55TH CONGRESS, 2d Session. } SENATE. { DOCUMENT No. 132.

CONFEDERATED OTOE AND MISSOURIA INDIANS.

FEBRUARY 11, 1898.—Ordered to be printed.

Mr. ALLEN presented the following

STATEMENT OF THE PROCEEDINGS HERETOFORE HAD IN RELATION TO THE SALE OF THE LANDS OF THE LATE CONFEDERATED OTOE AND MISSOURIA TRIBES OF INDIANS IN THE STATES OF KANSAS AND NEBRASKA.

First. On March 15, 1854, a treaty was entered into between the United States and these Indians, by which it was agreed on the part of the Indians to cede all of their lands west of the Missouri River in consideration of receiving the reservation herein mentioned in Kansas and Nebraska, consisting of about 162,000 acres; the further consideration of a payment to them of the sum of $385,000, to be paid them in equal installments through a period of forty years; the further sum of $20,000 for expenses incident to locating on their reservation, and the further consideration of the erection by the United States of the usual reservation buildings, sawmill, grist mill, blacksmith shop, etc. (10 U. S. Stat. L., 1038.)

Second. By act of Congress, August 15, 1876 (19 U. S. Stat. L., 208), provision was made for the sale of a portion of this reservation, consisting of about 120,000 acres. As required by this act, the consent of the Indians to the sale of these lands was secured in open council December 23, 1876. The lands were appraised by three appraisers, one of whom was designated by the Indians. The appraised price averaged $3.75 per acre, which was considered a fair valuation, satisfactory to the Indians. The lands were open for entry and sale under the provisions of this act, and in each and every instance were sold to actual settlers at the appraised valuation. All questions arising out of the settlement of these lands were determined under the provisions of the preemption law.

Third. By act of Congress, March 3, 1881 (21 U. S. Stat. L., 380), provision was made for the sale of the remaining 42,000 acres of said reservation. The provisions of this act are essentially the same as those of the act of 1876. It is the lands sold under the provisions of this act that an equitable adjudication of the sale thereof is sought by the provisions of the pending bill. The provisions of this act were approved by the Indians in open council May 4, 1881. The lands were appraised by three appraisers at an average of $6.42 per acre. F. M. Barnes was

designated by the Indians as their member of the board of appraisers. Before the time came for the sale of these lands settlers gathered from all parts of the country for the purpose of securing homes. The Commissioner of the General Land Office gave notice of the appraised valuation placed upon the lands, and gave repeated assurances that the lands would be disposed of at private sale. The settlers went on to the reservation, selected their lands, and awaited the time for making entry as provided by law, and as was done in the sale of the first 120,000 acres.

In 1883, and a very short time before the sale, a public notice was issued by the Secretary of the Interior to the effect that these lands would be sold at public auction on the 31st day of May, 1883, at the land office at Beatrice, Nebr. It was falsely represented by certain parties that unless this method of sale was adopted there would be great confusion and probable bloodshed at the formal opening of the reservation. After the order for a public sale was made a conspiracy was entered into by certain parties to defraud the settlers and innocent purchasers. Settlers were approached and assured that by paying these parties a sum of money ($100, $150, or $200, as the case might be) arrangements could be made by which they would secure their lands at the appraisement. The sale was conducted in a public street, a short distance from the land office. When a piece of land was sold the purchaser was given a slip of paper containing a description of the land, name of purchaser, and price for which it was bid off above the appraised value. The purchaser was then directed to go to the window of the land office, hand in his slip, and, by payment of $2 entry fee, have his purchase entered upon the books of the land office. He then had ninety days within which to make his first payment and perfect his entry, as required by law. In many instances the purchaser, on receiving his slip from the clerk at the auctioneer's stand, would be approached by a member of this conspiracy and informed that for every $10 inclosed in this slip and passed in at the window of the land office $100 would be deducted from the price at which the land had been bid in above the appraisement.

The Commissioner of the General Land Office was present and attempted to stop the high and irresponsible bidding, but found himself powerless, and the evidence shows that he informed the settlers, or a portion of them at least, to go on and purchase the lands and relief would be granted by the Government, as the sale, as conducted, was a farce and a fraud. The bidding against the settlers was done principally by three classes of persons:

(1) By members of the conspiracy, for the purpose of running the lands up to a high figure, and thereby be enabled to more effectually blackmail the purchaser. When the land was sold to one of these professional bidders, as was the case in several instances, the purchaser would not register his purchase, and the land would be sold again.

(2) Much bidding was done by boys and intoxicated persons, without any desire to purchase, and probably without any fraudulent intent. When one of this class became a purchaser the land was resold.

(3) A syndicate of cattlemen was using the land on the reservation for grazing. The sale was in May, and by bidding in the land and paying the $2 entry fee gave them use of the land for at least ninety days, through the best part of the season, at a nominal cost. This syndicate had bidders on the ground that ran the prices up enormously. The land purchased by these persons all lapsed back and was sold again

at the second sale, in December of the same year, which was conducted on much the same principles as the first.

The sale in May came at a season when the settlers purchasing could get on the land and secure some crop that year, and many, having sold out elsewhere and having their families on the ground, were almost compelled to purchase and take their chances of a rebate under the assurances of the Commissioner. For the frauds perpetrated at this sale F. M. Barnes, who represented the Indians on the board of appraisers, together with a number of others, among whom was the receiver of the land office, were arrested, taken before the United States court at Omaha, indicted, tried, convicted, and fined for various criminal charges for offenses and frauds committed in carrying out the purposes of the above conspiracy. A full transcript of the proceedings against F. M. Barnes is hereto attached and marked Exhibit A.

4. Within the time required the bona fide purchasers made payment of the first installment, one-fourth of the purchase price. Then began the efforts on their part to have the matter adjusted by the Government. The following action has been taken by Congress and the Department:

1. By act of Congress March 3, 1885 (23 Stat. L., 371), the time of final payment was extended for two years.

2. By act of Congress August 2, 1886 (24 Stat. L., 214), the time of final payment was further extended for the period of two years.

3. By act of Congress March 3, 1893 (27 Stat. L., 586), the Secretary of the Interior was "authorized and directed to revise and adjust on principles of equity the sales of lands in the late reservation * * * the consent of the Indians having been first obtained." A full statement of the proceedings under this act is herewith submitted. Special attention is called to the reports of the Senate and House committees on this bill, as they give a very full statement of the facts relating to the sale of these lands and the reasons why relief should be granted. Copies of the bill and the reports are hereto attached and marked Exhibits B and C.

Fifth. In the Fifty-fourth Congress a bill (H. R. 9146) was introduced and referred to the Committee on Indian Affairs. On June 5, 1896, Mr. Gamble, from this committee, submitted Report No. 2237, which is a full, complete, and truthful statement of the facts relating to the sale of these lands. Copies of the above bill and report are hereto attached and marked Exhibits D and E.

PROCEEDINGS OF DEPARTMENT OF THE INTERIOR UNDER THE ACT OF CONGRESS OF MARCH 3, 1893.

Settlers offered to cooperate in bringing about settlement in any way that might be suggested by the Secretary of the Interior. (Letter of M. Joseph, May 1, 1893.)

It seems to have been the purpose of the Department, as well as of Congress, to adjust this matter under the above law on the basis of the appraised valuation. (Letter of Commissioner of Indian Affairs recommending that the Commissioner of the General Land Office be called upon for a detailed account before any initial step should be taken by the Secretary, said report to show the name of each purchaser, the appraised value of the land purchased, how much money has been paid, how much remains unpaid, and how much rebate the Indians would have to make. Letter dated May 3, 1893.)

Under above request, on April 28, 1894, Mr. D. M. Browning, Commissioner of Indian Affairs, submitted to the Secretary of the Interior

the following report, prepared by the Commissioner of the General Land Office:

Lands sold.....acres..	42,261.54
Appraised value	$256,887.07
Price for which sold	516,851.52
Principal paid	322,075.70
Interest paid	28,253.51
Total paid	350,329.21
Principal due and unpaid	194,775.82
Interest due and unpaid	100,432.91
Total due and unpaid	295,208.75

In the cases where settlers have paid out on lands purchased the amount paid over the appraised valuation is as follows:

Principal overpaid	$117,747.76
Interest overpaid	18,100.08
Total overpaid	135,847.84
Making the total rebate of	351,516.40

To which should be added interest at the rate of $592.57 per month after February 1, 1894.

The Commissioner further recommended, in his letter transmitting this report, that the plan of settlement under the above law of 1893 be submitted to the Indians by a commission of three persons, consisting of the United States Indian agent in charge of the Indians, one of the United States Indian inspectors, and a person to be selected by the settlers.

As to the appointment of a commission, the Secretary of the Interior refused to follow the suggestions of the Commissioner of Indian Affairs, but appointed a commission as follows: On behalf of the Government, P. McCormick, Indian inspector; on behalf of the Indians, F. M. Barnes; on behalf of the settlers, Tobias Castor.

On January 3, 1895, the commissioners reported, among other things, that the Indians manifested no willingness to accede to any rebate whatever, and in the opinion of the commission had their minds made up before the commission arrived not to allow any concession whatever.

As a matter of information, it might be well to state here that F. M. Barnes is one of the tribe by marriage to an Otoe squaw; that C. M. Warren is a son-in-law of F. M. Barnes, being married to a half-breed; that Grant Barnes and D. D. Barnes are also sons of F. M. Barnes, and therefore half-breeds. Mention is made of this at this time as considerable correspondence is on file in the Department from these persons, who manifest a strong opposition to any settlement that looks to the relief of the settlers. While they still reside in Gage County, Nebr., and have become very wealthy from their connection with this tribe of Indians, yet it is a matter of common notoriety that every step the Indians take in this matter is under the direct instructions of F. M. Barnes and C. M. Warren. It is not surprising that this first commission failed.

F. M. Barnes was a member of the commission that appraised the lands originally, representing the Indians on that commission. After the sale he was arrested for frauds perpetrated therewith and convicted in the United States court at Omaha, Nebr. A transcript in that case is hereto attached, marked Exhibit A.

The Secretary of the Interior, under date July 18, 1895, ordered the Commissioner of the General Land Office to direct the local land officers at Lincoln, Nebr., to notify all purchasers of land on the Otoe and and Missouria Reservation to make full payment within ninety days or their entries would be canceled. (21 L. D., 55.)

The notices were issued from the local land office at Lincoln, and a few of the settlers borrowed money and paid out, but, as the correspondence on file in the Department conclusively shows, it was utterly impossible for the great majority to borrow sufficient to meet this obligation, and owing to continual failure of crops they had nothing with which to meet their immediate obligations. (See correspondence on file in the Department from March 23, 1895, to November 14, 1895. Especial attention is called to the letter of Robert Kyd, of November 14, 1895.)

The correspondence resulted in a suspension of the order, and the appointment of Mr. W. C. Pollock, chief of the Indian division, to make a tour of these lands, with orders to report the condition of the settlers and their ability to pay out upon their lands. On December 9, 1895, Mr. Pollock filed his report, which is hereto attached, marked Exhibit F.

On January 14, 1896, the local land officers at Lincoln reported—

> That 28 settlers had made payment since notices were issued, and that 156 are still delinquent. That there may be a few pieces of the land on which the parties owning them can not borrow enough with which to make final payment, but they are few. They are as well able to borrow and pay out now as ever they will be. We recommend no extension.

This letter is quoted as the basis of a short argument at this point on the equities of this case. By fifteen years of hard labor, through crop failures and untold privations, these people have brought this land to a high state of cultivation, and placed valuable improvements upon it. It would be indeed strange if after fifteen years the results of their labors and the improvements, together with the land itself reduced to a high state of cultivation, could not be mortgaged for enough to pay the Government three-fourths of the purchase price of the raw land. (One-fourth of the purchase price was paid in cash.) Yet this is exactly what the local officers say in some cases can not be done.

On January 31, 1896, ex-Senator A. S. Paddock, on behalf of the settlers, submitted to the Department the following proposition of settlement:

> Total amount, principal and interest, on defaulted payments, about $320,000; rebate from interest on defaulted payments, about $125,000, an amount which will leave the payment to the Indians $225,000. *Make corresponding rebate in paid-up cases conditional upon appropriation by Congress to cover the amount of this latter rebate.* This would be payment at public-sale prices in full, with about $20,000 additional in interest.
>
> In the defaulted-payment cases, payments to be made in equal amounts annually, running through five years, with interest at 5 per cent per annum, with forfeiture in case of default on any payment. Patent not to be issued until full final payment.

