consideration of the information already on hand, and that to be obtained and furnished to be best for all interests concerned; and any agreement that may be entered into with the Indians for cession of the necessary quantity of land at the point named should be in the nature of a cession to the United States—to be disposed of for the benefit of the Indians—by subdivision into lots for a town site, to be appraised and sold to the highest bidders at public auction, or such other disposition thereof as may be found to be best for all interests to be considered.

Strict enforcement should be exacted of the instructions given by your office in letter of April 1, 1887, to the agent of the Fort Hall Agency, especially the following requirements:

"In the mean time you will strictly prohibit the entry of any additional person or persons, whether in the employ of the railroad companies or not, or the erection of any additional buildings on the reservation lands at or near Pocatello aforesaid, and in case of a disregard of such order, you will summarily remove the offenders, buildings, etc., and report your action to this office.

"I will thank you to send me a detailed list of all persons, showing their occupation and employment, also of all buildings on the reservation lands at Pocatello, prior to March 4, 1887, accompanying such list with a report of your action under these instructions."

Very respectfully,

H. L. MULDROW,
Acting Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, May 16, 1887.

GENTLEMEN: The Secretary of the Interior having detailed you to examine into the necessity for certain alleged public requirements at Pocatello Station, the junction of the Utah and Northern and Oregon Short Line Railroads, on the Fort Hall Indian reservation, in the Territory of Idaho, and to devise measures best calculated for the interests of all parties concerned to relieve the situation, subject to the future ratification by Congress, the following data and instructions are, by his direction, as contained in Department letter to this office of the 7th ultimo (copy herewith), furnished for your information and guidance.

By an agreement made July 18, 1881, between the Shoshone and Bannock Indians, occupying the Fort Hall reservation, of the one part, and the United States of America, of the other part, ratified and confirmed by act of Congress approved July 3, 1882 (22

Stat., 148) (copy herewith), the said Indians, for the considerations therein mentioned, ceded to the United States a strip of land not exceeding 100 feet in width (except at Pocatello, where it was 200 feet), according to the boundaries and distances therein described, as a right of way and road-bed, to be used by the Utah and Northern Railroad Company, its successors or assigns, in the construction and operation of a line of road running east and west through said reservation, and containing by actual survey 670 acres or thereabouts.

Also the several pieces or parcels of land situate along and adjoining said right of way, as defined in certain plats or maps thereof marked, respectively, B, C, D, E, F, G, and H, to be used by said Utah and Northern Railroad Company, its successors, etc., for depots, stations, sidings, etc., and containing in the whole by actual survey 102 acres, more or less. Among these was a tract at Pocatello (Plat F) containing, exclusive of the right of way of 200 feet above mentioned, 30.45 acres. (For plats of right of way and depot grounds, see H. R. Ex. Doc. No. 18, Forty-seventh Congress, first session, copy herewith.)

Under this agreement the United States agreed to pay to said Indians and the act thereby appropriated the sum of \$6,000 as compensation-money, to be deposited in the United States Treasury to the credit of the Shoshone and Bannock Indians, bearing interest at 5 per cent. per annum, that interest to be expended for the benefit of said Indians in such manner as the Secretary of the Interior might direct. (See section 2 of the act.)

Section 3 of the same act granted the right of way, and the use of the several parcels of land so relinquished, to said Utah and Northern Railroad Company, its successors, etc., for the uses and purposes in said agreement set forth, but made it a condition precedent to the use of the land so relinquished that the Utah and Northern Railroad, its successors, etc., should within ninety days from the passage of the act pay into the United States Treasury the said sum of \$6,000, so appropriated, which condition was duly fulfilled by the company.

Subsequently, February 4, 1885, the Utah and Northern Railroad Company, by deed of assignment, transferred all of its rights and privileges acquired under said act to the Oregon Short Line Railway Company.

May 24, 1886, Shellabarger & Wilson, as attorneys for the above-mentioned companies, filed in the Department an application wherein, after setting forth that the roads of the Utah and Northern and the Oregon Short Line Railway Companies crossed each other at Pocatello, on the reservation, and that they desired to procure additional lands as shown by map filed therewith, at that point for yard and depot grounds essential to the proper operation of the road, they requested that measures be taken to admit of negotiations between the railroad companies and the Indians for the purchase of the land so required.

Action on this application was postponed pending the result of measures (S. 2789 and H. R. 9378) introduced at the first session of the Forty-ninth Congress, authorizing the Secretary of the Interior to negotiate with the Shoshone and Bannock tribes of Indians for a cession to the United States of their title to so much of the lands of the Fort Hall reservation as purported to be required for the purposes of the Utah and Northern Railway Company in the operation of its railroad running north and south through said reservation (as to which mention is made hereafter); also for a like cession to the United States of such additional lands at Pocatello Station as should be demonstrated to the satisfaction of the Secretary of the Interior to be actually necessary to the Utah and Northern Railway Company for railway purposes, and in the transaction of their authorized and legitimate business at that point; the result of such negotiations to be embraced in a written agreement to be signed by the requisite number of Indians, in conformity with the provisions of the treaty of July 3, 1868 (15 Stat., 676), and returned to the Secretary of the Interior, who was thereby directed to report his action to Congress.

At the second session of the Forty-ninth Congress S. 2789, above mentioned, was passed by the Senate in amended form, was favorably reported by the House Committee on Indian Affairs (H. R. Report 4131) and placed on the House Calendar; but owing to the great pressure of other business was not reached before the adjournment. The measure being therefore dead, Messrs. Shellabarger & Wilson have recently renewed their application.

With the application of May 24, 1886, above referred to, there was filed in this Department a plat showing the location of the Utah and Northern and Oregon Short Line Roads, respectively, at Pocatello, and of the additional lands required by them at that point.

From the certificate of the resident engineer appended thereto, it appears that "the additional ground necessary to said railway companies for railway purposes in the transaction of their business at that place," embraces an area of 1,680 acres, less 78.59 acres,

heretofore granted to the Utah and Northern Railroad Company, or in round numbers, about 1,600 acres. - (See plat herewith.)

In the absence of further explanation, and the want of practical knowledge on the subject, it appears to this office that this is an unreasonably large quantity of land to be required for railroad purposes alone at any one single point.

Within the experience of this office no railroad company has hitherto required such an extent of land for railway purposes on an Indian reservation as is here asked for.

In the case of the agreement made between the Sioux Indians and the Chicago, Milwaukee and St. Paul Railway Company in 1880 (hitherto unconfirmed by Congress) for a right of way through the Great Sioux reservation in Dakota, 640 acres on the west side of the Missouri River was the limit granted "for freight and passenger depots, warehouses, machine shops and foundries, steam-boat and ferry landings, for all other railway purposes, for the residence of employes, and for no other purposes," whilst on the east side of the Missouri, on the Crow Creek reservation, there were granted to the same company 188 acres for similar purposes.

These grants were independent of a right of way 200 feet wide and grounds for station purposes not exceeding 160 acres at any one given point on said reservations.

So also, in the case of the agreement made between the Sioux Indians and the Dakota Central Railway Company, in the same year (hitherto also unconfirmed) for a right of way through the Great Sioux reservation, 640 acres was the limit of land granted on the reservation west of the Missouri River "for a freight depot and for the residence of its employes necessarily engaged in the operation of its road, and in forwarding freight transported by said company to the Missouri River, and for no other purpose."

This also was independent of a right of way 200 feet wide, with grounds for station purposes not exceeding 160 acres at any one point on the reservation.

Viewed in the light of the general right of way act, granting to railroads the right of way through the public lands of the United States, approved March 3, 1875 (18 Stat., 482) which provides for a right of way of 200 feet in width, with grounds adjacent thereto for station buildings, etc., not to exceed in amount 20 acres for each station, to the extent of one station for each 10 miles of road, the several grants made on the Sioux and Crow Creek reservations are deemed by this office to have been excessive in extent and under the most liberal scale of allowance far beyond the necessary and actual requirements of the railway companies.

If, as there is reason to believe (see copy petition herewith), the real object of the railway companies in the present instance is to found a nucleus around which to establish a town at Pocatello, there appear to be other ways more directly conducive to the interests of the Indians concerned and of the public at large by which this can be accomplished.

In this connection, your attention is invited to the following extracts from reports recently made on the subject by experienced officers of the Department, who have been on the ground and familiarized themselves with the situation.

In a report made by Special Agent Parsons to this office on the 9th January, 1886, after referring in detail to the encroachments already made by the Utah and Northern Railway upon the reservation lands at Pocatello Station, he writes:

"* * * The geographical and railroad situation of Pocatello are such that if room is given, a considerable town is certain to spring up. In my judgment, such a town would be of great value to the Indians on the reservation in furnishing them a convenient market for all the hay, grain, and provisions they can produce, and would aid materially in spurring up the Indians to cultivate the soil and acquire habits of industry. A great difficulty on many reservations is that the Indians have no market for their products, and no-one to employ them at labor. It seems to me, therefore, that if instead of permitting the railroad and others to trespass on the reservation at Pocatello, and after they had occupied the land without authority of law, permitting an act to go through Congress curing these unlawful acts, the Indian office should secure legislation which will authorize the appointment of commissioners to set off and sell town lots in the neighborhood of Pocatello Station, in such quantity and at such price as the demand may justify, the proceeds of such sales to be covered into the United States Treasury for the benefit of the Fort Hall reservation Indians. By some such method as this, the people desiring to occupy land for dwelling and business purposes may be able to procure it, railroad shops and establishments for the smelting of ores may be erected, a substantial and thriving town created, and a fund for the support of the Indians be obtained. At the same time a good market will be furnished, where thrifty and industrious Indians may sell their labor and their wares and products at good prices. This would be very much more satisfactory to the Indians, and in accordance with sound business principles, than to permit the railroads and others to trespass on the reservation, and then see a curative act of Congress condone all their illegalities, while the Indians are arbitrarily deprived of the land which was solemnly set aside for their use."

From the synopsis of a report made by Inspector Gardner to the Department on the Fort Hall Agency, July 1, 1886, I make the following extract:

"Recommends that Congress pass the necessary act authorizing an agreement to be made with the Fort Hall reservation Indians to dispose of certain lands in township 6, south of range 34 east.

