

## MESSAGE

FROM THE

# PRESIDENT OF THE UNITED STATES,

TRANSMITTING

*The report of the Puyallup Indian Commission and accompanying papers.*

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FEBRUARY 11, 1892.—Read, referred to the Committee on Indian Affairs, and ordered to be printed.

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*To the Senate and House of Representatives:*

I transmit herewith, as required by law, a communication of the 6th instant from the Secretary of the Interior, with the report of the Puyallup Indian Commission and accompanying papers.

BENJ. HARRISON.

EXECUTIVE MANSION, *February 10, 1892.*

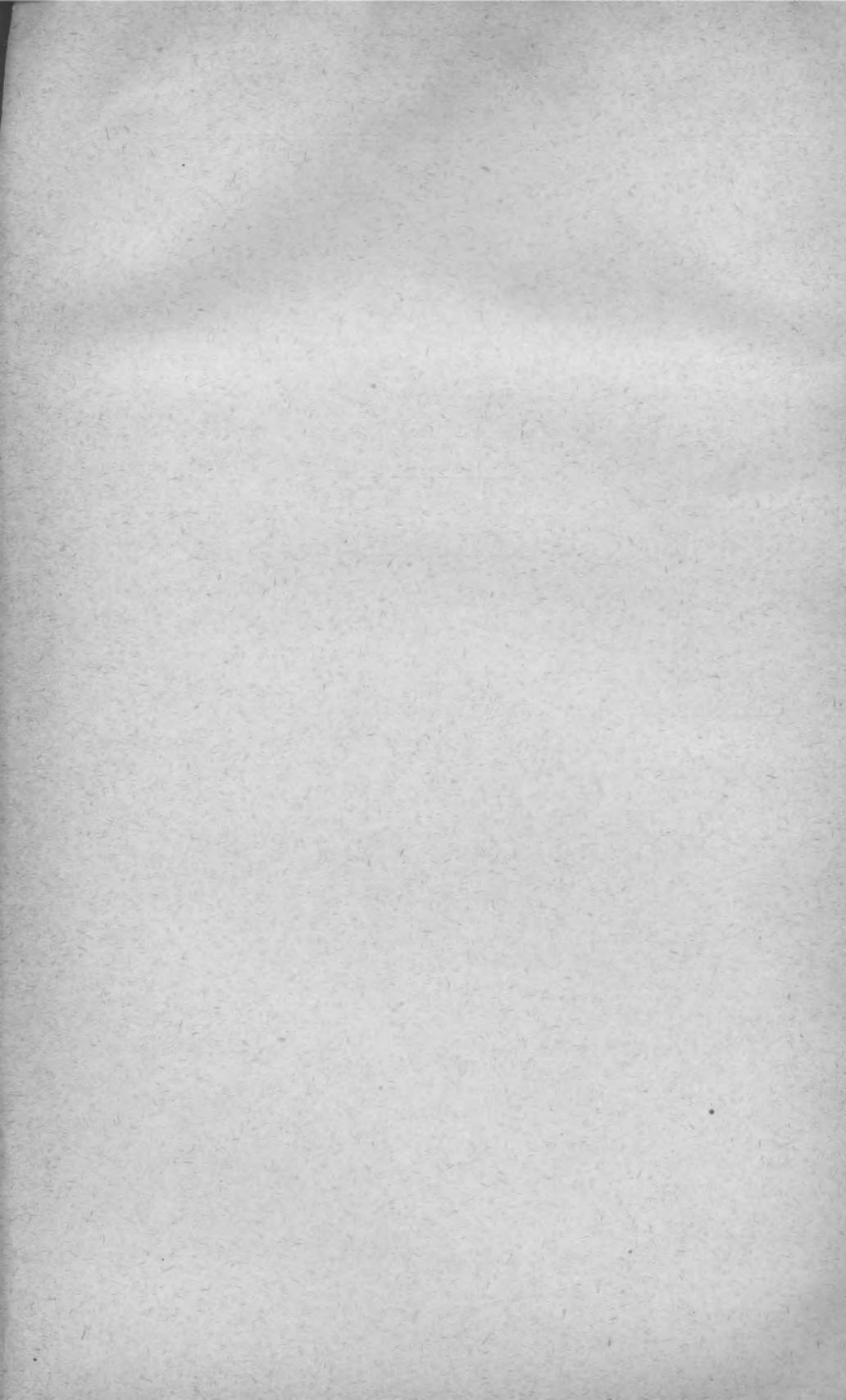
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DEPARTMENT OF THE INTERIOR,  
*Washington, February 9, 1892.*

The PRESIDENT: I have the honor to transmit herewith three printed copies of the letter of the 6th instant of the Secretary of the Interior to the President, with report of the Puyallup Indian Commission and accompanying papers, with request that one copy be transmitted to the Senate and one copy to the House of Representatives, as required by law, with such action by yourself as you may deem proper.