This indefinite proposition seems never to have been acted upon by the Department, probably for the reason that it called upon the Secretary of the Interior to extend the time of payment five years, whereas the act of Congress itself provided that after settlement the unpaid claims *should be paid within one year.*

The proposition seems to have been made on the basis of the allowance of a lump sum, which could not under any circumstances operate equitably, as we have attempted to make clear in our argument herewith submitted.

On March 4, 1896, Mr. W. C. Pollock, chief of the Indian division,

and Mr. James E. Parker, chief of the land and railroad division, submitted a proposition of settlement, which is attached hereto and marked Exhibit G.

Special Agent Dickinson was given full instructions by the Secretary of the Interior to submit the above plan of settlement to the Indians for approval. The proposed plan was submitted, and on April 22, 1896, Agent Dickinson reported that he submitted the proposition to Indians in council, who were disposed to sign, but requested the matter to go over to a later date. At a second council they refused, and Special Agent Dickinson, referring to this, says:

> At the first council the Indians were inclined to accept the proposition, but owing to the influence of F. M. Barnes and C. M. Warren, of Barnston, Nebr., they now refuse.

He further reported that the Indians desired an order made for seven of their number to visit Washington.

On April 14, 1896, C. M. Warren and F. M. Barnes submitted a proposition of settlement to the Secretary of the Interior, together with a letter to the Secretary. The proposition was to the effect that they be made trustees, to whom each of the settlers defaulting shall execute a note and mortgage for the balance due on proposition submitted by Dickinson.

On May 26, 1896, a proposition of settlement was submitted to the Indians by the Secretary of the Interior, by which those settlers who were in default might have ten years' interest rebated if they would pay up in ninety days, and United States Indian Agent Woolsey was commissioned by the Secretary to treat with the Indians on this basis of settlement.

On June 3, 1896, United States Indian Agent Woolsey reported that on submission of plan of settlement to the Indians in open council the following resolution was adopted:

RESOLUTION AND AGREEMENT.

> "We, the undersigned male adult members of the Confederated Tribes of Otoe and Missouria Indians in Oklahoma, being in council assembled, on this 3d day of June, 1896, to consider a proposition for the settlement of pending matters between our tribe and the purchasers of our lands in Nebraska and Kansas, as set forth in a communication from the Hon. Hoke Smith, Secretary of the Interior, dated May 26, 1896, marked '2751–'95 L & R. R. Div.,' and the said communication having been interpreted and fully explained to us, hereby
>
> "Agree and resolve that we will allow a rebate to the purchasers of our lands in Nebraska and Kansas, referred to in the communication before referred to from the Secretary of the Interior, of ten years' interest on the amount now due us from those purchasers who are in arrears: *Provided, however,* That the said purchasers will agree to pay, within ninety days from the date of notice, the amount remaining unpaid after allowance of said rebate."
>
> (Signed by a majority of the tribe.)

In relation to the adoption of the above resolution by the Indians, F. M. Barnes and C. M. Warren wrote a letter to the Secretary of the Interior, which shows clearly their influence with the Indians, and that they are practically the Indians. A copy of said letter is hereto attached, marked Exhibit H.

On July 20, 1896, the Commissioner of the General Land Office sent to the local land officers at Lincoln, Nebr., instructions to notify each purchaser that unless the balance of the purchase price was paid, less ten years' interest, within ninety days from date of notice, their entries would be canceled. (See 23 L. D., 143.)

On December 20, 1896, the assistant attorney-general for the Depart-

ment of the Interior rendered a decision in answer to the following questions from the Secretary of the Interior:

1. Was the order of this Department of July 20 last (23 L. D., 143) in accordance with the provisions of said act? (Act of March 3, 1893, 27 Stat. L., 568.)
2. If said order of July 20 last was not in accordance with the provisions of said act, has the Secretary of the Interior, in the exercise of his supervisory power, authority to issue said order independent of the terms of said act?
3. If prior to the issuance of said order of July 20 last there had been an effort made to obtain the consent of the Indians to a rebate, as provided by the terms of said act, and the Indians had refused to consent to any rebate whatever, then, and in that event, would the Secretary of the Interior, having made an effort to proceed under said act, have the right to, and authority, under his supervisory power, to issue the order of July 20 last?

From this decision we note the following extracts:

The scheme of adjustment under this act (March 3, 1893) was left to the discretion of the Secretary of the Interior, with the limitation that it should be founded on principles of equity, but the whole tenor of the act indicates that Congress had in view all sales of said land—those upon which payment had been made in full, as well as those upon which default in payment had been made. A due regard for principles of equity would seem to require that those purchasers who have complied with the obligations assumed when they purchased these lands should receive at least as much consideration in the way of rebates as those who have failed and neglected to meet their obligations.

The Assistant Attorney-General then refers in his decision to the report of the Senate Committee on Indian Affairs, submitted May 11, 1892; also to the report to the Senate committee by the Commissioner of Indian Affairs, where he uses the following language:

From the consideration I have been able to give this matter, I fail to see any equities in favor of the purchasers who have not paid for lands purchased by them which would not be equally strong in favor of those who have paid in full.

The Assistant Attorney-General therefore concludes on this branch of his decision:

The scheme of adjustment referred to in said letter of July 20 last does not, in my opinion, conform to the provisions of said act of Congress, in that it does not include in its benefits all those purchasers who clearly come within the purview of the act in question.

The decision further holds the order not in accordance with the provisions of the act, in that it requires payment to be made within ninety days, whereas the act allows one year for payment after rebate allowed.

All these questions submitted by the Secretary are answered in the negative.

ARGUMENT.

The act of 1881 did not contemplate, nor in its letter or spirit did it authorize, a public sale with competitive bidding. On the contrary, it provided in expressed terms that intending settlers might purchase tracts not exceeding 160 acres of Otoe Reservation land in each case; then applications to be individually acted upon in the land office at Beatrice, according to the terms prescribed in the act and the regulations thereunder as to the due observance of the priorities and rights of such applicants, respectively. The appraised prices were to be in the first instance the agreed and governing prices. The applicants in each case to have, as they did have, notice of such prices after appraisement, the discretion, however, resting with the Secretary to order a new appraisement in the manner and form prescribed by the act, if, in in his judgment, the first appraisement should appear to him to be too low, with public notice before sale to the intending settlers of the changes in prices that might be made. The appraisements first made were satisfactory to all parties concerned, and notice was given by the

Commissioner of the General Land Office that the lands would be sold on a specified date under the provisions of the act and the regulations thereunder in the land office.

Why the provision for notifying intending settlers of the appraised price if it was not intended that the sales should be made at that price? It is a fact that many settlers sold out in the East and came on with their families to secure homes on this reservation, and did it on the strength of the express understanding that the lands would be sold at the appraised price. An essential part of the consideration to be received from the purchasers was the agreement on their part, in the form of a sworn pledge from each, that his application and purchase meant his actual occupation, settlement, and satisfactory improvement of the land so intended to be purchased. The whole theory of the act, therefore, from the beginning to the end of the transaction, was that the intending settler, in his application, the filing of his affidavit of intention of settlement, in the final determination of the price to be paid, the actual purchasers were to deal, each separately, with the regisister and receiver of the land office. Official letters from the Commissioner, dated only a few weeks before the date of the sale, explicitly stated that the sales were to be so made, that they were to be, as already indicated, *private sales.*

Hence it has always been insisted by the original settlers that the *public sale* under the rule of competitive bidding, of which notice was given only a very short time before the date of the sale in a public street, was an illegal execution of the law. Moreover, the sale was in fact a farce. It was practically taken possession of by a turbulent and unreasoning mob.

The proceedings were so scandalous that the Commissioner of the General Land Office, who was present, ordered it stopped several times. Extravagant bidding, mainly by irresponsible persons, was indulged in apparently for the purpose of deterring bona fide intending settlers from bidding, and breaking up the sale. Nevertheless the Commissioner publicly advised the settlers to bid on their selections, with the assurance that some measure of relief would afterwards be adopted if they were compelled to bid beyond the reasonable value of their tracts on account of these disorderly proceedings.

Accepting such assurances they bid, under protest, in many cases double or treble the actual value of their tracts, and always since they have been contending for such assured relief.

It was this which led to the passage of the act of 1893. It can not therefore be charged against them that they have unduly contended. Congress, by this 1893 statute, has thus sanctioned their contention. Nor should they be complained of because afterwards, as the best evidence they could furnish of the honesty of their declared intentions before their purchase to actually settle on and improve their tracts, when full of hope for the future, they indulged somewhat in a spirit of rivalry among themselves in making good homes and good general farm improvements, thus increasing at the same time the security for their deferred payments. When later on they were impoverished by several successive years of crop failures on account of drought, as has been the case again during the years of 1891, 1892, 1893, 1894, and 1895, may it not have been that these comfortable homes were an anchorage which prevented the abandonment of their land, with the probable loss thereby to the Indians of a good part of the deferred payments? It is well known that at such times their improvements were about all the value there was in their farms, and that without them they could have been sold for very little. It was therefore for these and many other reasons

very fortunate for the Indians themselves that the improvements were of a high character. It was also an advantage to the general public in many other ways, so obvious to all that they need not be stated.

It can be set down as a rule everywhere that the community that builds good homes, good churches, good schoolhouses, roads, bridges, etc., by their example benefit all neighboring communities.

The Government ought to deal justly, if not generously, with such communities. It certainly ought not to deceive or break its promises to them, particularly in the day of their calamity.

It should not be forgotten that the prices of these lands were practically fixed by the Indians themselves, first, through a representative of their tribe, Mr. F. M. Barnes, appointed by themselves, on the board of appraisers, and afterwards by their unanimous vote of confirmation in open council. (See treaty of May 4, 1881.)

It is also in proof in the Department that the appraised prices were higher than such lands had generally sold for in that section; indeed, that the Indians were delighted with the appraisement; that they held a great feast in celebration thereof, after the custom of their race. Nor has there been any hardship or loss to the Indians from the delay of final settlement. Interest has been constantly running until therefrom a vast sum has accrued, charged upon an account of principal two or three times larger than the Indians agreed to take for their lands, while meantime they have acquired another reservation even more valuable, far more beneficial to them, and better adapted to their uses. Moreover, it has greatly increased in value since they secured it. The Otoes are few in number, only 67 heads of families remaining, as we are informed, and are relatively made richer than these settlers.

It would outrage every known principle of equity to ignore the wrong and injustice of the public sale and the proceedings thereunder; to overlook the fact that by their own agreement, intelligently made, and the consensus of all having an intimate knowledge of land values in that country at the time of the appraisement and when the sale was made, that the Indians would have received the full fair price value for the lands if they had been sold at their own appraisement. The settlers directly interested speak the sentiment of about all the people of that section, as well as their own, when they insist that to exact the full pound of flesh, according to the hard illegal standard of the public sale, from these people, to whom it would be financial death, for the benefit of creditors who were forced, so to speak, to take two or three times more for their property than it was worth, or than they demanded or even expected to receive, would be an incomparable hardship and injustice.

There are other considerations, however, which the Government, for itself and its wards, may wisely take account of. Nothing short of an amicable adjustment can rid its executive, legislative, and judicial branches of this controversy. Is it not in the interest of economy to try to save cost in money and labor incident to a struggle that may extend through many years, involving by turn each and all of these departments, perhaps over and over again? It seems that in justice a vigorous effort should be made to bring this matter to a speedy termination. Will the Otoes, whose numbers are being continually reduced from year to year, be benefited by prolonging this contention, perhaps beyond another decade, through the continued demand for more than they are reasonably entitled to by any principle of equity ascertainable from the state of the law and the facts? Will it wisely subserve any public interest of a great community, which has already intensely suffered, by the continuance of such a contention?

It is thought by some that those who may have paid in full for their lands ought not to be considered in any rebate that may be made. It is a fact, however, that most of this class borrowed money at usurious rates of interest to make their payments, and have either already been, or are sure to be, sooner or later, ruined by the indebtedness contracted. Others had fallen by the wayside, borne down by the weight of their losses from repeated crop failures in years of excessive drought, and in other years of unremunerative prices for their products, and were forced to sell for a less sum than their improvements cost, reserving, by consent of their grantees, their rebate equity as a partial recoupment.

It is evident, from the negotiations already attempted under the act of March 3, 1893, that no satisfactory agreement can be arrived at with the Indians. They will not consent to any rebate to those purchasers who have already paid out, and will make only a very slight concession to those who are in default. It has been held, by the decision of the Assistant Attorney-General for the Department of the Interior, that no settlement can be made under the act of March 3, 1893, which does not include both those who have paid and those who are in default, equally. (Opinion of December 20, 1896, cited.)