"Should the necessary act be passed by the present Congress and the consent of the Indians obtained, I would further recommend that the land be surveyed and laid out into lots and blocks, and that the same be appraised by three disinterested persons who shall take and subscribe an oath to faithfully and impartially perform their duties as appraisers of said lots and blocks; and that after said survey and appraisal has been made and approved that the said lots and blocks be advertised for at least four weeks, and then offered for sale at public auction in front of the Pacific Hotel building in Pocatello, Idaho. Should the act hereinbefore referred to be not passed at this Congress, I would respectfully recommend that Department order of October 17, 1885, directing that the agent of the Fort Hall Agency 'be directed to clear the reservation at once of all the parties who are found to be improperly or unlawfully thereon,' be suspended until such time as proper legislation can be had upon the subject. The railway company have located their principal offices here, and have made substantial improvements. If citizens were enabled to purchase lots and locate here, Pocatello would soon be the largest city in the Territory; as it now is there is no one engaged in trade upon the reservation here but the licensed traders."

And in a report to the Department of November 3, 1886, Inspector Thomas writes as follows:

"I desire particularly to call your attention to the settlement of the town of Pocatello, on the reservation.

"Pocatello is the junction of the Oregon Short Line Railroad and the Utah and Northern Railroad, both under the management and control of the Union Pacific Railway. Some few years ago the railroads were granted or given 40 acres of land out of the reservation at this point for their use and purposes. They erected a fine hotel, offices for the transaction of their business, and some dwelling houses for the use of their employes. This brought in a great number of settlers, who have erected houses on Indian land. The business of the railroads increasing, they have been compelled to encroach upon the reservation. It appears to me the thing to be done is for the Secretary to have the authority and appoint a commission to come out here, confer with the Indians and railroad people, and sell off about 1,500 or 2,000 acres of this reservation to actual settlers. Let the money so received go to the Indians. This will be of great benefit to these Indians, as it will make a market at home for their crops, etc., and will be a great inducement to them to give their attention to farming, etc.

"As to compelling the whites who have come on this reservation at Pocatello to leave and abandon their property, it can not be done without the use of the military, and perhaps some bloodshed."

It will be observed that these officers are unanimous in their recommendations for the establishment of a town at Pocatello and of the manner in which it should be done, viz, by the disposal of so much land at that point as the public welfare demands, to be laid off into lots and blocks, and sold at public auction to the highest bidder for the benefit of the Indians.

A similar course was adopted in the case of the Umatilla reservation, in Oregon, where, by a comparatively recent act of Congress, August 5, 1882 (22 Stats., 297), authority was given to the Secretary of the Interior for the survey, appraisal, and sale (with consent of the Indians) of so much of the reservation (not exceeding 640 acres) adjacent to the town of Pendleton as might be necessary to allow that town proper and needful growth and extension. (See copy of act herewith.)

Under this act the lands of the Umatilla reservation, having first been surveyed and laid off into blocks and lots, were offered for sale at public auction in the town of Pendleton in May, 1884, and nearly all disposed of at prices aggregating considerably more than the appraised value, which was \$31,024.95. At the date of the last information from the General Land Office on the subject (October, 1884) it was estimated that the total amount to be realized from the sales would probably be not less than \$60,000. The funds arising from the sale of these lands, after deducting expenses, were, under the act, to be placed in the Treasury to the credit of the Indians of the Umatilla reservation, and bear interest at the rate of 5 per cent. per annum, and the Secretary of the Interior was authorized to expend so much of the principal and accrued interest as he might see fit in the support of an industrial school for the Indians on said reservation.

It has been reported to this office that there is already a foreign population at Pocatello of over 1,100 people, mostly connected in some way or other with the railroad companies.

From time to time various encroachments, by the railway companies and others, on the reservation outside of these limits have been reported to this office, and in October, 1885, an order was made by the Department directing the removal of all intruders therefrom. The execution of this order has from time to time been suspended until the close of the last Congress, in the expectation that some legislation would be had appropriate to the situation, but, as has already been stated, Congress adjourned without taking final action in the matter. On the 1st instant Agent Gallagher was directed by this office to forthwith remove from the lands of the reservation adjoining Pocatello, and not heretofore granted to the railway companies, all persons who had entered thereon without authority of the Government since the 4th of March, 1887, together with all buildings which had been erected thereon by unauthorized persons since that date, preserving the *status quo* in regard to all other parties and buildings on said lands (conditional on good behavior) pending negotiations contemplated by this Department to be had with the Indians and further instructions to him from this office.

With this preliminary information before you, you will, upon your arrival at the Fort Hall Agency, and in company with the resident Indian agent, Mr. Gallagher, who is detailed, in conjunction with yourself, to attend to this business, proceed to Pocatello and thoroughly examine the whole situation.

You will inform yourselves by personal examination and inquiry of the public requirements at that point, both as regards additional railroad accommodations and the necessity which exists for a town site.

If, upon a careful survey of the surroundings and consideration of the public exigencies, you concur in the opinion, hitherto expressed, that the location of a town at Pocatello is indispensable, and that it will tend to advance the material welfare of the Indians, it will only remain for you to ascertain, what extent of land will be required for the purpose, allowing ample room for possible extension and growth and to submit the matter to the Indians for their consideration. For this latter purpose you are authorized to convene such council or councils of the Indians as may be necessary, at which you will lay the whole matter before them, governing yourselves by that portion of the Acting Secretary's letter of the 7th instant which says:

"It should be kept in view and distinctly understood that the preliminary action to be taken under these instructions is designed and intended only to procure necessary information, and to ascertain the wishes of and to secure proper action by the Indians, to enable the Department to lay the matter before Congress with recommendation for such legislation as may hereafter be determined upon more mature consideration of the information already on hand, and that to be obtained and furnished, to be best for all interests concerned, and any agreement that may be entered into with the Indians for cession of the necessary quantity of land at the point named should be in the nature of a cession to the United States to be disposed of for the benefit of the Indians by subdivision into lots for a town site, to be appraised and sold to the highest bidders at public auction, or such other disposition thereof as may be found to be best for all interests to be considered.

Your own good judgment will prompt you in making the necessary explanations to the Indians, but probably you can best illustrate the town-site question to them by a reference to the act, in the case of the Umatilla Reservation, and the benefits resulting to the Indians therefrom, as heretofore stated.

Should the Indians, after a full and free discussion of the whole subject, assent, you will procure the necessary evidence thereof in the shape of an agreement for a cession to the United States of their title and interest in and to so much, and as may be necessary, a form of which agreement is herewith inclosed, as to the proper execution of which see remarks hereafter.

In connection with the subject of the railroads on the Fort Hall Reservation, there is another matter to which I desire to draw your attention.

In or about the year 1878, the Utah and Northern Railroad Company constructed a road from north to south through the Fort Hall Reserve, thereby appropriating some 1,500 to 2,000 acres of land, in respect of which the Indians have never received a dollar of compensation.

The history of this matter will be found in office report to the Department, December 2, 1884 (S. Ex. Doc. No. 20, Forty-ninth Congress, First session, p. 3, copy herewith), and it is therefore unnecessary to recapitulate it.

It is expected that Congress would have taken action in the matter before this, but it has not done so.

The present inquiry offers a favorable opportunity for ascertaining a basis of adjustment of the terms of compensation, to be hereafter submitted with the other matters to Congress.

On the 12th June, 1884, a map showing the line of the road from Black Foot River, the north boundary of the reservation, to the south boundary thereof, also plats of

station grounds (8 in number), were filed in the Department, but have never been approved, for the reason that they were unauthenticated, and that the Indians had never been compensated for the lands taken. (See page 5, S. Ex. Doc. 20, *supra*).

The right of way for this north and south road is believed to be 200 feet throughout.

For the 8 stations it was shown that the Utah and Northern Railroad Company required 456.77 acres, as follows:

| | Acres. |
|---------------------|--------|
| 1. Inkom | 29.97 |
| 2. McCammon | 29.76 |
| 3. Sage Creek | 23.39 |
| 4. Calvin | 19.91 |
| 5. Ross Fork | 20.00 |
| 6. Arimo | 19.28 |
| 7. Port Neuf | 15.15 |
| 8. Pocatello | 299.31 |
| Total | 456.77 |

With the exception of Pocatello, they all appear to be reasonable in point of quantity of lands taken, although in some cases slightly in excess of that provided by the act under which the Utah and Northern Railway Company claims to have been empowered to build the road through the reservation (act approved March 3, 1873, 17 Stat., 619), and the general right-of-way act through the public lands before referred to, both of which limit the grounds for station purposes at any one point to 20 acres.

With regard to Pocatello, you will not fail to remember that the Oregon Short Line Railway Company (as assignee of the Utah and Northern) has already 30.45 acres, exclusive of right of way. The Utah and Northern would probably be allowed 20 acres at that point, in addition to that already granted for the east and west road, and if more are wanted, and the contemplated cession for a town site is carried into effect, the railway companies can acquire title in open market, the same as any other purchasers.

Having familiarized yourselves with the situation by reference to the correspondence in Senate Executive Document No. 20, *supra*, you will submit the question of compensation in respect of the right of way and station grounds for the north and south road to the Indians in council assembled, and ascertain their views and wishes thereon, embodying the result in the agreement above mentioned.

The agreement should be signed by at least a majority of all the adult male Indians occupying or interested in the reservation, in conformity with Article XI of the treaty of July 3, 1868, a copy of which is also herewith inclosed.

In the exercise of the duties imposed upon you, much of necessity has to be left to your judgment and discretion, it being impossible to cover every successive step by detailed instructions, neither is it advisable to do so.

Let your report on the whole matter be full and comprehensive, and if minutes of the council can conveniently be taken, let them accompany the papers.

In connection with the Fort Hall Reservation there is still another matter pending, as to which it seems proper you should be informed.