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

JOHN W. NOBLE,  
*Secretary.*



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LETTER OF THE SECRETARY OF THE INTERIOR  
TO THE PRESIDENT,

WITH

REPORT

OF THE

PUYALLUP INDIAN COMMISSION,

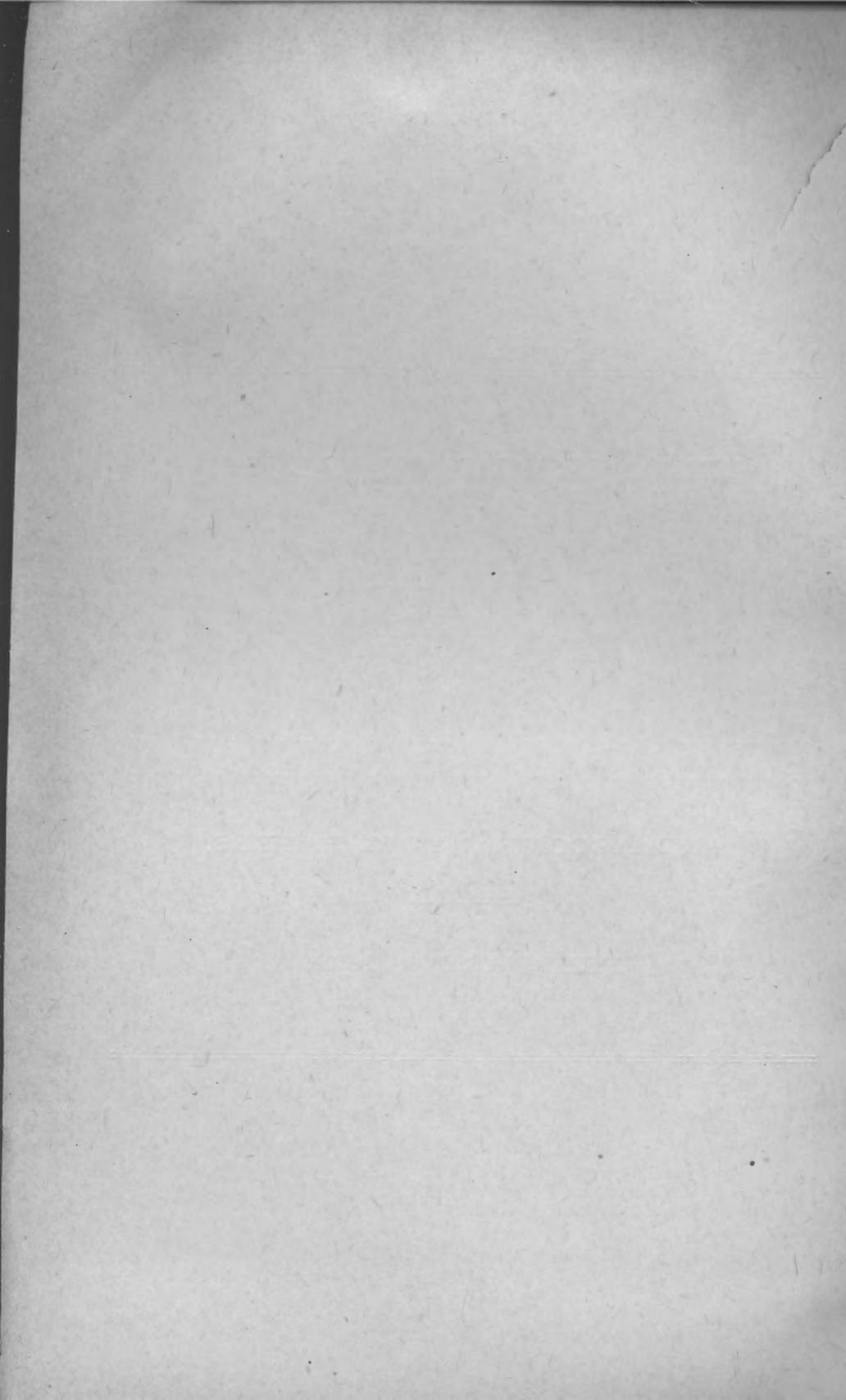
AND ACCOMPANYING PAPERS.