A settlement on the basis of the appraised price is the only equitable settlement that can be made for the reason that one of the frauds practiced at the sale and most complained of was that certain of the purchasers stood in with the mob, and, by agreement, got their lands at a small fraction above the appraised price, while the innocent purchaser paid, in many instances, several times the appraised price. Any proposition to discount the purchase price an equal lump sum in each case, as, for instance, throwing off ten years' interest, would reduce the price to the purchaser, who was a party to the fraud, below the appraised price, while the innocent purchaser would be but little benefited. It is a fact, shown by the records of the land office, that some of the purchasers who took advantage of rebate of ten years' interest when offered got their land at considerable below the appraised price or the basis of settlement proposed in the bill now before Congress.

It should be remembered that this adjustment is not a matter between the settlers and the Indians, but between the settlers and the Government. These lands were purchased from the Government, and the Government has unquestioned power, through Congress, to extend this relief.

EXHIBIT A.

[Filed in Department January 3, 1896.]

Copy of proceedings in United States district court for the district of Nebraska against F. M. Barnes.

Be it remembered that at the November term of the district court of the United States for the district of Nebraska the following proceedings were had in the case of the United States against F. M. Barnes, as appears by the records and files of said district court.

At said November term of said district court, to wit, on the 3d day of December, 1884, the following proceedings were had in said case, as appears of record on folio 778 of Journal E of said court, to wit:

United States *v.* F. M. Barnes.

PRESENTMENT OF INDICTMENT.

On this day the grand jury came into court, and, by their foreman, A. Saunders, presented to the court a true bill of indictment against said defendant for agreeing, with others, not to bid at a public sale of United States lands.

Whereupon, on motion of F. M. Lambertson, esq., United States attorney, it is ordered by the court that said bill of indictment be received, and that the clerk indorse thereon, "Presented in open court by the grand jury, and filed December 3, 1884."

United States *v.* F. M. Barnes.

ORDER FOR CAPIAS.

On motion of G. M. Lambertson, esq., United States attorney, it is ordered by the court that a writ of capias issue out of this court for the arrest of said defendant F. M. Barnes, returnable forthwith, and that bail be fixed at $500.

Said indictment is in words and figures following, to wit:

The United States of America, district of Nebraska, within the eighth judicial circuit of the United States.

In the district court of the United States of America for the district of Nebraska, said district being a part of and within the eighth judicial circuit of the United States of America, at a regular term of said district court begun and held at the city of Omaha, in Douglas County and State of Nebraska, in the district of Nebraska and judicial circuit aforesaid, on the 10th day of November, in the year of our Lord one thousand eight hundred and eighty-four.

The grand jurors of the United States of America, good and lawful men summoned from the body of the said district of Nebraska, within said eighth judicial circuit of the United States, then and there being, and then and there being duly empanelled, sworn, and charged by the court aforesaid to diligently enquire and true presentment make for said district of Nebraska, in the name and by the authority of the United States of America, upon their oaths do present:

That one F. M. Barnes, whose first name is unknown, late of the said district of Nebraska, within said judicial circuit, heretofore, to wit, on the fifteenth day of December, in the year of our Lord one thousand eight hundred and eighty-three, with force and arms, at the district of Nebraska aforesaid, and within said judicial circuit, then and there being at a public sale of the lands of the United States on the Otoe and Missouria Reservation, in the States of Nebraska and Kansas, held at the town of Beatrice, in said State of Nebraska, under notice before that date published under direction of the Commissioner of the General Land Office of the United States, and made pursuant to the act of Congress of March 3, 1881, entitled "An act to provide for the sale of the reservation of the confederated Otoe and Missouria tribes of Indians in the States of Kansas and Nebraska, and for other purposes," and then and there willfully, knowingly, and unlawfully bargain, contract, and agree, and attempt to bargain, contract, and agree with one C. M. Murdock, whose first name is unknown, that the said C. M. Murdock, whose first name is unknown, should not bid upon and purchase the north half of the southwest quarter, and the southeast quarter of the southwest quarter, and the southwest quarter of the southwest quarter in section eighteen, township one, range eight, in the State of Nebraska, according to the plats of the Government survey of the United States, and the said F. M. Barnes, whose first name is unknown, as a part of and in pursuance and fulfillment of said bargain, contract, and agreement, had as aforesaid, did pay to the said C. M. Murdock, whose first name is unknown, the sum of one hundred dollars in money of the current moneys and currency of the United States, and did promise, stipulate, and agree to convey at some future time and exact date being unknown to the grand jurors aforesaid, three town lots in the town of Barnston, in the State of Nebraska.

All done then and there and thereby with the intent to defraud the United States of America, contrary to the force and effect of the statutes in such case made and provided, and against the peace and dignity of the United States of America.

GENIO M. LAMBERTSON,
U. S. Attorney, Nebraska.

Upon the back of said indictment appear indorsements in words and figures following, to wit:

"No. 383. G. The United States *v.* F. M. Barnes, first name unknown. Indictment for bargaining and agreeing with one another not to bid at a sale of U. S. lands. A true bill. Alvin Sanders, foreman. Witnesses: C. M. Murdock, G. M. Lambertson, U. S. attorney, district of Nebraska.

"3 Dec., 1884. Capias ordered. Bail in $500. Elmer Dundy, judge. Presented in open court by the grand jury and filed Dec. 3, 1884. Elmer S. Dundy, jr., clerk."

Thereupon afterwards on the 11th day of November, 1885, the following proceedings were had in said case, as appears of record in folio 217 of Journal "F" of said court, to wit:

United States *v.* F. M. Barnes.

TRIAL.

Now come the parties hereto by their attorneys, also come the following-named persons as jurors, to wit: Sam'l Culbertson, A. F. Holcomb, Chas. J. Martin, Wm. Hennessy, W. G. Swan, Frank Jones, Geo. S. Acres, Luther Poland, Edwin Davis, W. D. Thomas, Thos. McLean, Henry Sapp, who were duly impaneled and sworn according to law, and thereupon, after hearing a statement of the United States attorney, and of the defendant himself, and the charge of the court, without leaving their seats, present to the court their verdict in words and figures following, to wit:

UNITED STATES OF AMERICA, *District of Nebraska:*

United States *v.* F. M. Barnes.

VERDICT.

We, the jury, being duly impaneled and sworn to well and truly try the issues in the above-entitled cause, do find the defendant guilty as charged in indictment No. 383 G.

EDWIN DAVIS, *Foreman.*

United States *v.* F. M. Barnes.

SENTENCE.

Said defendant, F. M. Barnes, having been heretofore on this day found guilty on the indictment herein, charging him with agreeing with others not to bid at a public sale of United States lands, remained in court to hear the sentence of the court pronounced against him, and, showing no good and sufficient reason why judgment should not be pronounced,

It is therefore considered, ordered, and adjudged by the court that said defendant, F. M. Barnes, pay unto the registry of this court a fine of $300, and the costs of this prosecution to be taxed at $65.10.

UNITED STATES OF AMERICA, *District of Nebraska, ss:*

I, E. S. Dundy, jr., clerk of the district court of the United States for the district of Nebraska, certify that the above and foregoing is a correct copy of the indictment, trial, verdict, and sentence as the same now appears of record and on file in my office.

Witness my hand and seal of said court, at Omaha, this 4th day of January, 1896.

[SEAL.] E. S. DUNDY, JR., *Clerk.*

EXHIBIT B.

[S. 782. Fifty-second Congress, first session.]

AN ACT to provide for the adjustment of certain sales of lands in the late reservation of the Confederated Otoe and Missouria tribes of Indians in the States of Nebraska and Kansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to revise and adjust on principles of equity the sales of lands in the late reservation of the Confederated Otoe and Missouria tribes of Indians in the States of Nebraska and Kansas, provided by the act of Congress approved March third, eighteen hundred and eighty-one, to be appraised and sold in the manner specified in said act, and which were sold at public sales at the land office at Beatrice, Nebraska, in May and December, eighteen hundred and eighty-three, and in his discretion, the consent of the Indians having first been obtained, in such manner and under such regulations as the Secretary of the Interior shall prescribe and approve, to allow to the purchasers of said lands at said public sales, their heirs and legal representatives, rebates of the amounts, respectively, paid, or agreed to be paid, by said purchasers: *Provided,* That such rebates shall in no case exceed the price for which said tracts of land were severally sold in excess of the appraised value thereof, as shown by the appraisement made by the commissioners appointed and designated under said act.

SEC. 2. As soon as practicable after such adjustments, such rebates, if any shall be allowed, shall be severally indorsed on the certificates and receipts of purchase, and on the records of the General Land Office, and the Secretary of the Interior

shall cause notice to be given to said purchasers, severally, of the amounts of the deferred payments found to be due and unpaid on their respective purchases under such adjustments. And in default of the payment in cash of the amounts thus found to be severally due within one year from the date of the issuance of such notice, with interest thereon from the date of such adjustments, the entries of any of said purchasers so in default shall be canceled and the lands shall be resold at not less than the appraised price, and in no case less than two dollars and fifty cents per acre, as provided in said act; and where lands have been fully paid for and rebate of the purchase money has been allowed by the Secretary of the Interior, he shall pay said money, within three months, to said purchaser, his heirs, or legal representatives, out of any money in the Treasury derived from the fund received from the sale of said lands; the same to be paid on the requisition of the Secretary of the Interior.

EXHIBIT C.

[House Report No. 1793, Fifty-second Congress, first session.]

The Committee on Indian Affairs, to whom was referred the bill (S. 782) to provide for the adjustment of certain sales of lands in the late reservation of the confederated Otoe and Missouria tribes of Indians in the States of Nebraska and Kansas, having had the same under consideration, report the bill back to the House with an amendment and recommend its passage.

Your committee adopt and submit as a part of their report the annexed report of the Senate Committee on Public Lands, No. 445.

[Senate Report No. 445, Fifty-second Congress, first session.]

The Senate Committee on Public Lands, to whom was referred the bill (S. 782) to provide for the adjustment of certain sales of lands in the late reservation of the confederated Otoe and Missouria tribes of Indians in the States of Nebraska and Kansas, having had the same under consideration, beg leave to report the bill back to the Senate with an amendment in the nature of a substitute, with a recommendation for the passage of the substitute.

The Committee on Public Lands claim no more than concurrent jurisdiction with the Committee on Indian Affairs in the subject-matter of this bill, and accordingly request that the same may go by due reference to that committee for their judgment and report respecting such of its provisions as directly affect the interests of the Indians therein named.

Your committee submit the following statement of facts and conclusions in support of their recommendation for this legislation:

The original Otoe and Missouria Reservation contained about 160,000 acres, mainly in the State of Nebraska. Under the act of August 15, 1876, authority was given for the sale 120,000 acres of the reservation, and the same was sold. The essential provisions of that act are substantially as follows: With the consent of the Indians the lands were to be surveyed, and afterwards appraised by three commissioners, one of whom was required to be designated by the Indians in open council. After survey and appraisement the lands were authorized to be sold for cash to actual settlers in tracts not exceeding 160 acres to each, at not less than the appraised value, and in no case less than $2.50 per acre; provided, however, that in the discretion of the Secretary of the Interior, the Indians consenting, they might be sold upon deferred payments, to wit: One-third cash, one-third in one year, and one-third in two years from the date of sale, proceeds to be placed to the credit of said Indians in the United States Treasury, with interest at the rate of 5 per cent per annum, to be expended for the benefit of said tribes, under direction of the Secretary of the Interior, the sales to be made at the United States Land Office at Beatrice, Nebr., certified plats being there filed, and the sales to be conducted in all essential respects as public land sales, subject only to the special limitations of the act as above described. These lands were so sold at the appraised value in each and every case.

In all cases of contest, and there were many, all questions as to actual settlement, etc., were determined by the general principles and the rules and regulations of the General Land Office governing cases arising under the preemption law. The settler purchasers therefore had to deal directly and only with the United States Land Office, which had exclusive jurisdiction, under the Secretary of the Interior, with the whole subject of the sale, settlement, payment, and procurement of patents for the same as if these lands had been public lands.

The act of 1881, under which the remainder of the reservation (about 40,000 acres) was sold, was in all its essential provisions a duplication of the act of 1876, under which the lands before described were sold. The Indians in the latter as in the former case designated an Indian, a member of the consolidated tribes, as one of the three commissioners to appraise the lands.

It is claimed that in both cases the appraisement was higher than these or similar adjacent lands could have been sold for for cash at the time. Indeed, that it was conceded by the Indians themselves that the appraisement was most satisfactory; that they were delighted with it, and that the universal judgment of local owners of and dealers in lands in that neighborhood was that the appraisement was too high.