By an agreement dated May 14, 1880, entered into with certain chiefs and headmen of the Shoshone, Bannock, and Sheepeater tribes of Indians occupying the Fort Hall and Lemhi Reserves in Idaho, then on a visit to this city, subsequently executed by a majority of all the adult male Indians of the Fort Hall Reservation in conformity with the provisions of the treaty of July 3, 1868 (15 Stat., p. 676), for certain considerations therein mentioned, the Lemhi Indians agreed to surrender their reservation and to take lands in severalty at Fort Hall, and the Fort Hall Indians agreed to cede to the United States a portion of the southern half of their reserve, described as follows, viz: "Beginning where the north line of township 9 south intersects with the eastern line of their reservation; thence west with the extension of said line to the Port Neuf River; thence down and with the Port Neuf River to where said township line crosses the same; thence west with said line to Marsh Creek; thence up Marsh Creek to where the north line of township No. 10 south intersects with the same; thence west with said line to the western boundary of said reservation; thence south and with the boundaries of said reservation to the place of beginning; including also such quantity of land on the north side of Port Neuf River as H. O. Harkness may be entitled to enter under existing law, the same to be conformed to the public surveys, so as to include the improvements of said Harkness," the whole embracing an area of about 325,760 acres, and to take up allotments in severalty on the remaining lands of the reservation.

The Lemhi Indians subsequently refused to remove to Fort Hall.

At the first session of the Forty-seventh Congress a bill to effectuate the purposes of this agreement, except as to the Lemhi Indians, was favorably reported by the House Committee on Indian Affairs (S. Ex. Doc. No. 19, Forty-eighth Congress, first session,

copy herewith); but Congress has hitherto failed to take final action in the matter, and the agreement consequently remains unratified.

This office was recently informed by Hon. F. T. Dubois, Delegate-elect from Idaho, that the Fort Hall Indians still consider this agreement as binding on them; that they do not occupy any part of the reservation so agreed to be ceded, believing they have relinquished all claim thereto, and that they are continually inquiring and do not understand why the Government does not carry out its part of the agreement in the payment of the consideration moneys thereby provided for.

The ratification of this agreement by Congress would open up a large tract of country to settlement and might possibly preclude the immediate necessity of a town at Pocatello, which, as I am informed, does not fall within the limits of the country proposed to be ceded by the agreement of 1880. It is, however, impossible to foretell when or what action will be taken by Congress upon the agreement. I have simply adverted to it in connection with the general subject referred to you, and in order that you may not be taken at a disadvantage should the Indians refer to it in the course of the conference which you will of necessity have to hold with them.

If there are any points which I have not made sufficiently clear, or you should require further information or instructions, you will notify this office, by telegram if necessary.

Please acknowledge receipt hereof and return all the papers sent herewith with your report.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

Approved.

L. Q. C. LAMAR,

Secretary.

ROBERT S. GARDNER, Esq., *U. S. Indian Inspector,*
and

PETER GALLAGHER, Esq., *U. S. Indian Agent,*
Fort Hall Agency, Ross Fork, Idaho.

UNITED STATES INDIAN SERVICE,
Pocatello, Idaho, May 30, 1887.

SIR: In conformity with Department instructions of date May 16, instant, we have the honor to report that council of Shoshone and Bannock Indians, belonging to the Fort Hall Reservation, was held at the Fort Hall Agency, May the 27th, instant, and as result of same the said Indians agreed to sell to the United States, for town-site purposes at Pocatello, certain described property, as will appear on Exhibit No. 1 herewith, to which attention is invited. They further agreed to relinquish their right, title, and interest to certain lands for right of way purposes to Utah and Northern Railway Company, from Black-foot River, the northern boundary of said reservation, to the southern boundary thereof, together with the necessary grounds for water and station purposes, in accordance with maps and plats of definite location to be hereafter filed by said company with the honorable Secretary of the Interior. The price agreed upon was \$8 per acre, for each and every acre so used for railroad purposes, as will appear in agreement herewith, Exhibit No. 2. We have also the honor to file herewith, as requested, the proceedings of the council, Exhibit No. 3.

By reference to Exhibit No. 1 it will be seen that 40 acres of section 35, to wit, the northeast quarter of the southwest quarter, is included in the town site of 1,840 acres. This piece of land is valueless for town-site purposes, but of value to the railway company for a water right. The land mentioned is a mountain ravine, the greater portion rough and rugged, and we would respectfully recommend that the railway company be given privilege to purchase the same at \$8 per acre. This action taken in conformity with proceedings of council, as will be seen by reference to proceedings of same (Exhibit No. 3, page 10). It is proper to remark that the company have now a pipeline up and through the ravine and are utilizing the water therefrom.

Referring to the 20 acres allowed by law, in addition to the right of way, would say, that we are convinced that this amount is entirely inadequate for the company's shops, round-houses, etc. We would recommend that in addition thereto they be allowed to purchase about 30 acres or more, as per price agreed on between said railway and commission appointed to make appraisement when lands are surveyed and laid out into

H. Ex. 140—2

blocks and lots. The situation and necessity for said land will fully appear in maps and plats hereafter filed.

The original papers are herewith returned.

Very respectfully,

ROBERT S. GARDNER,
U. S. Indian Inspector.
PETER GALLAGHER,
U. S. Indian Agent.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, *June 8, 1887.*

Respectfully referred to the Commissioner of Indian Affairs for proper consideration and action.

H. L. MULDROW,
Acting Secretary.

Proceedings of a council held at Fort Hall Indian Agency, Idaho Territory, May 27, 1887.

Present—Representing the United States: Mr. R. S. Gardiner, Indian inspector, Mr. P. Gallagher, Indian agent, Mr. E. Dickinson, acting general superintendent Union Pacific Railway Company. Representing the Bannock Indians: Ty-Hee, Pag White, Race Horse, Ke-O, and many others. Representing the Shoshone Indians: Gibson Jack, Captain Jim, Captain Joe, and many others.

The council was opened by Mr. Gallagher, who addressed the Indians as follows:

"Shoshones and Bannocks: I have a very pleasant duty to perform, and I hope when I tell you what it is it will be pleasant for you. It falls to my lot as your father to say a word or two in opening this council. You will remember that a little over two weeks ago you were assembled here at your own suggestion to meet General Gardiner, who is now present in order to confer with me with reference to some matters and things. It will not be necessary for me to say much with reference to what has brought us here to-day, because that matter has been talked over and over for the last fifteen months, and your own action two weeks ago confirms it, and that is the sole object of our meeting here this afternoon in council. On the occasion to which I have just referred you talked about this railroad which runs along here. You talked about Pocatello and its grounds. General Gardiner, who has been among you for the last two weeks with myself, has been detailed by the authorities at Washington to attend to this business for you, and Mr. Dickinson, who is sitting here on my right, represents the railway company, to meet you here in council.

"I need hardly say that you may rest assured that General Gardiner any myself, with our oaths of office before us, detailed for this business, will look to your interest. What you do in this matter though, I wish understood, must be with your full knowledge and free consent, for we want it, we must have it, we can not do without it, and we want you to come up here talking the matter over as you did two weeks ago and be prepared to do what you ought to do now.

"We do not propose doing anything unless you say so. We want that matter distinctly understood. Our work is to see that you are not imposed on or wronged; in fact, as I have told you for the last fifteen months, it is my duty at all times and under all circumstances to see to you and look after you, to guide you in doing right, and in this matter I expect you to give full and free consent and that it shall be fair and square, just as you want to have it.

"As I said, it is unnecessary on my part, and I do not expect to say but a few words more, as I have made talk after talk on this subject. It will rest with you to do to-day what you said you intended doing two weeks ago; and now, Shoshones and Bannocks, I hope as you have canvassed the matter fairly in your own minds, that you are prepared to give answer to this gentleman, Mr. Dickinson, of what your purposes and plans are. Having so canvassed the matter among yourselves and talked so much about it, I will expect that your speeches on this occasion will be a little like my own "tiditze," little. Let me bespeak for Mr. Dickinson, who represents the railroad here, a very careful and attentive audience when he has something to say; let him see that the Shoshones and Bannocks always have been first-class Indians, treating strangers well, and I hope on this occasion you will get to business and transact it with rapidity, and that we will have a very pleasant time and adjourn with the best of feelings, as I suppose you are in the best of humors now.

"I now declare this council opened for the legitimate purposes for which you are assembled together."

Mr. GARDINER. My friends, you recollect about two weeks ago we had a council here, in the agency building, and you expressed a desire and wish to sell certain portions of land for town purposes, for Pocatello, and also to negotiate for the right of way for the Utah and Northern Railway on this reservation. We will say to them, that the Utah and Northern Railway Company is now running through this reservation; say that to them. They have never paid these people (the Shoshones and Bannocks) any compensation for that right which they have. The road is now in operation, and has been for the past eight or nine years. Now, we want to fix a price to-day, for what this company shall pay you people. The right of way was granted the O. S. L., from McCammon up to Pocatello, and further west: what you want to negotiate to-day for is, right of way from Blackfoot to Pocatello, and from McCammon to Thatcher, a few miles beyond Arimo. The number of miles as represented to me by the railway company is 46 miles.

Now, according to the laws of the United States, the railway company is entitled to 200 feet of ground for right of way, and for every 10 miles of right they are entitled to 20 acres for station purposes. For instance, from Blackfoot to this place, where we are now sitting, it is 10 miles, then from here to Pocatello they would be entitled to 20 more; and for a town site at Pocatello they are entitled to whatever you people want to say. I went over the ground with your agent the day before yesterday, and examined the land, and we have had a plat made of it, which I hold in my hand. It is the land embraced within that line shaded green [showing map to them]. You all understand the country and lay of it, you have been over it, I apprehend, often enough. All the land within those green lines, including the right of way for railway company, and the land granted the O. S. L., makes 1,840 acres. Now we are approaching the town of McCammon, I explained this to you thoroughly, do you understand it?

INDIANS (through interpreter). Yes.

Mr. GARDNER. This point is what is now the mile post 1 mile west of Pocatello, on the O. S. L., and that distance is about 1,000 feet, which runs down to the river and across in that direction, but does not take in the tepees on that side of the river where they shoot at the glass balls on Sundays.

GIBSON JACK (through interpreter). The Bannocks claim they have more right to this reservation than the Shoshones, and that they have the best right to talk first. I have nothing to say; it is the other fellows. Mr. Gardiner told me some time ago that in two weeks he was to receive a telegram of instructions, and when received he would let me know.

Mr. GARDNER. There are the instructions [showing them].

GIBSON JACK (through interpreter). You only showed me the plat, Mr. Gardiner, you have not shown me where you got your authority to treat with the Indians.

Mr. Gardiner reads letter of instructions received from Washington, dated May 16, 1887.