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FEBRUARY 6, 1892.

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DEPARTMENT OF THE INTERIOR,  
*Washington, February 6, 1892.*

The PRESIDENT :

I have the honor to transmit herewith the report of the Puyallup Indian Commission, which was appointed pursuant to a provision in the act of Congress of August 19, 1890 (26 Stat., 354). It was made the duty of the Commission to visit the Puyallup Reservation and to make full inquiry and investigation regarding such reservation in reference to the following points :

(1) The nature of the title to, and value of, the lands allotted in severalty.

(2) Whether there are any common lands which have not been allotted, and if so, the value of the same and of the interest of the Indians therein.

(3) Whether such reservation embraces the land on Puget Sound between high and low water mark.

(4) Whether any restrictions now existing upon the power of alienation by the Indians of their allotted lands should be wholly or in part removed.

(5) As to the manner in which lands shall be disposed of when the Indian allottees shall be vested with power to dispose of their individual tracts.

(6) In what manner, if at all, individual Indians shall be indemnified for damage to their individual holdings if railroads shall be granted a right of way through the reservation.

(7) In what manner the tribe shall be compensated for the damage consequent upon the granting of such right of way through any tribal or common lands belonging to said reservation.

(8) In what manner and by whom the legitimate heirs of deceased allottees shall be determined.

(9) Under what circumstances and upon what conditions contracts have been obtained from Indians for the sale of their allotted lands.

(10) Regarding all other questions and matters bearing upon the welfare of said Indians, and the wisdom or necessity of the disposal by the Indians of their interest, in whole or in part, in any individual or tribal lands belonging to said reservation.

Upon the receipt of the report of the Commission it was referred to the Assistant Attorney-General for this Department for his opinion in regard to the conclusions arrived at by the Commission. It was also referred to the Indian Office for an expression of opinion as to the views adopted by the Commission.

On comparing the several views thus obtained, I find quite a divergence of opinion on some of the points of investigation by the Commission; and upon a careful consideration of them all, as fully set forth in the papers transmitted herewith, my views as to the propositions, taken in their regular order, are as follows:

*First.*—As to the nature of the Indian title.

The title of each Indian in the land allotted to him is expressly "subject to the restriction contained in the patent upon his right to alien or lease his land for more than two years." The State of Washington having already removed the restriction on its part, the title of each patentee will be perfect when Congress also shall consent to such removal. This consent can be expressed in any act directing a sale or other disposition of the lands, and may be made dependent upon compliance with such direction.

As to the value of the lands.

The plan adopted by the Commission was a good one to obtain the average value of all the lands, and is no doubt approximately correct; but before any sale could be properly made of particular lots or parts of the reservation, a valuation should be made of each such particular tract or subdivision to be sold. For, as was stated in the instructions to the Commission, some of the lands near the city are deemed worth \$6,000 per acre. The water front alone has been estimated to be worth some millions of dollars.

*Second.*—As to the common lands that have not been allotted.

Both the Assistant Attorney-General and the Commissioner dissent from the views adopted by the Commission, that there were no unallotted lands to which the Indians can claim any title.

The Commission holds that the agency tract is still the property of the United States and not of the Indians.

I am of the opinion that under the treaty this agency tract should be treated as the common property of the tribe, and if sold should be sold as such. It will, however, be probably better to sell only a part of it, or so much as can be spared from school and agency use, and to place the proceeds to the credit of the tribe for school purposes. The value of the tract as a whole is reported to be over \$500,000; but, being adjacent to the city of Tacoma, if it were properly laid out and sold as an addition to that city, a larger sum might be realized.

*Third.*—As to whether the reservation embraces the land between high and low water mark.

The Assistant Attorney-General and the Commission agree that the land below high-water mark is not embraced in the reservation, while the Commissioner of Indian Affairs thinks differently, as he believes it was the intention of the executive order to embrace it. In my judgment all that was granted by the executive order was contained in legal subdivisions only, which extended only to the meander line; which line did not extend to low-water mark.

*Fourth.*—Whether any restrictions now existing upon the power of alienation by the Indians of their allotted lands should be wholly or in part removed.