One of those real estate speculative waves that sometimes sweep over the country reached Nebraska and Kansas about the time these lands were appraised, and when the sale finally occurred it was at flood tide. It did not last long, but it did not commence to recede until after the poor men who had been long waiting to secure homes on these lands, and who had made their selections and all their arrangements to locate thereupon, were caught and overwhelmed by it. At such a time, without due consideration, as many think, the rule governing sales which had obtained under the first act, and which had resulted so satisfactorily to the Indians and all others concerned, was set aside, and they were ordered to be sold under the latter act at public sale to the highest bidder in each and every case. This certainly was not in consonance with the spirit of the law, to say the least of it. It was wholly unexpected by those who had made selections and were waiting to make their settlements and establish their homes upon these lands through individual dealing with the land office direct, as had been done under the first act, and was plainly contemplated by the latter.

Indeed, the Commissioner of the General Land Office had given repeated assurances that the lands would be disposed of at private sale.

About the 1st of January, 1882, nearly ten months after the passage of the act, in answer to a letter from Hon. W. Ford, of the House of Representatives, the then Commissioner, referring to the proposed sale of these lands, said:

"They will be sold to actual settlers, etc. The price per acre is fixed by appraisement, but in no case can they be sold at less than $2.50 per acre. They will not be offered at public sale, but will be subject to entry through the United States public land office at Beatrice, Nebr."

Commenting on this statement, which was generally published in the newspapers throughout that part of Nebraska and Kansas in which these lands are located, the present Commissioner, in his recent report upon this bill, says:

"The (then) Commissioner's statement, as above, tended to convey the impression that there would be no public sale, but that the price to be paid was that fixed by the appraisement. Moreover, the statute made the right of purchase depend upon settlement on the lands, thereby introducing the preemption principle in favor of settlers, which is understood to exclude the offering of tracts to the highest bidder. It would seem, therefore, that up to a short time before the date of sale the parties intending to become settlers upon the land had reason to suppose that if they could become settlers they would be exempt from the necessity of entering into competition with others for the purchase of the lands, and it would be reasonable to suppose that they made arrangements accordingly, supposing that the appraised value would be all they would have to pay."

But in total disregard, at least of the spirit, of the law, and the official assurances of the then Commissioner, after the survey and appraisement of the lands had been completed, these intending settlers were surprised by the issuance of an order from the General Land Office for a public sale. The following comment upon this action, and the serious consequences resulting therefrom, from the report of the present Commissioner, before referred to, will be self-explanatory:

"In 1883 a public notice was issued under the direction of the Secretary of the Interior for the offering of said lands for sale at public auction, to begin on Thursday, the 31st day of May, 1883, at 10 o'clock a. m., at the district land office at Beatrice, Nebr. Although the act of March 3, 1881, did not prescribe that there should be competition at public auction for the acquisition of title to these lands, it was held to be within the discretion of the Secretary of the Interior, and he so directed. The offering was made accordingly, and the tracts were awarded to the highest bidders therefor, at prices greatly in excess of the appraised value, being in many instances more than double the amount thereof."

He further states:

"It appears, however, that the intending settlers, being put to the necessity of either entering into competition with opposing bidders or relinquishing the prospect of obtaining homes on the land which the law held out to them, voluntarily chose the former."

A large number of sworn statements have been presented to the committee from reputable citizens who were present at the sale, and whose reliability is satisfactorily vouched for, describing the bad character and disreputable methods of many

of the bidders, etc. Many of those making these affidavits did not purchase lands at the sale, and have no interest in them now. They appear, therefore, to be disinterested witnesses. Very brief extracts of a number of these statements are given herewith.

J. E. Porterfield testifies that he did not buy, as land was bid up to four times its appraised value. Wanted a home.

R. H. Kirley testifies that land was bid up to three times its appraised value. Did not purchase. Commissioner McFarland stopped sale to expostulate, but to no purpose.

W. R. Sharp testifies that he lived one-half mile east of reservation at time of sale. Attended sale. Did not buy. Prices were run up higher than improved farms in vicinity were selling for.

W. J. Stonebraker testifies that he lived near reservation at time of sale. Could not buy, as prices ran up too high. Many bid in order to get land for pasturage purposes for three months.

Jonas C. Miller testifies that he attended sale, but was disgusted at way same was conducted. Honest settlers had no chance. Did not buy.

Jacob Goohring testifies that he traveled a long distance to attend sale. Was disappointed to find it a public sale. Hesitated a long time. Finally purchased at a high rate and settled on land. If compelled to pay price bid, will be at mercy of money lenders.

George I. Harris testifies that he attended sale. Lands bid up to a price higher than improved farms near were selling for. Many bidders under impression that by payment of application fee, $2, they could hold land for three months for speculation or pasturage.

Nicholas Sharp, a resident of Gage County, Nebr., for twenty years, testifies that he attended land sale to buy land for home. Expected to buy at appraised value, but was disappointed, as it was bid up higher than improved farms adjoining reservation were selling for.

M. Joseph testifies that he had rented and improved land on reservation, making it his home. Attended sale. Two thousand men present. Commissioner McFarland said Government only wanted appraised value. Excitement intense. Land bid in by speculators and persons ignorant as to character of same. These persons allowed land to revert to Government, and same was resold three or four times at subsequent sales. Only choice was to bid against mob and secure land or move family East again at a great loss.

John Roberts testifies that he attended sale. The bidding was wild and beyond the value of the land for farming purposes. If forced to pay now the price land was bid off at, would be obliged to abandon his home.

Peter Gollogay testifies that he waited near reservation for two years before sale; bid $10.50 over appraised value; allowed land to go back to Government; at second sale bid $4 over appraised value for same piece of land.

C. I. N. Newman testifies that he attended sale; found land was to be sold to highest bidder; had to bid $14 per acre for land appraised at $6; was assured that the Government would return all above appraised value.

James Ryan testifies that he attended sale; was compelled to pay more than land was actually worth or do without; heard Commissioner McFarland say that land was selling for more than it was worth.

M. Weaverling testifies that he attended sale; surprised to find it a public sale. Many persons bid more than land was worth for speculation. Opinion generally prevailed that bidding was only an application and not that it fixed the price of land; was compelled to pay $17.50 per acre for land appraised at $6.

Julius Vogel testifies that he attended sale; that many bidders were boys, and men under the influence of liquor; that there were other irresponsible bidders, and that land was being sold too high.

Wallace J. McKay testifies that he moved his family for the purpose of securing land for a home. Actual settlers had no chance. Did not buy.

C. B. E. Struener testifies that land sold beyond its value. Many bidders boys, men under influence of liquor, and other irresponsible bidders.

Wm. Stonehocker testifies that he attended sale. Was convinced that prices were forced higher than land was actually worth, and did not buy. Does not own land on reservation now.

Abraham L. Miller testifies that he attended sale. Was compelled to bid against men who wanted land for pasturage privilege for ninety days, which their applicant fee entitled them to.

Isaac Kiler testifies that he attended sale to buy land for home. Bid, but land was run up to three times appraised value by speculators.

Jesse Nelson testifies that he attended sale. Saw an excited crowd. Saw one man bid off a number of pieces of land, and some who were under the influence of liquor.

Mr. R. M. Wood testifies that he attended sale. Found a mob of 4,000 people

bidding in great state of excitement, and running prices up to four times appraised value of land. Did not buy.

Mr. John V. Ekaall testifies that he came from Illinois to attend sale and buy land for home. Was led to believe land would be sold at appraised price. Understood syndicate had been formed to keep actual settlers out by bidding land up to an exorbitant price.

Mr. L. W. Niece testifies that he came from Iowa to purchase land for home. Did not buy, as land in neighborhood as good could be bought for less. Does not own land on reservation now.

Mr. David Jones testifies that he lived on rented farm adjoining reservation. Was compelled to bid $6 above appraised value. Two pieces of land adjoining the one bid on by myself were bid in by speculators who had never seen them, and who, not being able to sell at a premium, allowed them to lapse.

Mr. John H. James testifies that he bid the appraised value on several pieces of land, but was outbid each time by speculators.

Mr. J. F. Lutz testifies that he attended the sale for the purpose of buying land for a home. Did not buy, as it sold for more than it was worth. Was to considerable expense.

Your committee submit that the facts disclosed by the record and the testimony are substantially these: The Indians agreed in open council to the sale of their lands, under the direction of the Secretary of the Interior, at the United States land office at Beatrice, Nebr., at a valuation to be determined by appraisement, to actual settlers, on the preemption plan, in tracts not exceeding 160 acres for each settler, on deferred payments. One of the three commissioners making such appraisement was a member of their tribe, appointed by themselves in open council. The appraisement was accepted by the Government, and by the Indians themselves, as exceedingly favorable to them. The intending settlers were notified that they would be sold, as the law contemplated, at private sale at the appraised valuation, but at the last moment they were put up at public auction and sold to the highest bidder, in the face of a mob composed largely of intoxicated and irresponsible persons. The intending settlers, who sought to secure the tracts of their selection on the agreed terms of sale, were thus brought under competition and menace from this multitude of adventurers gathered at the sale to make trouble by their bids and not settlement through bona fide purchase.

The Commissioner of the General Land Office was present and labored hard to protect those seeking in good faith to secure the homes of their selection, but he was powerless. Believing that relief would afterwards come in some form, and unwilling to surrender that for which they had so long waited and hoped for, and which they felt justly belonged to them, they bid, in many cases, two or three times the real value of their desired tracts, and thus secured them. And now, after nearly ten years, these men who have struggled against droughts, short crops, and low prices of farm products, loaded down with debt, their payments in default, with large accumulations of interest, come to Congress for relief. They ask no money of the Government; for they know, as the Commissioner of the General Land Office says in his report, "the United States has no interest in the matter beyond protecting the Indians from loss." They simply say that they are debtors who can not pay; they must have a compromise settlement with their creditors. They ask only to be permitted to adjust the balance due on their purchases, for which they are hopelessly in default, on the basis of the appraised valuation for which their creditors agreed to sell when they bought, with full interest thereon to the date of settlement.

But even this they do not ask unless their creditors, considering their own advantage as well, shall themselves consent that their agent may make such adjustment; and upon the further condition that if full payment shall not be made within three months from the date of such consent by the Indians the entries in default shall be peremptorily canceled.

The writer of this report personally knows that most of the time since these purchases were made at these excessive prices, these lands could not have been sold for cash, if in their originally unimproved state, at their appraised valuation. The property, as is alleged, is not now good security for the creditors' lien on the basis of the sales as made. The proposed compromise will bring an immediate settlement, and this, under the circumstances, is most important for all parties in interest. In the event of a failure it may be well to consider how a great compact farming community can be dispossessed of 40,000 or more acres of land which have been converted from a wilderness by the labor of its members, in the midst of the hardships and vicissitudes incident to frontier life, into improved farms and homes, with churches and schoolhouses, roads and bridges, and the many other adornments and conveniences of civilized life, which they have produced in order to secure payment through enforced collections of the full measure of a debt incurred under such circumstances.

It would seem that public policy, and the interests of the Indians as well, demand that the unusually strong equities running in favor of these settlers should have careful consideration by Congress.

The following statement, made up from the records of the General Land Office, presents the full history of the accounting in connection with the sales of these reservation lands under both acts:

One hundred and twenty thousand acres sold to actual settlers at the appraised valuation under the act of 1876, and paid for in full by the purchasers, $462,262.73, the same being at an average per acre of about $3.75.

Forty thousand acres sold under the act of 1881, about five years later, at public sale, in detail:

144 entries paid in full at prices for which sold at public sale	$223,020.73
188 entries, partial payments, under same rule	108,095.76
Balance due on 188 entries as above	278,596.27
Total	609,712.76

Average price per acre, about $15.24.

If a readjustment shall be made upon the plan proposed by this bill, the account will stand as follows:

144 entries, fully paid at public land sale prices	$223,020.73
188 entries, partial payments on same at public sale prices	108,095.76
188 entries, balance due and unpaid on same at appraised valuation	82,249.34
	413,365.83

Average price per acre, about $10.40.

The writer of this report, who has resided nearly twenty years in the county in Nebraska in which the larger part of this reservation is located, and has been and is now entirely familiar with land values in that section, stated to the committee that the amount ($462,262.79) realized from the sale of the 120,000 acres under the first act was fair value at that time; that the amount realized, or to be realized when the deferred payments shall all have been made, for the sale of the 40,000 acres under the last act, amounting in all to date to $413,365.83, the same being at the average rate of about $10.40 per acre, is all that it would sell for if the reservation had never been opened and no part of it sold down to the present time; and whatever has been, or may hereafter be, paid above the appraised valuation will be excessive and unjust.

In view of all the facts presented, supported by the favorable reports of the Secretary of the Interior and the Commissioner of the General Land Office, your committee recommend the passage of this merely tentative measure of relief.