GIBSON JACK (through interpreter). I do not wish to say anything at the present time, having spoken two weeks ago on the subject. I will leave it to the others to say what they want to say on the subject.

PAG-WHITE (through interpreter). I have told all the boys we can not allow it; what is the reason the white man keeps coming up close on the land all the time? I have been here a long time, and this is my old home and land.

BIG JOE (through interpreter). I like my land and for awhile do not want to sell. Would like you to send a letter to Washington first. I do not know yet which place I will give you. We have no more land than we need, we have not water enough to live on ourselves; we need the land to plow, and do not want white man on it to trouble us.

CAPTAIN KE-O (through interpreter). I do not want to sell right off, want to send a letter to Washington first. We Bannocks have the first right to this land, and we want to stay on it. God is looking at us sitting here and knows what we say. Go to Washington and tell them what I say; I am ashamed not to have two tongues (meaning what has been said heretofore). If I should go to Washington they would be ashamed of me, thinking I had two tongues. The reason I do not want to sell is, because this is a small mountain and there is not much land or ground to hunt upon. I like this land because I have lots of children to run over it, and the land is too small for me.

PAG-WHITE (through interpreter). Old Ty-Hee says he put up a post here and this is where his old woman likes to stay, and he does not like to leave it.

KIM (through interpreter). I want to send a letter to Washington and let them know about this, and when you send the letter do not hide it, but just read it and let us know all about it before it goes. Just one word and then I will be done. God sees we run here under all good, and we do not want to sell everything. That is all; if I talk any more I will be telling lies.

RACE HORSE (through interpreter). You see all these boys sitting here talking with you to-day; you see all these people who stay here and see us. We all like this land, and I want to send a letter to Washington not to sell the land. You must not think

hard feelings against us, as we might get through with that part pretty soon when we write to Washington and have everything settled, but you must not sell what is on that paper. You must not feel hard about it; Washington must not feel bad. I do not feel excited because we have not got the money yet for the land. I do not know the reason Washington wants my little land. He told me that we were his children, and for us to plow the ground and stay here. God gives us this land, and that is the reason I want my land yet, and it makes us feel bad when you ask us about it. I have said enough.

PADZEE (through interpreter). I want to talk. I always say what Ty-Hee told me. I am ahead of the Shoshones in this talk. I hunt the land all the time; when the Shoshones come up here they stay with me. I make my living hunting squirrels, and I can not go off and leave; I am too old. I can not say much, I am too old. All these boys can talk to you fellows. The white man he is building fences all around me and crowding me out. What is the reason you want to dig out all around me. You want to dig me out, and pretty soon I fall into the ground.

WISHASH (through interpreter). The old man is right. My brother was right when he put up that stick to teach us to talk that way. When I lie down and die I do not want many white men on the ground. I feel sorry about what you have asked us for, and you must not get excited, because it will all come right by and by.

CAPTAIN JOE (through interpreter). I want to talk just like the rest. It is a pity about the old people. We like this land and we must not tell stories to Washington. We Indians like this land, and we do not like to hear the white man talk about buying it. And when Ty-Hee put up that post they told us no white man would come here.

GIBSON JACK (through interpreter). I have changed my mind since that meeting two weeks ago, because there is so much talk among the Bannocks, and I feel awfully bad about it. When God first put us on this land he gave us only one law to follow, and now you are going to change this law to-day and take a different course.

In Washington the law reads that whites and Indians who live on this land are not to do one another an injury, but to be good to one another. All the people under Washington, whether red or white, are all friends and they always shake hands; that is what they told me at Washington, the great law-makers. They told me there not to go into any trouble with the white man about the land; that if they wanted the land to let them know at Washington first. General Gardiner said that the first treaty they made would remain the same and would never change. They told me at Washington that our agent would look out for the Indians as a father to protect their rights. A man like Mr. Gardiner is appointed to look after things on this reservation; and they told me that no white man should come on our land. If a white man should do it it might cause a good deal of trouble, and they also told me not to let too many white men live at Pocatello. I wish you to tell the heads that I have heeded the instructions given me six or seven years ago. I thought when they told me not to let too many whites live at Pocatello that it was going to be that way forever.

The officials of the O. S. L. came to me and asked permission to put their road through this reservation, and they told me that there would not be very many people here at Pocatello; that they only wanted enough land for the railroad and no more. They told me at Washington that if the white men wanted to buy, not to mind them, but to go to the agent first. They also told me to heed all the instructions they had given me and to keep them in my memory. Now, after telling me what they did, it is hard for me to part with any of my land. How is it that you want me to do so?

Mr. GARDINER. Is he waiting for an answer?

INTERPRETER. Yes.

GIBSON JACK (through interpreter). I wish you to tell me how it is that they told me at Washington not to sell any of the reservation, that it would be right to sell? They told me not to allow the white men to build there, if I did, that they would have saloons and sell liquor and people would get drunk and murder one another. You can write what I say to Washington, and when you receive an answer let me know and it will be all right. I hope what I have said will not cause a bad feeling, as I only told you what they said to me at Washington. The Chinaman is different from the white man, he carries all the money he makes back to China; my money and that of the white man circulate here through the country.

TY-HEE (through interpreter). How much line of right of way do you want for the O. S. L. on the reservation?

Mr. GARDINER. Explain to them how much land the company have.

Mr. GARDINER. Now, Gibson Jack, you ask me a question which will afford me pleasure to answer. You ask me why I want you to sign an agreement for certain land. I hold in my hand a message from the President of the United States to Congress (reads from the Forty-ninth Congress). Now, I came here to represent the United States with Agent Hallagher, we are not here to represent ourselves, but to make an agreement with you for the Utah and Northern north and south from Blackfoot to Pocatello, and McCant-

mon to Thatcher. Are you ready to make such an agreement, or do you want the railroad company to use the land the same as they have been doing, for nothing? That is the question.

Captain JIM (through interpreter). I think it no more than right that we should get something for this land from the railroad.

Mr. GARDINER. Do I understand you people that you do not want to negotiate for the town at Pocatello, do you want to weed that out to-day and have nothing to say about it, is that what I understand you?

GIBSON JACK (through interpreter). If we want to back out of what we said the other day about selling the land at Pocatello, would it make any difference to the Government, would we be doing right or wrong?

Mr. GARDINER. You ask me as your friend and I will tell you very plainly you are doing wrong. The white people are settling down very closely and they are coming in right along. As quick as the agent's back is turned, the white man squats down and builds a shanty. And, my friends, you must look at things with another pair of eyes than in the past. You are living in an age of progress.

The buffalo, the deer and elk are all gone, and how are you to subsist? You have the land, but you can not eat it. It is your duty to place yourself in a position to sell the land. You owe it to your children, who are growing up to take your place when you are in the grave. Do you want them to lead a life of idleness and dependency, with no object in the future? I am not here to compel you to do anything of the kind. I am talking to you as a friend. I advise you to do it, but the land is yours to do as you like with, but above all things settle the matter to-day with this railroad company. Agree upon a price from the north to Pocatello and from McCammon to Thatcher. And you are not ready to have an agreement made to-day for the town of Pocatello, wait until Congress takes action in the matter, if that is your decision, but I would advise you to do it now. Tell them as I tell you.

GIBSON JACK (through interpreter). I think it will be better until Congress convenes.

Mr. GARDINER. Do you want to settle the railroad matter to-day?

Captain JIM (through interpreter). I believe that you are aware I was brought here from Bois . Ty-Hee told me to come here and to go to work farming and make a living for myself and children. When I first came here I farmed on a small farm; now I am getting worse. A lot of the Indians have got ahead of me; they have got in back crops, they have houses, but I have no house. We will settle the railroad question, but about the land at Pocatello we do not agree upon. If the Indians would all come to the same opinion, I would not have anything to say. If all the Indians agree to sell part of the reservation, it is their own land, and they have a right to sell just the amount they want to dispose of. About the railroad, we ought to fix that up among ourselves and try to get something for the right of the way of the Utah and Northern.

Now, if we should consent to sell a piece of land in Pocatello, would you survey it and have the land filled outside of it?

I did not understand it right before, but it is in my ear now.

Mr. GARDINER. Well, the only question with you people is, how much per acre do you want? This calculation is to be made from whether it is 700, 800, or 1,000 acres.

Captain JIM. We want \$8 per acre.

Mr. DICKINSON. Say to the Shoshones and Bannocks that we only want a little strip of land along the railroad, about 20 acres at the different towns, Ross Fork, Pocatello, Thatcher, and one or two other towns. Two hundred feet at Pocatello, and 100 the balance of the way. Now, we are willing to pay you \$7 per acre all around.

Mr. GARDINER. Then if there are 800 acres, it will be \$5,600.

Mr. DICKINSON. We want about 800 acres altogether.

TY-HEE (through interpreter). How much do you want?

Mr. DICKINSON. Forty acres and right of way for pipe line; it will make about 50 acres altogether.

Mr. GARDINER. That comes within four hundred of what the O. S. L. pays; this makes \$5,600 at \$8, and would make it the same.

Mr. DICKINSON. The O. S. L. has more land.

Mr. GARDINER. My friends, I am authorized by the railway company to say they will give you \$8 for every acre of land they use on this reservation. From Blackfoot to Ross Fork, 100 feet in width; through Ross Fork, 430 feet wide for half a mile; then 100 feet wide to the section house above Pocatello; then 20 acres for station grounds; then 200 feet wide through the town of Pocatello to the gravel switch, and 40 acres for the water right.

I do not know whether Congress will let them have it. They will be entitled to 20 acres at Pocatello. Then comes the O. S. L. Then from McCammon down to Arimo; then 200 feet for half a mile; then 100 feet to Thatcher, and 20 acres at Thatcher; then 100 feet to Downey, and 200 feet for half a mile; then 100 feet to Calvin, and 200 feet

for half a mile; then 100 feet to the reservation line. They will put that all on paper, each town by itself. Is that satisfactory to you, please say?

GIBSON JACK (through interpreter). We want to know if they are going to pay to the Indians.

Mr. GARDINER. They will pay to whomever Congress says. The agreement says: "You pay it to the Secretary of the Interior; it does not go in to Congress." Then if the Indians want to change they will ask their agent and he will ask the Secretary of the Interior to pay it to them. There is a regular way of doing business. The Government says if you sell this land to the company they must pay money to us, and we will take care of it.