There is a concurrence of opinion that for the Indians to receive any real and effective benefit from the sale of their lands, the restriction as to the sale should be removed only as to a part of the land; and that to remove it entirely would be disastrous to them. I fully agree with the Assistant Attorney-General that "It would seem to be the duty of the Government to supervise any disposition that might be made of the allotted land, to the end that the Indian might not in any way be defrauded." This could be effected by legislative enactment prescribing

the manner and extent of the removal of the restriction upon alienation and providing for the disposition of the purchase money.

*Fifth.*—As to the manner in which the lands shall be disposed of when the Indian allottees shall be vested with power to dispose of their individual tracts.

The Commission concludes that, as these Indians, under the act of February 8, 1887, commonly called the "Dawes act," are citizens of the United States, and "entitled to all the rights, privileges, and immunities of such citizens," each of them, but for the restriction in his patent, would have as much right as any white man to dispose of his land by deed or will, conforming to the laws of the State of Washington. This is not concurred in by the Assistant Attorney-General; and in view of the great value of these lands and the avidity with which they are sought after by others, I recommend that Congress be requested to prescribe the manner in which they shall be disposed of when the restriction shall be removed; and also what disposition shall be made of the purchase money.

*Sixth.*—In what manner, if at all, individual Indians shall be indemnified for damage to their individual holdings if railroads shall be granted a right of way through the reservation.

The Commission reports that so long as the exemption of the patented lands from levy, sale, or forfeiture remains in force, no right of way through those lands can be obtained through condemnation proceedings in the State courts; but that Congress might pass an act declaring that the words of exemption contained in the patents should not be so construed as to prevent any railroad from acquiring the right of way by such condemnation proceedings; and they think it would be wise to pass such a law.

This exemption, in my judgment, should, however, until further action by Congress, be continued as to the allotments yet to be retained by members of the tribe, and not condemned for railroad purposes. The proximity of the city of Tacoma and the neighbors who will locate upon the purchased land, will render it but reasonable to protect the allottees against improvident debts, bargains, sales, or forfeitures.

The damage to individual holdings can be assessed by any commission that may, by agreement of parties, be appointed to appraise the lands to be condemned; and the sums so assessed can be paid to the Indians or held in the Treasury for them, as may be directed.

*Seventh.*—If the tribe, as such, is confirmed in the ownership of the agency tract of unallotted land, any damages for right of way over it may be disposed of in the same manner as the fund received from the sale of any part of it.

*Eighth.*—Ascertainment of legitimacy.

The method of ascertaining the heirs of allottees should be according to the laws of the State of Washington, subject to the adoption by Congress of a provision similar to that contained in the act of February 28, 1891 (26 Stat., 794), as follows:

That for the purpose of determining the descent of land to the heirs of any deceased Indian, under the provisions of the fifth section of said act, whenever any male and female Indian shall have cohabited together as husband and wife, according to the custom and manner of Indian life, the issue of such cohabitation shall be, for the purpose aforesaid, taken and deemed to be the legitimate issue of the Indians so living together, and every Indian child otherwise illegitimate shall for the purpose be taken and deemed to be the legitimate issue of the father of such child.

*Ninth.*—The circumstances and conditions under and upon which contracts have been obtained from the Indians for the sale of the allotted lands.

The Commission, for reasons set forth in their report, has not given such information regarding contracts that have been made with these Indians for the disposal of their lands as enables the Department to make any recommendation of a specific nature concerning them. The report exhibits the forms of contracts used, and states the number of contracts reported to have been made, the aggregate amount that had been agreed to be paid, and also the fact that while the lease was ostensibly to run but two years, it was intended, as soon as the restriction should be removed, to operate as a conveyance of the land.

Upon this part of the report I agree fully with the assistant attorney-general, who says:

It is quite clear that any attempt on the part of the contracting parties to contract for the conveyance or lease of the patented lands for a longer term than two years is in conflict with the restriction upon the power of alienation contained in the treaty stipulations and in the patent, and must be held to be invalid. The intention of the parties and their relations to each other, the amount of interest demanded, the price agreed upon for the lands being less than one-third their average value, and the failure of the grantees to take possession of the land seems to indicate an effort to avoid the restriction upon the power of alienation, and therefore the contracts are illegal, in my judgment.

I desire, in this connection, to call your special attention to Exhibit F of the Commissioners' report. This is a communication from the present agent of these Indians, Mr. Edwin Eells, whose knowledge of the matters connected with this inquiry, and whose long residence and intimate acquaintance with the tribe, entitle his views, in my judgment, to weight in any consideration of the subject. In his letter dated February 20, 1891, to the chairman of the Puyallup Commission, he states, in effect, the following:

In 1886 patents were issued to the Puyallup Indians under authority of the sixth article of the treaty with them, and the title was vested in the patentees, with certain restrictions upon its sale, which restrictions a State, in which these lands might be situated, could remove, but not without the consent of Congress. These restrictions were removed March 22, 1890, and it now remains for Congress to give its consent or modify those restrictions, as it shall see fit.