Herewith are submitted the Department letters, and statements of account before referred to.

DEPARTMENT OF THE INTERIOR,
Washington, March 5, 1892.

SIR: I am in receipt of personal reference by Hon. A. S. Paddock, a member of the Committee on Public Lands, of a proposed amendment to Senate bill 782, entitled "A bill to provide for the adjustment of certain sales of lands in the late reservation of the confederated Otoe and Missouria tribes of Indians in the State of Nebraska and Kansas," with a request for an expression of my views thereon. With the amendment he submits a large number of affidavits showing the circumstances under which the land was sold. Therefrom it is made to appear that said lands were sold at a much higher rate than the appraised value and at a rate in excess of the actual value of the land; that much of it was bid off for speculative purposes by parties who afterwards refused to pay for the same; that a portion of it was bid off at an excessive price for the only purpose of retaining possession of the same for grazing stock for three months, or until the time when the first payment became due, when the land was abandoned.

In view of this condition of affairs it is alleged that parties who desired the land for actual settlement were forced to pay an excessive price therefor, and it is alleged that a portion of said purchasers are unable to complete the payment of the price bid for the land.

The amendment offered by Mr. Paddock is in substance the change recommended by the Commissioner of the General Land Office in his report on said bill, transmitted you on February 8th ultimo. When I submitted you my views upon the merits of the bill, I did not have these affidavits before me. While I can see no good reason for making a distinction between those who have paid and those who have not, yet I have concluded that in view of the showing made in the affidavits, and on account of the changes proposed in the bill, and the relief that will be extended to those who are alleged to be in need thereof, if the Indians are willing to make the reduction to those who have not paid for their land I ought not to object, and hereby

modify my views relative to the bill expressed in my said letter and offer no objection to the passage of the substitute proposed.

The affidavits filed are herewith inclosed.

Very respectfully,

JOHN W. NOBLE, *Secretary.*

Hon. J. N. DOLPH,
Chairman Committee on Public Lands.

DEPARTMENT OF THE INTERIOR,
Washington, March 15, 1892.

SIR: I am in receipt, by reference from you, of an "amendment intended to be proposed by Mr. Paddock to the bill (S. 728) to provide for the adjustment of certain sales of lands in the late reservation of the confederated Otoe and Missouria tribes of Indians in the States of Nebraska and Kansas," with a request for an expression of the views of this Department thereon.

I herewith transmit the report of the Commissioner of the General Land Office on said amendment, and for an expression of my views I would refer you to my letter on the same subject, dated March 5, 1892, addressed to yourself.

Very respectfully,

GEO. CHANDLER, *Acting Secretary.*

Hon. J. N. DOLPH,
Chairman Committee on Public Lands, United States Senate.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 24, 1892.

SIR: In response to your verbal request of March 23, 1892, you are advised that the aggregate appraised value of the lands in the Otoe and Missouria Reservation, covered by entries made under the act of March 3, 1881 (21 Stats., 380), on which full payment has been made, is $102,328.70.

The aggregate appraised value of lands sold under said act for which full payment has not yet been made is $154,367.56, and the aggregate amount bid for said lands is $307,426.78.

The payments made for lands for which full payment has not yet been made aggregate $108,095.76, of which $102,817.16 represents principal and $5,278.60 interest.

Very respectfully,

THOS. H. CARTER, *Commissioner.*

Hon. A. S. PADDOCK, *United States Senate.*

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 4, 1892.

SIR: I have had the honor to receive, by reference of the 29th of February, 1892, from the Hon. George Chandler, First Assistant Secretary, an amendment to Senate bill No. 732, to provide for the adjustment of certain sales of lands in the late reservation of the confederated Otoe and Missouria tribes of Indians in the States of Nebraska and Kansas, submitted to the Department by Hon. J. N. Dolph, chairman Senate Committee on Public Lands, and referred to me as above for report in duplicate and return of papers.

Senate bill No. 782, to which this amendment is proposed, was referred to me from the Department January 11, 1892, for report, and I made a report thereon accordingly, under date of February 1, 1892.

It appears that one hundred and forty-four in number of the sales referred to were perfected by full payment of the amounts bid for the lands, and one hundred and eighty-eight still remain unperfected, a portion of the money being unpaid. The bill proposed a method of adjustment of the sales on which a portion of the money is unpaid. My report, before mentioned, after making a statement with reference to the case, concluded as follows, viz:

I think, however, in view of all the circumstances, that some equitable adjustment should be made, and I would therefore suggest that with the consent of the Indians the existing claims should be disposed of on the following principles, viz:

(1) In all cases in which the full amount of the appraised value of the land and the interest due, or more than that amount, has been paid, the patent should be issued without additional payment being required.

(2) In all cases in which the full amount of the appraised value with interest has

not been paid the period of two years from the passage of the act providing therefor should be given the parties for the payment of the deficit therein, and in default of such payment the entries be canceled and the lands resold, in accordance with the provisions of said act of March 3, 1881.

(3) That nothing in the adjustment proposed shall be regarded as foundation for a claim for the refunding of any money voluntarily paid for any of said lands, and so inuring to the benefit of the Indians; and

(4) That the proposed action shall not be taken before the consent of the Indians shall be given and proved to the satisfaction of the Secretary of the Interior.

I am of the opinion that the said bill, if modified as above suggested, should be passed.

I have examined the amendment referred to me as aforesaid and find it to accord with the suggestions made by me as above quoted. I see no reason to change the views expressed on the subject in my report on bill No. 782. I am of the opinion that the said amendment should be adopted and the bill passed.

The said amendment is herewith returned.

Very respectfully,

THOS. H. CARTER, *Commissioner.*

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 1, 1892.

SIR: I have had the honor to receive, by reference from the Hon. George Chandler, First Assistant Secretary, of the 11th ultimo, the Senate bill No. 782, entitled "A bill to provide for the adjustment of certain sales of lands in the late reservation of the confederated Otoe and Missouria tribes of Indians in the States of Nebraska and Kansas," submitted by Hon. J. N. Dolph, chairman of the Senate Committee on Public Lands, and referred to me as above for report in duplicate and return of papers.

This bill provides as follows, viz:

That the Secretary of the Interior be, and he is hereby, authorized and directed to revise and adjust the sales of lands in the late reservation of the confederated Otoe and Missouria tribes of Indians in the States of Nebraska and Kansas, provided by the act of Congress approved March third, eighteen hundred and eighty-one, to be appraised and sold in the manner specified in said act, and which were sold at public sales at the land office at Beatrice, Nebraska, in May and December, eighteen hundred and eighty-three, and to allow to the purchasers of said lands at said public sales, their heirs and legal representatives, a rebate of the amounts, respectively, at which said lands were so sold in excess of the appraised value thereof, as shown by the appraisement made by the commissioners appointed and designated under said act; and such rebates shall be indorsed on the certificates and receipts of purchase, and on the records of the General Land Office, and all sums of principal and interest arising under said purchases made at said public sales shall be computed upon the legal price of said lands as shown by the appraisement thereof as aforesaid; and the Secretary of the Interior shall cause notice to be given to said purchasers, severally, of the amounts of the deferred payments found to be due and unpaid on their respective purchases after the adjustments provided for in this act shall have been made, and in default of the payment thereof within two years from the date of the passage of this act, with interest thereon from the date of sale as provided in said act of March third, eighteen hundred and eighty-one, the entries of said purchasers so in default shall be canceled and the lands shall be resold at not less than the appraised price, and in no case less than two dollars and fifty cents per acre, as provided in said act: *Provided, however,* That the consent of said Indians shall first be obtained to the revision and adjustment herein provided for.

It appears that said act of March 3, 1881, provided for the appraisement of the lands in question, and that they should thereafter be offered for sale to actual settlers at not less than the appraised value and not less than $2.50 per acre.

In 1883 a public notice was issued under the direction of the Secretary of the Interior for the offering of said lands at public auction, to begin on Thursday, the 31st day of May, 1883, at 10 o'clock a. m., at the district land office at Beatrice, Nebr. Although the act of March 3, 1881, did not prescribe that there should be competition at public auction for the acquisition of title to these lands, it was held to be within the discretion of the Secretary of the Interior, and he so directed. The offering was made accordingly, and the tracts were awarded to the highest bidders therefor at prices greatly in excess of the appraised value, being in many instances more than double the amount thereof. The terms of sale prescribed were one-quarter in cash, to become due and payable at the expiration of three months from the date of filing application; one-quarter in one year; one-quarter in two years,

and one-quarter in three years from date of sale, with interest at the rate of five per cent per annum.

A number of bidders at the offering of May, 1883, having failed to make the first payment, the tracts for which the bidders made default were reoffered and awarded to bidders in December following. There have been extensions of time for making payments as follows, viz: By the act of March 3, 1885 (23 Stats., 371), an extension of not exceeding two years, and by the act of August 2, 1886 (24 Stats., 214), another extension of two years.

It appears from an examination of the records that there are now 188 cases on which final payment has not been made, and on these there is due, on the basis of the price at which the land was bid for at the public sale, $202,477.44 principal and $76,118.83 interest, making a total of $278,596.27.

On the basis of the appraised value there is due on said 188 cases $58,393.38 principal and $23,855.96 interest, making a total of $82,249.34, showing the difference or rebate provided for by the bill to be $196,346.93.

In many cases the amount of the appraised value with interest thereon has been nearly all paid, but this is considerably less than the amount of the price bid and interest thereon for which the parties are held.

Of the 188 cases referred to there are 27 cases in which more than the amount of principal and interest on the appraised value has been paid, the amount of overpayment aggregating $11,932.97, but there is still a large deficiency in the amount of principal and interest paid, if calculated on the price bid at the public sale for which the parties are held.

It appears that the act of March 3, 1881, did not in its terms provide for competition at public sale, but did provide for an appraisement of the tracts. It further appears that the Commissioner of the General Land Office stated as follows in answer to inquiries:

[Commissioner McFarland to Hon. N. Ford, House of Representatives, December 27, 1881.]

I have the honor to acknowledge the receipt, by reference from you, of a letter from G. R. Redman, esq., dated Guilford, Mo., December 12, 1881, in which he asks the following questions relative to the Otoe and Missouria Reservation in Kansas and Nebraska:

"(1) When will it be open to settlement?

"(2) Will it be sold to actual settlers only?

"(3) Will it be sold for cash or in payments?

"(4) What will be the price per acre?

"(5) Will it be sold at public auction on the reservation, or at some local land office?"

In reply I have to state:

(1) This office is unable to state when these lands will be open for settlement and purchase. The preliminary acts required by the act of March 3, 1881, as to appraisement have not as yet been carried out, and pending such action an agent has been appointed by authority of the Department for the express purpose of protecting the reservation from intruders.

(2) They are to be sold to actual settlers or persons who shall make oath before the register or receiver of the land office at Beatrice, Nebr., that they intend to occupy the land for authority to purchase which they make application, and who shall within three months from the date of such application make a permanent settlement upon the same, in tracts not exceeding 160 acres to each purchaser.

(3) These lands are to be sold for cash, or if, in the judgment of the Secretary of the Interior, it shall be more advantageous to sell them on deferred payments, he may dispose of the same upon the following terms as to payments: One-quarter in cash, one-quarter in one year, one-quarter in two years, and one-quarter in three years from date of sale, with interest at the rate of 5 per cent per annum.

(4) The price per acre is fixed by appraisement, but in no case can they be sold at less than $2.50 per acre.

(5) They will not be offered at public sale, but will be subject to entry through the United States public land office at Beatrice, Nebr. (Copp's Public Land Laws, edition of 1882, vol. 2, p. 1352.)

The Commissioner's statement, as above, tended to convey the impression that there would be no public sale, but that the price to be paid was that fixed by the appraisement. Moreover, the statute made the right of purchase depend upon settlement on the lands, thereby introducing the preemption principle in favor of settlers, which is understood to exclude the offering of tracts to the highest bidder. It would seem, therefore, that up to a short time before the date of sale the parties intending to become settlers on the land had reason to suppose that if they could become settlers they would be exempt from the necessity of entering into competition with others for the purchase of the lands, and it would be reasonable to suppose that they made arrangements accordingly, supposing that the appraised value would be

all they would have to pay. The purpose of making apraisement must have been to arrive at at least a fair approximation to the value of the land.

It appears, however, that the intending settlers being put to the necessity of either entering into competition with opposing bidders or relinquishing the prospect of obtaining homes on the land, which the law held out to them, voluntarily chose the former, and bid for the land much more than twice the estimated or appraised value. It is now alleged that they are unable to pay the amount of their bids with the accummulated interest, and that if this is insisted on, it will result in their losing their homes on the lands, involving great hardships to them and their families.