TY-HEE (through interpreter). That is satisfactory.

Mr. GARDINER. Now, do I understand you people to refuse to make negotiations for the town of Pocatello to-day? Say yes or no. I would like you to hear from your agent, Mr. Gallagher, what he has to say about this town matter.

Mr. GALLAGHER. I think it my duty as agent to say to you that I do not think that you understand General Gardiner's proposition or what has been said to you, else you would not have said what you did here to-day. You certainly have lost sight of much I have been telling you for the last fifteen months; you have lost sight of your treaty which you made in 1868 and which was signed here on the part of the Shoshones by Washarkee. You have also forgotten what Ty-Hee and others said. Now, what did they say? Listen to the agreement which they made with the commissioners on the part of the United States.

The agreement was that each head of a family should have 320 acres. What part do you think 320 acres is to each head of a family, when we take into consideration that there is, in round numbers, 1,300,000? There are not 400 heads of family on the reservation. Now, I would like some of you wise men to tell me what you are going to do with so many acres. The Government made that contract with you that gave you this reservation to hunt on until you are ready to take these 320 acres, and then they would have the balance sold for your benefit. Now, Big Joe, over there, what does he say? He says he does not want to sell; that they have not water enough. There is water enough to attend to the work they do now. How is Big Joe or any other Joe on this reservation to get water? I have been begging the Department for the last six months—for the last ten months—to get water; and you say that you do not want your wagons or plows—you will eat this dirt and you will wear it, I suppose. How are you going to make ditches; how are you going to irrigate land unless you have money? There is Race Horse, he sends his squaw to me every day for coffee and sugar, and how, in the name of common sense, am I to get them without money? How can I get wagons for you when you say you do not want the money? Ty-Hee, good old soldier of the cross, he wants to resign his chiefship, but so long as I am here I will keep Ty-Hee in the first rank. But how am I to get money to fix Ty-Hee as he wants to be fixed? How am I to get money if you do not want as you say? How am I to get lumber? Why, Captain Jim repeats his old story that he has ding-donged into my ears for the last six months that he wants him a house. And how am I to get money to buy lumber unless these Indians get a little common sense in their heads and say we know how.

Here is Captain Joe, he says he wants the land to put in his wheat. If he has put in wheat it is the first time in his life. Now, I could run over the list and show you how ridiculous you are. Why, I have had to beg the Government of the United States to give you 100,000 pounds of beef, and I do not want to beg for people that are as rich as you are. Why, the piece of land the railway company want to buy is about the size of this envelope compared with the table, and when I take into consideration that that little spot is so full of rocks that no Indian on this reservation would do anything else but starve to death upon it, and that it might bring you \$200,000, yet you say you do not want any \$200,000, you want those rocks, you want them I reckon, especially Captain Jim.

I am talking loud, my friends; I am talking to you in earnest, and I am not mad; my heart does not feel sad either, because I have told you time and time again that this is a matter for you to settle, and if you do so satisfactorily I will make you the richest Indians in America.

I said awhile ago, by dint of perseverance and hard work and by getting down on my knees to the Department, also writing letters to Washington and saying: Give me 150,000 pounds more beef, if you please, we must have something to eat, and \$5,000 for irrigating ditches, and in a short time these Indians will climb to prosperity. That is what I said to them at Washington.

When I came here a year ago last March you had some of the poorest cattle that ever was butchered, I suppose. I set to work then and begged for 30,000 pounds more beef, as I wanted you to go to work, and I am glad to say you did, and General Gardiner says you have improved a hundred per cent.

Now, my friends, to come down to sober solid work, do you want me to continue that kind of work; do you want me to beg them at Washington to send us an additional amount of bread and meat, sugar, coffee, and so on? I promised them, like Ty-Hee said two weeks ago, "no help us now." We go upon that Indian principle which says, "God only helps those who help themselves." Now this is a chance for you to help yourselves, yet you choose to say, "We can take care of ourselves; we can buy cattle and everything else that we need."

Now I am talking to you as a father, as agent. I am not talking to you as General Gardiner does on behalf of the Government. I am talking to you because I feel the responsibility upon myself, and to do for you what you should do for yourselves to-day. Now, if you want me to continue this sort of thing, let me say to you in all candor that I believe if I had to stay another fifteen months and make the same speeches I tell you that the chances are you would have to get some one else to do the work. I made a transaction with Mr. Rand that if he put cattle here he must take your hay, and what did Pag White do? He was going to manage his own affairs, like to-day, and now he wants Rand to sell it for \$15 for him. Is that business? That is precisely how you are doing things to-day. Now I just want you to understand that what I am telling you is for your own good, and you are a hundred per cent. better off than you were a year ago, as General Gardiner said. But now I have said to General Gardiner that not only in the way of agriculture have you improved, but, as Indians, in mental power; and now I am afraid I will have to take that back, as I do not think you have improved in that direction.

There is not a better Bannack on the hill than old Propakura, but I tell him "friend, you will keep hungry if you continue to do what you have been doing to-day, and I am sorry for you, and now you must do as you please, and if you propose to do as you said, I will pledge you my word you will see nothing but starvation before you."

TY-HEE (through interpreter). I do not like the way they have been talking here—one one way, and one another; they do not agree and it does not suit me. When they held a council here the other day, two weeks ago, I thought I was doing what was right for the good of the Indians; I thought they needed money. Now, I want you all to come to one understanding and agree to sell Pocatello, and if you do agree to sell it, send word to Washington and get an answer so as to tell all the Indians right away. The money that we get for this piece of land will not be for our benefit—it will be for the rising generation. That is how I look at it, and I would like to know how Mr. Gardiner and Mr. Gallagher look at it.

MESSRS. GARDINER and GALLAGHER. We think you are precisely right.

TY-HEE. I hope these white gentlemen do not take offense at what the Bannacks are saying.

ALL. Not at all.

TY-HEE. That is all I have to say.

MR. GALLAGHER. Well, what does Pag White say? I would like to hear from him.

PAG WHITE. It is all right to give them a little piece of land.

CAPTAIN JIM. All the same.

KE-O. All the same.

MR. GALLAGHER. As General Gardiner has said, the papers have to come from Washington, and if you do not take this opportunity I can tell you I do not know when you will get it again. That is a fact, and I want you to do it now.

MR. GARDINER. Shall I prepare the papers to be signed?

GIBSON JACK. It was my intention when I first came here to straighten this thing out with Mr. Gardiner, and agree to sell Pocatello, and to put spikes in the boundary lines, so that white man should not go beyond it.

MR. GARDINER. Will you let your surveyor stake the line, Mr. Dickinson?

MR. DICKINSON. Yes.

GIBSON JACK. Mr. Dickinson is a railroad official, and if he sees any man go out of the line that they agree to sell, tell him that is not the way to do business. This is not according to the treaty. When they agree to sell a piece of land the Indian says for the white man to put a stake and agree not to go outside of it.

MR. GARDINER. The agent says the stakes will be put there, and the railroad company say they will survey the land and put stakes there. You can go along, Gibson Jack, and see that it is done.

GIBSON JACK. Whenever they sell Pocatello, of course the Indian will have a right to go there whenever he please?

MR. GALLAGHER. Yes; as much right as he has to go now.

GIBSON JACK. Will the Indian be free to go to Pocatello as they do now?

MR. GARDINER. Yes.

MR. GALLAGHER. We will get money for you to build that school-house.

GIBSON JACK. Will the Indian be right with the white man—will they be mixed together?

Mr. GARDINER. I will shake hands with you on that. Follow what a good man tells you and discard what a bad man says.

GIBSON JACK. When they buy Pocatello they will want to build too many saloons.

Mr. DICKINSON. We do not want any on the railroad.

GIBSON JACK. In that talk last week, my principal reason was that they would sell too much liquor, and I do not want that reported to Washington. Will the railroad company let the Indians ride on the freight trains and have the brakemen stop wherever they want to get off?

Mr. DICKINSON. We can not stop the trains everywhere, but we can slow up for them to get off; we can only stop where the trains stop.

GIBSON JACK. Will you let us ride on the freight anywhere?

Mr. DICKINSON. Yes; all understand that.

GIBSON JACK. The O. S. L. officials told me that the Indians could ride clear to Boise and through to Wind River.

Captain JIM. All agree.

Mr. GALLAGHER. Do you all agree with General Gardiner and myself to take \$8 an acre for every acre of ground from Blackfoot to Pocatello, and from McCammon to down through the Marsh Valley for this Utah and Northern Company, now that is all right? Is that agreed? I want you to say so yourselves, so I will understand it. We want to do business right. You all agree to take \$8 an acre? It is all right? Well now, the next thing is, you agree that General Gardiner and myself shall sell as he has described to you, to be cut into lots and to get the most money we can; not to sell that to the railroad but to cut it into lots; and I propose to get you all the money we can. We need all the money we can get. We will get \$100, or \$200 or \$1,000, per acre if we can. Whatever it will bring the Indians will get. Well, do you all agree to that?

GIBSON JACK. That might include a little too much land, but that is all right if they say so at Washington.

Mr. GALLAGHER. If that is all right, then you can sign in the presence of Mr. Eichelberger and the interpreter here.

GIBSON JACK. Where is Mr. Fisher? He told me he would be here.

Mr. GALLAGHER. He was here.

GIBSON JACK. He told us he would see that we got a square thing.

BIG JOE. I want to be the first one to sign.

MAY 29, 1887.

I certify that the foregoing minutes of council held at Fort Hall Agency May 27, 1887, was correctly reported by me.

C. M. GRAHAM,
Stenographer.

MAY 29, 1887.

We certify on honor that the foregoing minutes of council are true and correct.

ROBERT S. GARDNER,
U. S. Indian Inspector.
P. GALLAGHER,
U. S. Indian Agent.

Memorandum of an agreement made and entered into by the United States of America, represented by Robert S. Gardner, United States Indian inspector, and Peter Gallagher, United States Indian agent, specially detailed by the Secretary of the Interior for this purpose, and the Shoshone and Bannack tribes of Indians, occupying the Fort Hall Reservation, in the Territory of Idaho, as follows:

ARTICLE I.