The United States has no interest in the matter beyond protecting the Indians from loss. It is alleged that the latter will consent to any equitable adjustment that may be proposed.

The lands having been offered to the highest bidder at the sales held in May and December, 1883, the terms and conditions of which were doubtless known to the would-be purchasers, as notice had been published in several newspapers in the vicinity, I am of the opinion, as has been heretofore held by this office, that the purchasers may be held to make payment of the price bid by them at the sale.

I think, however, in view of all the circumstances, that some equitable adjustment should be made, and I would, therefore, suggest that with the consent of the Indians, the existing claims should be disposed of on the following principles, viz:

(1) In all cases in which the full amount of the appraised value of the land and the interest due, or more than that amount, has been paid, the patent should be issued without additional payment being required.

(2) In all cases in which the full amount of the appraised value with interest has not been paid, the period of two years from the passage of the act providing therefor should be given the parties for the payment of the deficit therein, and in default of such payment the entries be canceled and the lands resold in accordance with the provisions of said act of March 3, 1881.

(3) That nothing in the adjustment proposed shall be regarded as foundation for a claim for the refunding of any money voluntarily paid for any of said lands, and so inuring to the benefit of the Indians; and

(4) That the proposed action shall not be taken before the consent of the Indians shall be given and proved to the satisfaction of the Secretary of the Interior.

I am of the opinion that the said bill, if modified as above suggested, should be passed. The bill is herewith returned.

Very respectfully,

THOS. H. CARTER,
Commissioner.

The SECRETARY OF THE INTERIOR.

Your committee also adopt and submit from the report of the Senate Committee on Indian Affairs, No. 653, the following:

It seems to be conceded that the lands of the Otoe and Missouria Reservation were under the law carefully and honestly appraised at their fair value and in many cases higher than their cash value, and that under the excitement and competition of public sales the lands sold as a general thing not only far beyond the appraisement but for much more than their real value. Much testimony of value will be found on pages 3 and 4 of Report No. 445.

In addition to the testimony referred to the following additional testimony has come to your committee:

This is to certify that it appears by the records of this office that on the 14th day of July, 1891, the following-described land, situated on the Otoe and Missouria Reservation, in Gage County, Nebraska, were appraised by the oaths of D. R. Mercer, F. M. Jacques, and W. R. Jones, resident freeholders of Gage County, to wit: The northeast quarter ($\frac{1}{4}$) of the southeast quarter ($\frac{1}{4}$) and the south one-half ($\frac{1}{2}$) of section eighteen (18), township one (1), range (8), containing three hundred and sixty (360) acres, said appraisement being made at three thousand dollars ($3,000).

Also, on the 6th day of August, A. D. 1890, the northwest quarter ($\frac{1}{4}$) of section fifteen (15), township one (1), range eight (8), containing one hundred and sixty acres and located on the Otoe and Missouria Reservation, was appraised by the oaths of R. L. Gunnaer, G. R. Foster, and W. R. Jones, resident freeholders of said Gage County, said appraised value being one thousand dollars ($1,000).

I, R. W. Laflin, clerk of the district court of Gage County, Nebr., do hereby certify that the above is a true and correct copy of the records as appears in this office as to the appraisement of above-described lands.

[SEAL.]

R. W. LAFLIN, *Clerk of District Court.*
By ORLANDO SWAIN, *Deputy.*

The first piece of land referred to is all under cultivation, fenced, and good orchard thereon, and lies within 1 mile of Barneston; valued $8.33 per acre.

The second piece of land is valued at $6.25 per acre and lies 3½ miles from Barneston. It has 48 acres under cultivation; is fenced and cross fenced.

BARNESTON, NEBR., *May 2nd, 1892.*

To whom it may concern:

This is to certify that the following statement is made for the purpose of correcting an impression that appears to have been made by a statement of mine concerning the selling price of a certain farm on the Otoe and Missouria Reservation. It appears that I have been understood to say that the selling price of the farm in question was forty dollars ($40) per acre, and that it was wild and unimproved land. So far as the price per acre is concerned it is correct; but as to the land being unimproved exactly the reverse is true. The farm is one of the best improved farms in this country, every foot of which is under the highest state of cultivation. It has a fine young orchard and vineyard thereon, and is completely equipped in the matter of fences and farm buildings; furthermore, the buyer, who is a German, was partly induced to pay this unusual price on account of the farm being situated in the midst of a German colony, where his neighbors were all either his kinsmen or his countrymen, where he would live within one-half mile of a schoolhouse and within a mile of a church of his own denomination, and within two miles of Barnestown, a railroad market town.

F. M. BARNES.

STATE OF NEBRASKA, *Gage County, ss:*

H. Y. Underhill, being first duly sworn, deposes and says that he is the present owner of the northwest quarter of section thirty (30), township one (1), range eight (8); that its appraised value was $4.50 per acre, and it was bid off at the land sale for $10.85 per acre. The appraisement seems to me to have been just and right, and all that was bid over the appraised price was in excess of its actual market value.

A farm adjoining my farm, lying less than two miles from Barnestown, a railroad town, was last year sold for a trifle less than $19 per acre. This farm is all under cultivation, barring about six acres, and is of average fertility, having running water on it, besides a small house, stable, corncribs, etc., thereon at the time of its sale.

I furthermore believe that the appraised value was a fair average price for the market value of the land at the time of its sale.

H. Y. UNDERHILL.

Subscribed and sworn to before me this 5th day of May, 1892.

[SEAL.] ED. S. MILLER, *Notary Public.*

STATE OF NEBRASKA, *Gage County, ss:*

Joseph Bowhay, being first duly sworn, deposes and says that he owns and occupies as a farm and home the southeast quarter of section twenty-nine (29), township one (1), range eight (8), situated on the Otoe and Missouri Reservation; that my farm was appraised at $6.75 per acre and sold at the land sale for $10.75 per acre; that it is my firm belief that if the land were now in its wild and uncultivated condition, without any improvements thereon or surrounded by such advantages as roads, bridges, schoolhouses, and railroad market towns, that it would not be worth over seven (7) dollars per acre to-day.

JOSEPH BOWHAY.

Subscribed and sworn to before me this 5th day of May, A. D. 1892.

[SEAL.] ED. S. MILLER, *Notary Public.*

STATE OF NEBRASKA, *Gage County, ss:*

John Beal, being first duly sworn, deposes and says that he is the present owner and occupier of the northeast quarter of section twenty (20), township one (1), range eight (8), of the Otoe and Missouri Reservation.

That this land was appraised at $6.50 per acre, and bid off at the land sale at $14.37 per acre. I believe the appraisement was a very fair and just valuation of the land on its merits, and that if my farm were in its original wild and uncultivated condition, without such surrounding advantages as have been placed there since the reservation has been opened for settlement, these lands would now be worth less than eight dollars ($8) per acre.

JOHN BEAL.

Subscribed and sworn to before me this 5th day of May, A. D. 1892.

[SEAL.] ED. S. MILLER, *Notary Public.*

STATE OF NEBRASKA, *Gage County, ss:*

Anton Pribyl, being first duly sworn, deposes and says that he is the present owner and occupies for a farm and home the northwest quarter of section six (6), township one (1), range eight (8), located on the Otoe and Missouri Reservation; the appraised value of said land was six (6) dollars per acre, and was bid off at the land sale for $12.05 cents per acre.

I believe that if the land were wild and without the improvements that I made upon it it would not bring to-day, on the market, ten dollars ($10) per acre. I can buy unimproved land in this vicinity, nearer market, for twelve dollars and fifty cents ($12.50) per acre.

ANTON PRIBYL.

Subscribed in my presence and sworn to before me this 5th day of May, A. D. 1892.

[SEAL.] ED. S. MILLER, *Notary Public.*

STATE OF NEBRASKA, *Gage County, ss:*

Frank Fischer, being first duly sworn, deposes and says: That he is the present owner of the southwest quarter, section six (6), township one (1), range seven (7), on the Otoe and Missouri Reservation.

That the appraised value of my farm was six (6) dollars per acre, and was bid off at $12.50 per acre at the land sale. I am satisfied that if my farm were placed on the market to-day, without the improvements that I have put upon it, that I would not be able to realize over eight dollars ($8) per acre therefrom. That if the land were in its original uncultivated condition, without such improvements as roads, bridges, etc., that the settlers have placed thereon, the average value of the entire reservation lands, on the present market, would fall below ten dollars ($10) per acre.

FRANK FISCHER.

Subscribed in my presence and sworn to before me this 5th day of May, A. D. 1892.

[SEAL.] ED. S. MILLER, *Notary Public.*

STATE OF NEBRASKA, *Gage County, ss:*

Edward Roberts, being first duly sworn, deposes and says that in the spring of 1883, just prior to the opening of the Otoe and Missouri Reservation, I purchased an eighty-acre farm, adjoining the reservation, for which I paid six hundred dollars ($600) in cash. Seventy-eight acres of this land was, at the time of purchase, under cultivation, ten acres being sown in winter wheat; also about twenty acres in growing corn. There was also on this piece of land a good young orchard.

I was also well acquainted with the selling price of lands in that vicinity, and know that six dollars ($6) per acre was a fair market price for lands adjoining the reservation.

EDWARD ROBERTS.

Subscribed and sworn to before me this 5th day of May, 1892.

[SEAL.] ED. S. MILLER, *Notary Public.*

James M. Howe, being first duly sworn according to law, deposes and says that he is the owner, and now occupies as a home the southwest quarter of section 5, township 1, range 8, Gage County, Nebraska, on Otoe and M. Res.

The appraised value of this land was seven ($7.00) dollars per acre, and it was bid off at the land sale at fourteen ($14.12) $\frac{12}{100}$ dollars per acre. Twenty-five dollars per acre would be a high valuation of its present cash value; indeed, I would anticipate considerable difficulty in finding a cash buyer at these figures, while under a forced sale it would be hard to get over $20.00 per acre. I know by reason of having kept an accurate book account that I have expended over $2,500.00 in money improving this farm, besides my own labor and time for eight years, which has not been taken into account.

According to my best judgment I do not believe that the reservation lands would bring to-day on an average over $8.00 per acre were they in their original wild and unimproved condition.

JAMES M. HOWE.

Subscribed and sworn to before me this 5th day of May, 1892.

[SEAL.] ED. S. MILLER, *Notary Public.*

This testimony shows very conclusively that those lands sold under the excitemen of a public sale that should never have been held, and was a departure from the law for far beyond what they should have brought.

The report of the Committee on Public Lands sets forth the desire of the purchasers of these lands as follows:

"And now, after nearly ten years, these men, who have struggled against droughts, short crops, and low prices of farm products, loaded down with debt, their payments in default, with large accumulations of interest, come to Congress for relief. They ask no money of the Government; for they know, as the Commissioner of the General Land Office says in his report, 'the United States has no interest in the matter beyond protecting the Indians from loss.' They simply say that they are debtors who can not pay; they must have a compromise settlement with their creditors. They ask only to be permitted to adjust the balance due on their purchases, for which they are hopelessly in default, on the basis of the appraised valuation for which their creditors agreed to sell when they bought, with full interest thereon to the date of settlement.

"But even this they do not ask unless their creditors, considering their own advantage as well, shall themselves consent that their agent may make such adjustment; and upon the further condition that if full payment shall not be made within three months from the date of such consent by the Indians the entries in default shall be peremptorily canceled."

The bill as originally referred to this committee is as follows:

A BILL to provide for the adjustment of certain sales of lands in the late reservation of the confederated Otoe and Missouria tribes of Indians in the States of Nebraska and Kansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to revise and adjust on principles of equity the sales of lands in the late reservation of the confederated Otoe and Missouria tribes of Indians in the States of Nebraska and Kansas, provided by the act of Congress approved March third, eighteen hundred and eighty-one, to be appraised and sold in the manner specified in said act, and which were sold at public sales at the land office at Beatrice, Nebraska, in May and December, eighteen hundred and eighty-three, and in his discretion, the consent of the Indians having first been obtained in such manner and under such regulations as the Secretary of the Interior shall prescribe and approve, to allow to the purchasers of said lands at said public sales, their heirs and legal representatives, rebates of the amounts, respectively, paid, or agreed to be paid, by said purchasers: *Provided*, That such rebates shall in no case exceed the price for which said tracts of land were severally sold in excess of the appraised value thereof, as shown by the appraisement made by the commissioners appointed and designated under said act.

SEC. 2. As soon as practicable after such adjustments, such rebates, if any shall be allowed, shall be severally indorsed on the certificates and receipts of purchase, and on the records of the General Land Office, and the Secretary of the Interior shall cause notice to be given to said purchasers, severally, of the amounts of the deferred payments found to be due and unpaid on their respective purchases under such adjustments. And in default of the payment in cash of the amounts thus found to be severally due within one year from the date of the issuance of such notice, with interest thereon from the date of such adjustments, the entries of any of said purchasers so in default shall be canceled and the lands shall be resold at not less than the appraised price, and in no case less than two dollars and fifty cents per acre, as provided in said act; and where lands have been fully paid for and rebate of the purchase money has been allowed by the Secretary of the Interior, he shall pay said money, within three months, to said purchaser, his heirs or legal representatives, out of any money in the Treasury derived from the fund received from the sale of said lands, the same to be paid on the requisition of the Secretary of the Interior.

The amendment to the bill proposed by the committee is as follows:

On page 3, line 13, after the word "obtained," insert the following: "in such manner and under such regulations as the Secretary of the Interior shall prescribe and approve."

EXHIBIT D.

[H. R. 9146, Fifty-fourth Congress, first session.]

A BILL to provide for the revision and adjustment of the sales of the Otoe and Missouria Reservation lands, in the States of Kansas and Nebraska, and to confirm the titles under said sales.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby,

authorized and directed to revise and adjust on principles of equity the sales of lands in the late reservation of the confederated Otoe and Missouria tribes of Indians, in the States of Nebraska and Kansas, provided by the act of Congress approved March third, eighteen hundred and eighty-one, to be appraised and sold in the manner specified in said act, and which were sold at public sales at the land office at Beatrice, Nebraska, in May and December, eighteen hundred and eighty-three, and allow to the purchasers of said lands at said public sales, their heirs and legal representatives, rebates of the amounts respectively paid or agreed to be paid by said purchasers: *Provided*, That such rebates shall in each case equal the price for which said tracts of land were severally sold in excess of the appraised value thereof as shown by the appraisement made by the commissioners appointed and designated under said act.

SEC. 2. That as soon as practicable after such adjustments such rebates shall be severally indorsed on the certificates and receipts of purchase, and on the records of the General Land Office, and the Secretary of the Interior shall cause notice to be given to said purchasers severally of the amounts of the deferred payments found to be due and unpaid on their respective purchases under such adjustments; and in default of the payment in cash of the amounts thus found to be severally due within one year from the date of the issuance of such notice, with interest thereon from the date of such adjustments, the entries of any of said purchasers so in default shall be canceled and the lands shall be resold at not less than the appraised price, and in no case less than two dollars and fifty cents per acre, as provided in said act; and where lands have been fully paid for and rebate of the purchase money has been allowed by the Secretary of the Interior, he shall pay said money within three months to said purchaser, his heirs or legal representatives, out of any money in the Treasury derived from the fund received from the sale of said lands, the same to be paid on the requisition of the Secretary of the Interior.

SEC. 3. That in all cases of such sales in which the full amount of the appraised value of the lands sold and the interest thereon has been paid, and the sales are in all other respects regular, the title of the settler, his heirs or legal representatives, shall be, and the same is hereby, in all things approved and confirmed, and patents shall issue for the same, as in similar cases of final payment under the land laws of the United States, without additional payment being required therefor: *Provided, however*, That nothing contained in this act shall be construed to create any liability or obligation on the part of the United States, either directly or indirectly, to or in favor of any tribe of Indians or members thereof, or to or in favor of any person or persons whomsoever.

SEC. 4. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

EXHIBIT E.

[House Report No. 2237, Fifty-fourth Congress, first session.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 9146) to provide for the revision and adjustment of the sales of the Otoe and Missouria Reservation lands in the States of Kansas and Nebraska, and to confirm the titles under said sales, having had the same under careful consideration, beg leave to report the bill back to the House with amendments, and recommend that as amended the bill do pass.

The facts and conclusions in support of this recommendation are fairly summarized in the preamble to the bill as introduced.

The original Otoe and Missouria Reservation, containing about 162,000 acres, is situated in the States of Kansas and Nebraska, mainly the latter.

Under the act of August 15, 1876, authority was given for the sale of 120,000 acres of the reservation, and the same was sold. The essential provisions of that act are substantially as follows: With the consent of the Indians the lands were to be surveyed and afterwards appraised by three commissioners, one of whom was required to be designated by the Indians in open council. After survey and appraisement the lands were authorized to be sold for cash to actual settlers in tracts not exceeding 160 acres to each, at not less than the appraised value, and in no case less than $2.50 per acre; provided, however, that in the discretion of the Secretary of the Interior, the Indians consenting, they might be sold upon deferred payments, to wit: One-third cash, one-third in one year, and one-third in two years from the date of sale, proceeds to be placed to the credit of said Indians in the United States Treasury, with interest at the rate of 5 per cent per annum, to be expended for the benefit of said tribes, under direction of the Secretary of the Interior. The sales to be made at the United States land office at Beatrice, Nebr., certified plats being there filed, and the sales to be conducted in all essential respects as public land

sales, subject only to the special limitations of the act as above described. These lands were so sold at the appraised value in each and every case.

In all cases of contest, and there were many, all questions as to actual settlement, etc., were determined by the general principles and the rules and regulations of the General Land Office governing cases arising under the preemption law. The settler purchasers, therefore, had to deal directly and only with the United States Land Office, which had exclusive jurisdiction, under the Secretary of the Interior, with the whole subject of the sale, settlement, payment, and procurement of patents for the same as if these lands had been public lands.

The act of 1881, under which the remainder of the reservation (about 42,000 acres) was sold, was, in all its essential provisions, a duplication of the act of 1876, under which the lands before described were sold. The Indians, in the latter as in the former case, designated an Indian, a member of the consolidated tribes, as one of the three commissioners to appraise the lands.

It is claimed that in both cases the appraisement was higher than these or similar adjacent lands could have been sold for for cash at the time. Indeed, that it was conceded by the Indians themselves that the appraisement was most satisfactory; that they were delighted with it, and that the universal judgment of local owners of and dealers in lands in that neighborhood was that the appraisement was too high.

One of those real estate speculative waves that sometimes sweep over the country reached Nebraska and Kansas about the time those lands were appraised, and when the sale finally occurred it was at flood tide. It did not last long, but it did not commence to recede until after the poor men who had been long waiting to secure homes on these lands, and who had made their selections and all their arrangements to locate thereupon, were caught and overwhelmed by it. At such a time, without due consideration, the rule governing sales which had obtained under the first act, and which had resulted so satisfactorily to the Indians and all others concerned, was set aside and they were ordered to be sold under the latter act at public sale to the highest bidder in each and every case. It was wholly unexpected by those who had made selections and were waiting to make their settlements and establish their homes upon these lands through individual dealing with the land office direct, as had been done under the first act, and was plainly contemplated by the latter.

The act of 1876 was the first which provided for a sale of Indian reservation lands to actual settlers only, and in limited quantities. It introduced a new departure with respect to these lands.

Not only do these acts in phraseology follow the general principles relating to the body of preemption laws, but attention is called to the fact that the general policy of the Government, more and more clearly defined in successive acts of legislation, has been to eliminate every feature permitting speculation in public lands, and in every way possible favoring the home seeker and home builder.

The general doctrine of free homes to actual settlers is now a fixed and settled principle of our land laws. The free-home bill which passed the House of Representatives at the present session will serve as the latest example. It is insisted that under the law and the general policy of the Government respecting public lands the reservation should have been disposed of at private instead of public sale, and that no authority existed for exposing the lands at competitive sale. This was the view taken by the then Commissioner of the General Land Office.

About the 1st of January, 1882, nearly ten months after the passage of the act, in answer to a letter from Hon. W. Ford, of the House of Representatives, the then Commissioner, referring to the proposed sale of these lands, said: "They will be sold to actual settlers, etc. The price per acre is fixed by appraisement, but in no case can they be sold at less than $2.50 per acre. They will not be offered at public sale, but will be subject to entry through the United States public land office at Beatrice, Nebr."

Commenting on this statement, which was generally published in the newspapers throughout that part of Nebraska and Kansas in which these lands are located, a subsequent Commissioner says:

"The (then) Commissioner's statement, as above, intended to convey the impression that there would be no public sale, but that the price to be paid was that fixed by the appraisement. Moreover, the statute made the right of purchase depend upon settlement on the lands, thereby introducing the preemption principle in favor of settlers, which is understood to exclude the offering of tracts to the highest bidder. It would seem, therefore, that up to a short time before the date of sale the parties intending to become settlers upon the land had reason to suppose that if they could become settlers they would be exempt from the necessity of entering into competition with others for the purchase of the lands, and it would be reasonable to suppose that they made arrangements accordingly, supposing that the appraised value would be all they would have to pay."

In total disregard not only of the spirit and letter of the law, but the official assurances of the Commissioner after the survey and appraisement of the lands had been

completed, to the complete surprise of the intending settlers the General Land Office issued an order for a public sale. Hon. Thomas H. Carter, Commissioner, comments as follows upon this action and the consequences flowing therefrom:

"In 1883 a public notice was issued under the direction of the Secretary of the Interior for the offering of said lands for sale at public auction, to begin on Thursday, the 31st day of May, 1883, at 10 o'clock a. m., at the district land office at Beatrice, Nebr. Although the act of March 3, 1881, did not prescribe that there should be competition at public auction for the acquisition of title to these lands, it was held to be within the discretion of the Secretary of the Interior, and he so directed. The offering was made accordingly, and the tracts were awarded to the highest bidders therefor, at prices greatly in excess of the appraised value, being in many instances more than double the amount thereof."

In addition to these facts it appears that when the lands were put up at public auction the sale was controlled by a mob of disorderly, intoxicated, and irresponsible persons; and the intending settlers seeking to secure lands of their selection and on which they had previously made settlement in accordance with the spirit and purpose of the law, were brought into unfair competition and serious menace from the mob which had gathered for the purpose of speculation and making trouble and not or the p urpose of making actual settlement of the lands through bona fide purchase.

It also appears the Commissioner of the General Land Office was present at the sale, endeavored as best he could to protect the bona fide intending settlers, and assured them, in his official capacity, that no advantage would be taken of the excessive bidding, and that in the end the Government would make a fair and reasonable adjustment and exact no more from the purchasers than the real and appraised value of said lands. The settlers relied upon these assurances, made the bids necessary to secure the lands, entered upon them, and have reduced them to a high state of cultivation. The community in which they reside is one of the best improved in southern Nebraska. Farms have been opened, schoolhouses, churches, villages, roads, and bridges have been built. The improvements alone constitute more than one-half the present value of the land.

A computation made by the Commissioner of the General Land Office on February 1, 1894, showed that the appraised value of the 42,261.54 acres sold at the last sale was $256,887.07, while the price at which they were bid off aggregates $516,851.52. There had at that date (February 1, 1894) been paid $322,075.70 principal and $28,253.51 interest, making a total of $350,329.21. There remained then due, upon the basis of the price at which the lands were bid, $194,775.82 principal, and interest thereon computed to February 1, 1894, $100,432.91, making a total of $295,208.73. At this time, therefore, there is due, in round numbers, about $320,000.

At the appraised value, however, there remained due on February 1, 1894, including all interest, less than $80,000.

Under the act of 1876, 120,000 acres of this reservation were sold to actual settlers at the appraised valuation, aggregating $162,262.73, or only $3.75 per acre. Those who are familiar with land values testify this was a fair price at the time and entirely satisfactory to all parties in interest. The remaining 42,261 acres sold under the act of 1881, only five years later, if closed out on the basis of the bids, exclusive of interest, will amount to nearly $15 per acre, or nearly four times as much as was realized per acre from the major part of the reservation.

It is not even contended that the quality of the lands comprised in the latter sale was better than of the lands in the first sale. The lands, improved and enriched, not only by the labors of an industrious people during the years which have followed their settlement, but in many cases by the addition of the savings of a lifetime, will not sell for enough to pay the balance due on the basis of their bids.

From this simple statement it is apparent the settlers can not pay out. The burden is greater than they can bear. To insist upon such payment means not a sale to honest settlers, but a confiscation of all these people have. It is not a payment to the Indians of their dues, it is a forced conveyance to them of the property of the whites for which the Indians have given no equivalent. It means a wholesale eviction of this community from the homes they have built up.

In this connection attention is called to the fact that the settlers having, under the law, purchased and made the first payment in cash, been placed in peaceable and rightful possession, the remaining payments being deferred and bearing interest, have, under recognized and well-established principles of law, a vested interest in the lands. It follows their titles can not be summarily forfeited and an ouster enforced without process of law, but, on the contrary, their titles can be extinguished and they ousted of possession only by decree of a court of competent jurisdiction and sale under such decree. In other words, almost endless delay and litigation, involving enormous expense, loss, and suffering, would follow an attempt on the part of the Government to enforce the present claims made against the settlers.