The said Indians agree to surrender and relinquish to the United States all their estate, right, title, and interest in and to so much of the Fort Hall Reservation as is comprised within the following boundaries, that is to say, and comprising the following lands all in town 6 south, of range 34 east, of Boisé meridian: West one-half section 25; all of section 26; east one-half section 27; northwest quarter section 36; north one-half section 35; northeast quarter of southwest quarter section 35.

Northeast quarter of the northeast quarter of section 34, comprising an area of 1,840 acres, more or less, saving and excepting so much of the above-mentioned tract as has

been heretofore, and is hereby, relinquished to the United States for the use of the Utah and Northern and Oregon Short Line Railways.

The land so relinquished to be surveyed (if it shall be found necessary) by the United States, and laid off into lots and blocks as a town-site, and after due appraisal thereof to be sold at public auction to the highest bidder, at such time, in such manner, and upon such terms and conditions as Congress may direct.

The funds arising from the sale of said land, after deducting the expenses of survey, appraisal, and sale, to be deposited in the Treasury of the United States to the credit of the said Indians, and to bear interest at the rate of 5 per cent. per annum; with the power in the Secretary of the Interior to expend all or any part of the principal and accrued interest thereof for the benefit and support of said Indians in such manner and at such times as he shall see fit.

Or, said lands so relinquished to be disposed of for the benefit of said Indians, in such other manner as Congress may direct; and

Whereas, in or about the year 1878, the Utah and Northern Railroad Company constructed a line of railroad running north and south through the Fort Hall Reservation, and has since operated the same without payment of any compensation whatever to the said Indians, for or in respect of the lands taken for right of way and station purposes; and,

Whereas the treaty between the United States and the Shoshone and Bannack Indians, concluded July 3, 1868 (15 Stat. at Large, page 673), under which the Fort Hall Reservation was established, contains no provisions for the building of railroads through said reservation: Now, therefore,

ARTICLE II.

The Shoshone and Bannack Indians, parties hereto, do hereby consent and agree that upon payment to the Secretary of the Interior, for their use and benefit, of the sum of \$5, for or in respect of each and every acre of land of the said reservation, taken and used for the purposes of its said railroad, the said Utah and Northern Railroad Company shall have and be entitled to a right of way not exceeding 200 feet in width through said reservation, extending from Blackfoot River, the northern boundary of said reservation, to the southern boundary thereof; together with necessary grounds for station and water purposes, according to maps and plats of definite location, to be hereafter filed by said company with the Secretary of the Interior, and to be approved by him; the said Indians, parties hereto, for themselves and for the members of their respective tribes, hereby promising and agreeing to at all times hereafter, during their occupancy of said reservation, protect the said Utah and Northern Railroad Company, its successors or assigns, in the quiet enjoyment of said right of way and appurtenances, and in the peaceful operation of its road through the reservation.

ARTICLE III.

All unexecuted provisions of existing treaties between the United States and the said Indians not affected by this agreement to remain in full force; and this agreement to take effect only upon ratification hereof by Congress.

Signed at the Fort Hall Agency, in the Territory of Idaho, by the said Robert S. Gardner and Peter Gallagher on behalf of the United States, and by the undersigned chiefs, head men and heads of families, and individual members of the Shoshone and Bannack tribes of Indians, constituting a clear majority of all the adult male Indians of said tribes occupying or interested in the lands of the Fort Hall Reservation, in conformity with Article XI of the treaty of July 3, 1868, this 27th day of May, A. D. 1887.

- | | |
|----------------------------------|---------------------------------------|
| Robert S. Gardner. | 13. Po kib e ro, his x mark. |
| 1. Gibson Jack, his x mark. | 14. Masher Jack, his x mark. |
| 2. Pocatello Tom, his x mark. | 15. Logan, his x mark. |
| 3. Bob Smith, his x mark. | 16. George, his x mark. |
| 4. Joe Jackson, his x mark. | 17. Pocatello Pete, his x mark. |
| Peter Gallagher. | 18. Orivier Pete, his x mark. |
| 5. Mink, his x mark. | 19. Tim Gibson, his x mark. |
| 6. Joe Wheeler, his x mark. | 20. Bannack Frank, his x mark. |
| 7. Big Joe, his x mark. | 21. Tim-pa-san-e-gah, his x mark. |
| 8. Hare Lip George, his x mark. | 22. Sarg Man, his x mark. |
| 9. Pocatello John, his x mark. | 23. Washington Pocatello, his x mark. |
| 10. Jim Blaine, sr., his x mark. | 24. Ingra-twah, his x mark. |
| 11. Bunco Jim, his x mark. | 25. Mormon Jack, his x mark. |
| 12. Johnnie Blaine, his x mark. | 26. Johnnie Gova, his x mark. |

27. Wish Wap, his x mark.
28. Lot-so-man, his x mark.
29. Johnnie, his x mark.
30. Jim We-up, his x mark.
31. Bruno John, his x mark.
32. Cap-e-cura, his x mark.
33. Tom, his x mark.
34. Big Man, his x mark.
35. Pi-yo-ga, his x mark.
36. Dr. Howard, his x mark.
37. Bill, his x mark.
38. John Pete, his x mark.
39. Dick, his x mark.
40. He-ah, his x mark.
41. Ed. Grant, his x mark.
42. Charlie Bob, his x mark.
43. Andy Johnson, his x mark.
44. Rummell, his x mark.
45. Charley Letoby, his x mark.
46. Charley, his x mark.
47. Billy, his x mark.
48. Hoo-Jo, his x mark.
49. War Jim, his x mark.
50. Tsi-ang, his x mark.
51. Pon-go-em-dimme, his x mark.
52. Tu-e-vit-se, his x mark.
53. Jim, his x mark.
54. John Dunn, his x mark.
55. Fort Hall Jim, his x mark.
56. Jim Crow, his x mark.
57. Boise John, his x mark.
58. Jim Hardy, his x mark.
59. Snooks, his x mark.
60. Jimmy Drink, his x mark.
61. Jimmy, his x mark.
62. John Short, his x mark.
63. Chicken, his x mark.
64. Captain Henry, his x mark.
65. Baptiste Oviarz, his x mark.
66. Edmo Pocatello, his x mark.
67. Big Mack, his x mark.
68. Cheyney Eye, his x mark.
69. Buckskin, his x mark.
70. Boise Dick, his x mark.
71. Inga Wannup, his x mark.
72. Walking Water, his x mark.
73. Ben. Willett, his x mark.
74. Strutting George, his x mark.
75. Joe Rainey.
76. Big Jimmy, his x mark.
77. Billy George, his x mark.
78. Sambo, his x mark.
79. Bill Jackson, his x mark.
80. Pete Fisher, his x mark.
81. Sam Warren, his x mark.
82. Jim Jennings, his x mark.
83. Calvin Miner, his x mark.
84. Deep Water, his x mark.
85. Ke-o, his x mark.
86. Jim Ballard, his x mark.
87. Pin-go-a, his x mark.
88. Masho, his x mark.
89. John Short, his x mark.
90. Shoshone William, his x mark.
91. Pete Saguient, his x mark.
92. Wannop, his x mark.
93. Arron, his x mark.
94. Capt. Joe, his x mark.
95. Little Joe, his x mark.
96. Son Nip, his x mark.
97. Stinking Water Tom, his x mark.
98. Muster Good, his x mark.
99. Steeve, his x mark.
100. Su-e-Shepe, his x mark.
101. John, his x mark.
102. Wild Cat, his x mark.
103. Mosho Jim, his x mark.
104. Water Tell, his x mark.
105. Pass Water, his x mark.
106. Ah-gwo-tah, his x mark.
107. Three-finger Jack, his x mark.
108. Oha-pet, his x mark.
109. Jack, his x mark.
110. Sag Witch, his x mark.
111. Big Boy, his x mark.
112. Johnnie Besto, his x mark.
113. Em-be, his x mark.
114. Ape, his x mark.
115. Mountain Boy, his x mark.
116. Bill George, his x mark.
117. Et-se-wa, his x mark.
118. Frank Rundell, his x mark.
119. Ke-no, his x mark.
120. Jack, his x mark.
121. Iz-a-wu, his x mark.
122. George, his x mark.
123. Jimmy Roe, his x mark.
124. John Nic, his x mark.
125. To Wie, his x mark.
126. Sig-e-ti-ba, his x mark.
127. Charley, Sang, his x mark.
128. Madison Bill, his x mark.
129. Willis Pocatello, his x mark.
130. Mozon Dark, his x mark.
131. Raphael Lavatta.
132. Angeline Lavatta.
133. Cooley, his x mark.
134. Ko sho'gant, his mark.
135. McKean, his x mark.
136. Pan e dit se, his x mark.
137. Jack Ballard, his x mark.
138. Johnny, his x mark.
139. Baltimore, his x mark.
140. Mike Pocatello, his x mark.
141. Pur Skin, his x mark.
142. Edmos Sen, his x mark.
143. Frank Woodabogin, his x mark.
144. Kim, his x mark.
145. Jake, his x mark.
146. Parsons, his x mark.
147. Captain Gun, his x mark.
148. Charley his x mark.
149. Charley Gibson, his x mark.
150. Horse, his x mark.
151. Charley Seloby, his x mark.
152. Buch, his x mark.
153. Jack, his x mark.
154. Teuton, Bill, his x mark.
155. California Joe, his x mark.
156. Henry, his x mark.
157. Race Horse, his x mark.
158. Ter-re-con Na, his x mark.
159. Appurney, his x mark.
160. John Racehorse, his x mark.

161. Jake Night, his x mark.
162. Bannack Mike, his x mark.
163. Tail, his x mark.
164. Dixie No. 2, his x mark.
165. Pat Largee, his x mark.
166. Sargeant, Jim, his x mark.
167. Stinking Water, his x mark.
168. Joe Hooker, his x mark.
169. Charley Sinno, his x mark.
170. Horn, his x mark.
171. Ben Senowine, his x mark.
172. Little John, his x mark.
173. John Jones, his x mark.
174. Nan-o, his x mark.
175. Joe, his x mark.
176. Noisy Sam, his x mark.
177. Dick Tigo, his x mark.
178. White John, his x mark.
179. Fred Sonnip, his x mark.
180. Solomon, his x mark.
181. Tommy, his x mark.
182. Lazy Joe, jr., his x mark.
183. Mopier, his x mark.
184. Monchago, his x mark.
185. Charley Weratse, his x mark.
186. Chicken Jun, his x mark.
187. Jack Anderson, his x mark.
188. Jim Logan, his x mark.
189. Dave, his x mark.
190. Paul, his x mark.
191. John Mauquier, his x mark.
192. Brake-Man, his x mark.
193. William, his x mark.
194. Johnny, his x mark.
195. Sich-i-e, his x mark.
196. George Se-da-i, his x mark.
197. Soldier, his x mark.
198. Jim, his x mark.
199. Buffalo, his x mark.
200. Winnemucca Jack, his x mark.
201. Jimmie, his x mark.
202. Dabie, his x mark.
203. Capt. Jim, his x mark.
204. Noe Sup, his x mark.
205. Yank, his x mark.
206. Almond, his x mark.
207. Sam Coanature, his x mark.
208. Pau-re-en-dimme, his x mark.
209. Jack Hootman, his x mark.
210. Shoshone John, his x mark.
211. Thomas, his x mark.
212. Ca-vin-za, his x mark.
213. John Hammer, his x mark.
214. Bannack Mark, his x mark.
215. Tin-da-re, his x mark.
216. Frank Blaine, his x mark.
217. Joe Yupe, his x mark.
218. Tat-ta-wa, his x mark.
219. Ola Ocean, his x mark.
220. Poo-e-wah, his x mark.
221. Harney, his x mark.
222. Martin, his x mark.
223. Pe o-shape, his x mark.
224. Billy Gibson, his x mark.
225. Johnny Gibson, his x mark.
226. Slim Jim, his x mark.
227. Thomas Beggage, his x mark.
228. Johnny Workboy, his x mark.
229. John Jackson, his x mark.
230. Tin-ga-not, his x mark.
231. Joe Bonetop, his x mark.
232. Chin Chau, his x mark.
233. Na-pe, his x mark.
234. Ola Bonetop, his x mark.
235. Madison John, his x mark.
236. Tso-e-geit, is x mark.
237. John Bonner, his x mark.
238. Bishop, his x mark.
239. Charley Mink, his x mark.
240. Sam Bee, his x mark.
241. John Bee, his x mark.
242. Nan-geits, his x mark.
243. John Boyer, his x mark.
244. Joslyn, his x mark.
245. Captain, his x mark.
246. War Jack, his x mark.
247. Pone Mack, his x mark.
248. Johnson, his x mark.
249. Poc-a-zoo, his x mark.
250. Demi John, his x mark.
251. Sammy Tindare, his x mark.
252. Ho-we-ta-pa, his x mark.
553. Pon-de-ac, his x mark.
254. Shorty, his x mark.
255. Big Bob, his x mark.
256. Robert George, his x mark.
257. No-no-ve-ma, his x mark.
258. Nephi Jun, his x mark.
259. Ray Name, his x mark.
260. Coo-no-mon Jo, his x mark.
261. Har-e-gant, his x mark.
262. No-yo-o-gwi, his x mark.
263. Farmer Charley, his x mark.
264. Nant-see, his x mark.
265. Nan-ha-nut-se, his x mark.
266. To-so-man, his x mark.
267. Nan ze, his x mark.
268. Nephi, his x mark.
269. George Jackson, his x mark.
270. Na-nua-buoy, his x mark.
271. So-zhoot-zay, his x mark.
272. Sam Willard, his x mark.
273. No-yont-se, his x mark.
274. Sandy, his x mark.
275. Oliver, his x mark.
276. Rob Horn, his x mark.
277. Poo-e-wah, his x mark.
278. Ol-iff, his x mark.
279. Pan-do-ra, his x mark.
280. John Burt, his x mark.
281. Zillon, his x mark.
282. Venus, his x mark.
283. Jerry Boggs, his x mark.
284. John, his x mark.
285. Sau-wa-hunna, his x mark.
286. Wilson, his x mark.
287. Ed Ward, his x mark.
288. Big Yupe, his x mark.
289. Pan-de-ka-i, his x mark.
290. Mack-ki, his x mark.
291. William, his x mark.
292. Charley, his x mark.
293. Jesus, his x mark.
294. Soc-qua-wit, his x mark.

- | | |
|-----------------------------------|-----------------------------------|
| 295. Nau-me-ta, his x mark. | 304. Pish-a-quoi, his x mark. |
| 296. Bear Skin, his x mark. | 305. Old White Hat, his x mark. |
| 297. Pash-e-go, his x mark. | 306. Cass, his x mark. |
| 298. Wat-se-ga, his x mark. | 307. Dozum, his x mark. |
| 299. Henry Bigfoot, his x mark. | 308. Oats, his x mark. |
| 300. Johnnie Stevens, his x mark. | 309. Jimmy, his x mark. |
| 301. Jack Hoyt, his x mark. | 310. Joe Hooker, sr., his x mark. |
| 302. Bar-ba-ro, his x mark. | 311. Roof, his x mark. |
| 303. Quash-e-ga, his x mark. | |

Three hundred and eleven signatures.

Witnesses to the foregoing signatures:

O. G. M. Eichelberger. Wm. R. Maddox. Walter P. Ramsey. R. E. Gallagher,
C. M. Graham, F. Holbrook, Charles Fallentine, Raphael Lavatta.

FORT HALL AGENCY, IDAHO, *May 27, 1887.*

I certify that the foregoing agreement was read, interpreted, and explained to me, and was fully understood by the above-named Indians of the Shoshone and Bannack tribes, respectively, before signing, and that the same was executed by said Indians at the above-named agency on the 27th day of May, 1887.

RAPHAEL LAVATTA,
Official Interpreter.

Witness:

O. G. W. EICHELBERGER.

FORT HALL AGENCY, IDAHO, *May 27, 1887.*

I certify on honor that I witnessed each and every signature to the foregoing agreement, that the same was carefully read, interpreted, and explained, and appeared to be fully understood by the Indians whose names and marks are thereto appended before signing; and that the signatures thereto, numbering in the aggregate 311, represent a clear majority of all the adult male members of the Shoshone and Bannack tribes of Indians, respectively, occupying or interested in the lands of the Fort Hall Reservation.

O. G. W. EICHELBERGER,
Agency Clerk.

A BILL to accept and ratify an agreement made with the Shoshone and Bannack Indians for the surrender and relinquishment to the United States of a portion of the Fort Hall Reservation, in the Territory of Idaho, for the purposes of a town site, and for the grant of a right of way through said reservation to the Utah and Northern Railway Company, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a certain agreement made and entered into by the United States of America, represented as therein mentioned with the Shoshone and Bannack Indians resident in the Fort Hall Reservation, in the Territory of Idaho, and now on file in the office of Indian Affairs, be, and the same is hereby, accepted, ratified, and confirmed. Said agreement is executed by a duly certified majority of all the adult male Indians of the Shoshone and Bannack tribes occupying or interested in the lands therein more particularly described, in conformity with the provisions of article eleven of the treaty concluded with said Indians July third, eighteen hundred and sixty-eight (Statutes-at-large, volume fifteen, page six hundred and seventy-three) and is in the words and figures following, namely:

Memorandum of an agreement made and entered into by the United States of America, represented by Robert S. Gardner, United States Indian inspector, and Peter Gallagher, United States Indian agent, especially detailed by the Secretary of the Interior for this purpose, and the Shoshone and Bannack tribes of Indians, occupying the Fort Hall Reservation, in the Territory of Idaho, as follows:

ARTICLE 1. The said Indians agree to surrender and relinquish to the United States all their estate, right, title, and interest in and to so much of the Fort Hall Reservation as is comprised within the following boundaries, that is to say, and comprising the following lands, all in township six south, of range thirty-four east of Bois  meridien.

West one-half section twenty-five; all of section twenty-six; east one-half section twenty-seven; northwest quarter section thirty-six; north one-half section thirty-five; northeast quarter of southwest quarter section thirty-five; northeast quarter of the northeast quarter of section thirty-four, comprising an area of eighteen hundred and forty acres, more or, less, saving and excepting so much of the above-mentioned tracts as has been heretofore and is hereby relinquished to the United States for the use of the Utah and Northern and Oregon Short Line Railways.

The land so relinquished to be surveyed (if it shall be found necessary) by the United States and laid off into lots and blocks as a town-site, and after due appraisement thereof to be sold at public auction to the highest bidder, at such time, in such manner, and upon such terms and conditions as Congress may direct.

The funds arising from the sale of said lands, after deducting the expenses of survey, appraisement, and sale, to be deposited in the Treasury of the United States to the credit of the said Indians, and to bear interest at the rate of five per centum per annum, with power in the Secretary of the Interior to expend all or any part of the principal and accrued interest thereof for the benefit and support of said Indians, in such manner and at such times as he shall see fit.

Or, said lands so relinquished to be disposed of for the benefit of said Indians in such other manner as Congress may direct; and

Whereas in or about the year 1878 the Utah and Northern Railroad Company constructed a line of railroad running north and south through the Fort Hall Reservation, and has since also operated the same, without payment of any compensation whatever to the said Indians for or in respect of the lands taken for right of way and station purposes; and

Whereas the treaty between the United States and the Shoshone and Bannack Indians, concluded July 3, 1868 (15 Stat. at Large, page 673) under which the Fort Hall Reservation was established, contains no provisions for the building of railroads through said reservation: Now, therefore,

ART. II. The Shoshone and Bannack Indians, parties hereto, do hereby consent and agree that upon payment to the Secretary of the Interior for their use and benefit, of the sum of \$8, for, or in respect of each and every acre of land of the said reservation, taken and used for the purposes of its said railroad, the said Utah and Northern Railroad Company shall have and be entitled to a right of way not exceeding 200 feet in width, through said reservation, extending from Blackfoot River, the northern boundary of said reservation to the southern boundary thereof; together with necessary grounds for station and water purposes, according to maps and plats of definite location, to be hereafter filed by said company with the Secretary of the Interior, and to be approved by him; the said Indians, parties hereto, for themselves and for the members of their respective tribes, hereby promising and agreeing to, at all times hereafter, during their occupancy of said reservation, protect the said Utah and Northern Railroad Company, its successors or assigns, in the quiet enjoyment of said right of way and appurtenances, and in the peaceful operation of its road through the reservation.

ART. III. All unexecuted provisions of existing treaties between the United States and the said Indians not affected by this agreement to remain in full force, and this agreement to take effect only upon ratification hereof by Congress.