Neither the Government, the Indians, nor the settlers can in the end profit by a course so drastic and unjustifiable.

No authority of law existed for the sale of any part of these lands at any price other than the appraised value. The bids in excess of such appraised value were simply void. The law in force at the time must govern the transaction. The settlers are bound by every burden which it imposes. They are, on the other hand, entitled to all the benefits it confers. The Government can not be a party to a despoiling of its own citizens. It should not plead in its justification the unauthorized action of its own officers. If the Government, acting for itself, can not take advantage of its own citizens, it is equally inequitable for it to undertake such course in the interest of the Indians and against its own citizens.

The Indians are entitled to the appraised value of their lands—an appraisement with which they were perfectly satisfied—together with interest on such appraised value to the time of payment. They are entitled neither in law nor equity to one cent more. This amount the settlers are ready and willing to pay. Simple justice requires the adjustment provided for by this bill.

The measure is in direct line with the policy which has governed the Congress in the entire course of its legislation respecting the public lands. It is in consonance with every principle of equity and fair dealing.

Your committee therefore recommend that the bill be amended by striking out the preamble and inserting the following after the word "therefor" in line 8, section 3, page 6:

"*Provided, however*, That nothinge ontained in this act shall be construed to create any liability or obligation on the part of the United States, either directly or indirectly, to or in favor of any tribe of Indians or member thereof, or to or in favor of any person or persons whomsoever."

EXHIBIT F.

SIR: Under your instructions, I left Washington on November 9, 1895, to visit the lands in the State of Nebraska formerly belonging to the Otoe and Missouria tribes of Indians, and which were sold under the provisions of the act of Congress approved March 3, 1881 (21 Stat. L., 380).

I spent nine days on these lands and in the immediate neighborhood, in which time I saw each quarter section of the land and talked with a large number of the occupants.

From an examination of the records and information gained in other ways, I am satisfied that about 40 per cent of the original purchasers still hold and occupy the land they first bought. Probably more than this proportion are still residing within the boundaries of the lands sold, because in several instances original purchasers exchanged lands; in others, one who sold the tract he originally bought afterwards acquired other lands there. These transfers began soon after the sale in 1883, and have continued up to the present time.

I would say about 90 per cent of the present claimants of these lands are occupying them as homesteads, while of the remaining ones about all live in Gage County, where these lands are situated. The number of improved farms to be found there, as well as the extent and value of the improvements, are far beyond what would be expected upon a body of lands so recently opened to settlement.

Practically all this land is under cultivation, and the yearly rental value of it may, I think, be correctly stated at $2.50 per acre. Owing to the fact that there have been two successive failures of crops there, it is more difficult just now than it usually is to rent for money. It is difficult to determine the present value of these lands. Sales have been made, within the last three years, at prices varying from $20 to $40 per acre, but just at this time there is very little demand for land in this part of the State. I am of the opinion, however, that these lands should be valued at from $15 to $30 per acre, after deducting the value of the buildings, and that a fair average valuation would be the average between these two prices—that is, $22.50 per acre. This price includes, of course, the cost of subduing the wild nature of the land, which requires two or three years of cultivation, and would not, in ordinary crop years, much exceed the returns realized from crops raised.

The reasons for failure to pay for these lands are numerous.

The men who bought had, as a rule, only means sufficient to make such improvements as were required and pay the first installment of the purchase price,—in fact, many of them borrowed the money for the first payment. One buying under these conditions could not hope to pay out unless favored with a succession of good crops and good prices for those crops. These people have both crop failures and low prices.

The crop failures affected those who had some money to begin with as well as those who had no means. In the years 1884 to 1889 the crops were good and many could have then paid for their lands much more readily than they can now. In the

years 1890 to 1895 there was but one full crop, that of 1892, while in the years of 1894 and 1895 the failures were almost total.

These people, or many of them, encouraged by the bright prospect ahead, as judged by the yield for the first few years after the sale, expended comparatively large sums in making improvements on their farms, while this expenditure gave evidence of their good faith and intention to make the land purchased a permanent home, yet it undoubtedly affected their ability to complete payments for the land.

Again, it has been so frequently asserted that they would finally secure the land at the appraised value that they have come to believe such is the case and have, for this reason, failed to make the effort they would otherwise have made to complete the payments.

Those who have been most active in their efforts to secure a rebate on the price of these lands have sought to persuade any who might have been able to make their payments from so doing, on the ground that such a course would weaken to that extent the common cause. Undoubtedly this argument has been persuasive in some cases.

While these things have had their influence, yet the failure and inability to pay now is, in my opinion, due mainly to the repeated failures of crops. They have no grain to sell or even to feed what stock they formerly had, and have consequently been compelled to dispose of that stock. This leaves them without anything upon which money can be realized.

Those purchasers who have not paid up are not, in my judgment, entitled to any greater consideration than those who have paid. The latter, in many cases, have borrowed the money to make their payments and are paying for it a larger rate of interest than the deferred payments would have drawn. One who has failed to meet his obligations to the Government is not entitled to any more consideration than one who has met them by assuming more burdensome ones in another direction.

The above covers the points suggested before I visited the lands as those concerning which information should be sought.

These lands are held for the purpose of farms and actual homes, there being less of speculative holdings than will be found, as a rule, in a like body of lands in any part of the West. These people have spent too much money in proportion to their means upon improvements and have by this impaired, to a certain extent, their ability to pay for the lands. A large proportion—probably a majority of those who have paid for their lands—have been able to do so only by borrowing money for which they are paying a high rate of interest. The hope that a rebate of all the purchase price of the lands above the appraisement made prior to the sale has been an influence to prevent payment in some cases. Those most active in their efforts to secure such a settlement have done much to prevent payment in some cases. Those most active in their efforts to secure such a settlement have done what they could by argument and personal appeal to dissuade purchasers from making payments, on the ground that each one who yielded to the demand of the Government for payment weakened the cause.

One who talks with people who were present at the sale must necessarily conclude that there was much irregularity, if not fraud, connected therewith, as well as wild and irresponsible bidding, by reason of which the lands sold were, in a great many cases, in excess of their real value. It was represented at that time that the lands would be obtained finally at the appraised value, without regard to the prices at which they were bid in, and this idea has been fostered and grown until the claim for a rebate has come to be regarded as a right, the denial of which would be an act of great injustice.

It is a fact that many of the purchasers, who are still behind in their payments, have nothing which they can sell and thus procure the money, and are unable to borrow sufficient money on the land itself. Because of this condition of affairs the time for paying payments should be extended, even if nothing shall be done in the way of a rebate of a part of the purchase price. This can be done either by extending the time for the payment of the second, third, and fourth installments for one, two, and three years, respectively, from some fixed date, or by refunding the whole amount due and dividing it into yearly payments.

These people have not, perhaps, any claim in law to are duction in the price of these lands, nor does their claim for a rebate of the whole purchase price above the appraisement find full support in equity. It is true, however, that because of the manner in which the sale was conducted, of the acceptance of irresponsible bids, of the excitement at the time, the lands sold for more than they were actually worth at that time, by reason of which the Indians realized more than they expected and the purchasers found themselves burdened with obligations which could be met only under most favorable circumstances. If in view of these facts, and the further fact that the right of the Government to declare a forfeiture has been questioned and that any effort to enforce such declaration may be resisted to the extent of invoking the aid of the courts therein, some plan could be formulated that would, by concessions

from both parties, effect a speedy settlement of the whole matter, it would be well for all concerned. It would seem possible to find some plan upon the lines of a reduction in the price to be paid by deducting from the selling price 25, 40, or 50 per cent of the amount in excess of the appraisement, with the express condition, however, of a forfeiture in case of nonpayment and cancellation of the sale, as provided in the act of Congress approved March 3, 1893 (27 Stat. L., 568), directing the readjustment of these sales.

As I have intimated before, any plan adopted should embrace repayment to those purchasers who have paid in full, as well as those from whom payments yet remain due.

This would involve the relinquishment by the Indians of a considerable sum of money, but it would avoid a long delay in the collection of the amount yet due, and also all possibility of tiresome litigation to determine the rights of the parties. The Indians would also receive more than their land was actually worth at the time of the sale.

There are many details which have to be considered and arranged that may not be properly discussed in this report.

I submit herewith several communications received by me, with the request that they be brought to your attention.

Respectfully submitted.

W. C. POLLOCK, *Chief Indian Division.*

The SECRETARY OF THE INTERIOR.

EXHIBIT G.

MEMORANDUM IN THE MATTER OF THE OTOE AND MISSOURIA LANDS.

These lands were sold in 1883, under the provisions of the act of March 3, 1881 (21 Stat. L., 380). The time within which to make deferred payments was extended for two years by the act of March 3, 1885 (23 Stat. L., 371), and for a further period of two years by the act of August 2, 1886 (24 Stat. L., 214).

By the act of March 3, 1893 (27 Stat. L., 568), the Secretary of the Interior was authorized and directed to revise and adjust, on the principles of equity, the sales of these lands, and in his decision, the consent of the Indians having first been obtained, to allow to the purchasers rebates of the amounts paid or agreed to be paid by them, such rebate in no case to exceed the price for which said tracts were severally sold in excess of the appraised value; and it was further provided that in default of the payment of the amounts found due after deducting such rebates as should be allowed, within one year after date of notice thereof by the purchaser, that the entry of such purchaser so in default should be canceled and the lands resold.

The matter was submitted to the Indians, who refused their consent to any rebate or compromise. It was decided afterwards to make a further examination as to the condition of the lands and the purchasers thereof, with a view to again submitting the matter to the Indians with a definite proposition for a settlement of the whole matter. The investigation made disclosed the fact that the lands are held as actual homes, and largely by the original purchasers; that, owing to successive failures of crops, these people have no money and no means of realizing money, except by way of mortgage on the land itself, with which to pay the amounts yet due. There is yet due on these sales about $185,000 principal, and about $100,000 of interest.

It is strongly contended by the purchasers that they were given to understand by Government officials at the time of the sale that the lands would be finally obtained at the appraised value thereof, and that because of this understanding there was much irresponsible bidding, by reason of which the lands were sold at a price considerably above their actual value. These statements probably have some foundation in fact, and, while the purchasers have probably no claim for a reduction that would hold good in a court of law, yet, that the whole matter may be settled speedily, it will be better for both parties to make some concessions.

We would suggest as a mode of compromise the following: That a rebate of five years' interest on the deferred payments be allowed the settlers; that the balance due from them be paid in five equal annual installments, without interest, upon the express condition that a failure to meet any one of the annual payments shall work a forfeiture of the entry.

We would further suggest that Congress be requested to reimburse the Indians one-half the amount thus allowed in rebate.

Inasmuch as this plan would offer relief to that class of purchasers who are in default, and as those who have paid up have done so in the majority of instances by borrowing the money for that purpose at a higher rate of interest than the deferred

payments have, we believe that Congress should be asked to provide some adequate relief for this class also.

Respectfully submitted.

W. C. POLLOCK,
Chief Indian Division.
JAMES F. PARKER,
Chief Lands and Railroads Division.

EXHIBIT H.

BARNSTON, NEBR., *June 5, 1896.*

DEAR SIR: On the 3d instant we met the Otoe Indians in council, as per our agreement with you in Washington on May 26. We were successful in getting the Indians to accept the proposition.

On behalf of the Otoe Indians we desire to say that the Indians accepted this proposition with the understanding that this money would be collected. They do not feel that they should have surrendered or made any concession, but have done so, upon the recommendation of the Department and ourselves, to bring it to a speedy settlement.

They desire to know if you could continue your order of last July, so that settlers may not be able to claim the option of one year to settle in after the expiration of your ninety days.

We presume your order will read "ninety days from notice," and suppose you will notify the original purchaser. He has sold out and left the country, and likely the present owner will never receive a notice. Can he come in just as you undertake to cancel his entry and claim that he never received notice?

Again, some of the original purchasers have sold out their interest to two separate persons. One of these purchasers may be willing to pay up and the other may not. The General Land Office has refused to accept payment except on the entire purchase. Can you arrange so that any part can be paid for, regardless of the purchase? Your Mr. Pollock investigated this last fall.

At the expiration of your ninety days should you find a few that have not paid out and that they are claiming for more time, the Indians desire that the entry shall be canceled. However, we will be on the ground at that time; we will be personally acquainted with every delinquent and all the conditions surrounding the case, and we shall be glad to confer with you at any time should you so desire.

We will send in our expense account to you for this trip, hoping that you will hurry the matter through as early as possible.

Respectfully, yours,

F. M BARNES.
C. M. WARREN.

Hon. HOKE SMITH,
Secretary of the Interior, Washington, D. C.

○