Signed at the Fort Hall Agency, in the Territory of Idaho, by the said Robert S. Gardiner and Peter Gallagher on behalf of the United States, and by the undersigned chiefs, headmen, and heads of families and individual members of the Shoshone and Bannack tribes of Indians, constituting a clear majority of all the adult male Indians of said tribes occupying or interested in the lands of the Fort Hall Reservation, in conformity with Article XI of the treaty of July 3, 1868, this twenty-seventh day of May, A. D. one thousand eight hundred and eighty-seven.

(Here follow the signatures)

SEC. 2. That the Secretary of the Interior be, and he hereby is, authorized to cause to be surveyed and laid out into lots and blocks so much of the Fort Hall Reservation in the Territory of Idaho, at or near Pocatello Station, on the Utah and Northern Railway, as when the sectional and subdivisional lines are run and established, shall be found to be within the following descriptions, to wit: the west half of section twenty-five, all of section twenty-six, the east half of section twenty-seven, the northwest quarter of section thirty-six, the north half of section thirty-five, the northeast quarter of the southwest quarter of section thirty-five, and the northeast quarter of the northeast quarter of section thirty-four, all in township six south, of range thirty-four east of Bois  meridien, in the Territory of Idaho, and containing an area of eighteen hundred and forty acres or thereabouts, saving and excepting thereout so much of the above-described tracts as has heretofore been, or is hereby, granted for the use of the Utah and Northern Railway Company.

SEC. 3. Such survey shall describe the exterior boundaries of the said town according to the lines of the public surveys, also giving the name of such city or town, and exhibiting the streets, squares, blocks, lots, and alleys, the size of the same, with measurements and area of each municipal subdivision, the lots in which shall each not exceed four thousand two hundred square feet, with a statement of the extent and general character of the improvements. Such map and statement shall be verified under oath by the party making the survey; and within one month after making such verification there shall be transmitted to the General Land Office a verified transcript of such map and statement; a similar map and statement shall be filed with the register and receiver,

and a similar copy shall be filed in the office of the recorder of the county wherein such town is situate.

SEC. 4. That at the time of the said survey, the Secretary of the Interior shall cause the said lots and blocks to be appraised by three disinterested persons, one of whom shall be designated by said Indians in open council, and the other two by the Secretary of the Interior, who, after taking and subscribing an oath before some competent officer, to faithfully and impartially perform their duties as appraisers of said lots and blocks under the provisions of this act, which oaths shall be returned with their appraisement, shall go in person upon the ground and determine the value of each lot and parcel thereof: making lists thereof, particularly describing each lot, block, and parcel, with the appraised value thereof, as by them determined, which said list shall be verified by the affidavit of at least two of said appraisers, to the effect that said list is a correct list of the said lots, blocks, and parcels appraised by them, and that the appraisements thereof are the true value of each parcel appraised, and that the same were determined by them after due and full inspection of each and every parcel thereof: *Provided*, That no lot or parcel shall be appraised at less than ten dollars, and that all improvements shall be appraised separate and distinct from the land.

SEC. 5. That upon the return of said survey, and the appraisement of said lands, if the same shall be approved by him, the Secretary of the Interior shall cause said lands to be offered for sale at public auction at the door of the "Pocatello House," Pocatello Junction, to the highest bidder, for cash; which sale shall be advertised for at least three months previous thereto, in such manner as the said Secretary shall direct, and shall be conducted by the register of the land office in the district in which said lands are situate, in accordance with the instructions of the Commissioner of the General Land Office. Said sale shall continue from day to day until all of the said lands shall have been sold or offered for sale. The said lands shall be offered in single lots and parcels, and no bid shall be received for any lot or parcel less than the appraised value of the same. All blocks, lots, and parcels of land not sold at public sale shall thereafter be subject to private entry at the appraised value thereof: *Provided*, That any person who has been residing upon any of said land and has made valuable improvements thereon, shall upon proof to that effect to the satisfaction of the Secretary of the Interior, be permitted to purchase at such sale for cash, at the appraised value thereof, the lot or parcel so resided upon and improved by him, and in default of his exercising the preference right so conferred upon him by this section, such lot or parcel shall be sold to the highest bidder for cash, as hereinbefore provided: *Provided further*, That such last mentioned purchaser shall pay the owner of such improvements the appraised value thereof as determined under the provisions of this act: *And provided further*, That any right heretofore acquired by the Utah and Northern Railway Company for right of way and the use and occupancy of lands for station and depot purposes through and upon the lands above described shall not be affected by this act.

SEC. 6. That the funds arising from the sale of said lands, after deducting the expenses of survey, appraisement, and sale, shall be deposited in the Treasury of the United States to the credit of the Shoshone and Bannack tribes of Indians belonging on said reservation, and shall bear interest at the rate of five per centum per annum; and the Secretary of the Interior is hereby authorized and empowered to expend all or any part of the principal and accrued interest of such fund for the benefit and support of said Indians, in such manner and at such times as he may deem expedient and proper.

SEC. 7. That the Secretary of the Interior shall make all needful rules and regulations necessary to carry this act into effect; he shall determine the compensation of the surveyor for his services in laying out said lands into town lots, also the compensation of the appraisers provided for in section four, and shall cause patents in fee-simple to be issued to the purchasers of the lands sold under the provisions of this act in the same manner as patents are issued for the public lands.

SEC. 8. That the sum of five thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of carrying this act into effect, which said sum, or so much thereof as may be expended, shall be reimbursed to the Treasury out of the sales of said lands.

SEC. 9. That the exterior lines of the land by this act authorized to be laid out into town lots and separating the same from the lands of said reservation, shall, from the date of the approval of said survey by the Secretary of the Interior, be and constitute the line of said reservation between the same and said town.

SEC. 10. That the citizens of the town hereinbefore provided for shall have the free and undisturbed use, in common with the said Indians, of the waters of any river, creek, stream, or spring flowing through the Fort Hall Reservation in the vicinity of said town, with right of access at all times thereto, and the right to construct, operate, and maintain all such ditches, canals, works, or other aqueducts, drain and sewerage pipes, and other appliances on the reservation, as may be necessary to provide said town with proper water and sewerage facilities.

SEC. 11. *Be it further enacted*, That there be, and is hereby, granted to the said Utah and Northern Railway Company a right of way not exceeding two hundred feet in width (except such portion of the road where the Utah and Northern and the Oregon Short Line Railways run over the same or adjoining tracks, and then only one hundred feet in width) through the lands above described, and through the remaining lands of the Fort Hall Reservation, extending from Blackfoot River, the northern boundary of said reservation, to the southern boundary thereof; and in addition to such right of way, grounds adjacent thereto for station buildings, depots, machine-shops, side tracks, turn-outs, and water stations, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road, according to maps and plats of definite location thereof respectively, to be filed by said company with, and approved by the Secretary of the Interior: *Provided*, That the said Utah and Northern Railway Company shall first pay to the Secretary of the Interior, for the use and benefit of the said Shoshone and Bannack tribes of Indians, the sum of eight dollars per acre for or in respect of each and every acre of land so taken and used for said right of way and station grounds, in conformity with said map of definite location, the moneys derived from this source to be deposited in the Treasury of the United States, to the credit of the said Shoshone and Bannack Indians, bearing interest at five per centum per annum, with like power in the Secretary of the Interior, from time to time, to apply all or any part of the principal and accrued interest thereof for the benefit and support of said Indians in the same manner as hereinbefore provided with regard to the funds arising from the sale of lands of the Fort Hall Reservation: *And provided further*, That no part of the lands herein authorized to be taken shall be leased or sold by the company, and they shall not be used except in such manner and for such purposes only as shall be necessary for the construction, maintenance, and convenient operation of a railway, telegraph, or telephone lines, and when any portion thereof shall cease to be so used, such portion shall revert to the tribe or tribes of Indians from which the same shall have been taken, or in case they shall have ceased to occupy said reservation, to the United States; and the construction, maintenance, and operation of said railway shall be conducted with a due regard for the rights of the Indians, and in accordance with such rules and regulations as the Secretary of the Interior may make to carry out this provision.

SEC. 12. That the officers, servants, and employes of said company necessary to the construction and management of said road shall, whilst so engaged, be allowed to reside upon said right of way and station grounds hereby granted, but subject, in so far as the reservation lands are concerned, to the provisions of the Indian intercourse laws, and such rules and regulations as may be established by the Secretary of the Interior in accordance with the said intercourse laws.

SEC. 13. That said railway company shall fence and keep fenced all such portions of its road as may run through any improved lands of the Indians, and also shall construct and maintain continually all road and high way crossings and necessary bridges over said railway, wherever said roads and highways do now or may hereafter cross said railway's right of way, or may be by the proper authorities laid out across the same.

SEC. 14. That said railway company shall execute a bond to the United States to be filed with and approved by the Secretary of the Interior, in the penal sum of ten thousand dollars, for the use and benefit of the Shoshone and Bannack tribes of Indians, conditioned for the due payment of any and all damages which may accrue by reason of the killing or maiming of any Indian belonging to said tribes, or either of them, or of their live stock, in the construction or operation of said railway, or by reason of fires originating thereby; the damages in all cases, in the event of failure by the railway company to effect an amicable settlement with the parties in interest, to be recovered in any court of the Territory of Idaho having jurisdiction of the amount claimed, upon suit or action instituted by the proper United States attorney in the name of the United States: *Provided*, That all moneys so recovered by the United States attorney under the provisions of this section shall be covered into the Treasury of the United States, to be placed to the credit of the particular Indian or Indians entitled to the same, and to be paid to him or them or otherwise expend for his or their benefit, under the direction of the Secretary of the Interior.

SEC. 15. That the said Utah and Northern Railway Company shall accept this right of way upon the expressed condition, binding upon itself, its successors and assigns, that they will neither aid, advise, nor assist in any effort looking towards the changing or extinguishing the present tenure of the Indians in their remaining lands, and will not attempt to secure from the Indian tribes any further grant of land or its occupancy than is hereinbefore provided: *Provided*, That any violation of the condition mentioned in this section shall operate as a forfeiture of all the rights and privileges of said railway company under this act.

SEC. 16. That Congress may at any time amend, add to, alter, or repeal this act.

SEC. 17. That this act shall be in force from its passage.