Certain conditions make this land immensely valuable. There are 2 or more miles fronting on the water and adjoining the limits of the city of Tacoma. A part of this is so near the city that it would immediately become city property if put on the market. A part also borders on the corporation town of Puyallup, and a large part of the very best is agricultural land, while a comparatively small portion is hill land.

All but about 535 acres have been allotted. This unallotted land is especially well adapted for school purposes, and being near Tacoma is very valuable.

The Indians claim that the map which contained the description of the land they agreed to receive in lieu of that released by them, and on which the city of Tacoma now stands, *included all the land on the borders of Commencement Bay to low-water mark.*

Each family owns about 40 acres of good agricultural land *in one piece by itself*, the other part of each allotment being either hill land or tide flats, which is in another part of the reservation. This latter portion, on account of its contiguity to the water front and city limits, is the most valuable and needed for the extension of the city. At least two-thirds of the land on the Puyallup Reservation should, under proper regulations, be disposed of, *but the best interests of the Indians demand that the part on which they live and where their homes and improvements are should still remain inalienable.*

About one-fourth of the original patentees are dead. There seems to be four matters of importance to be considered in the disposal of their lands, viz:

First. The Indian needs protection in the sale of his land, so as to get its full value.

Second. He needs protection in the care of the money received for it, for a reasonable length of time.

Third. There should be a complete settlement of the estates before the land is put on the market.

Fourth. It would be very desirable if a large part of the land could be platted before being sold.

As the Indians are not competent to determine the damages themselves, the Government should have their damages appraised, taking special care that it be done by disinterested parties, some, if not all, of whom should *not* be residents of the State of Washington.

Compensation for damages consequent upon the granting of right of way through the *tribal or common* lands should be ascertained in the same manner as other lands, but the funds should be used for the support of schools.

Legitimate heirs of deceased allottees should be determined by the courts of the State having probate jurisdiction.

*Tenth.*—Regarding all other questions and matters bearing upon the welfare of said Indians, and the wisdom and necessity of the disposal by them, in whole or in part, of the individual or tribal lands belonging to said reservation, the Commission has not recommended a definite portion of the lands to be disposed of, but say:

We are of the opinion that the restriction upon alienation contained in the patents to the Indians should be allowed to be removed as to all the wild and unoccupied lands, but left in force as to every tract of 40 acres or less, any part of which shall be found to be in the actual occupation of a patentee or his heirs as a homestead, or under cultivation, in whole or in part, by him or them. As to such tracts, the question of the removal of the restriction should be remitted to the future discretion of Congress; for, if the sale of them were now allowed, they would be particularly sought for and bought up by investors, and soon, perhaps, the Indians would be homeless, landless, and perhaps moneyless.

The agent sent a map to the Commission, after its report was delivered to me, and though they annexed it to their report, they make no recommendation concerning it. It is annexed to the report and exhibited in the printed copies prepared and transmitted herewith. This map of the reservation exhibits the names of the allottees and on it a broad black line incloses all the land which, in his judgment, it would be necessary to keep for their actual needs, though to give each of the allottees 40 acres it would be necessary to keep all the land designated by yellow and light red.

That all the land not necessary for the maintenance and support of the Indians should be disposed of is a proposition undisputed. The lands, because of their contiguity to a thriving and growing city, have become of great value, and the interests of the Indians and of the citizens of Tacoma demand that the greater portion should no longer remain unused and with imperfect title. In my judgment, Congress might now fix the line of the diminished reservation, within which no land or lots should be sold, at the black line marked on the map by Agent Eells, and provide for the sale of all outside of that line. This would render further legislation unnecessary, as the confirmation of sales and other details could be left to the Department for management.

In view of all the facts set forth in the report of the Commission and the other communications herewith transmitted, I have the honor to recommend that Congress be advised to authorize the appointment by the President of a commission of three, no more than two of whom should be of any one political party, to appraise, in appropriate parcels, the lands determined best to sell, and to superintend the sale, at not less than the appraisement, at public auction, on due notice; the appraisement and sale to be subject to approval of the Secretary of the Interior: to attend to the matter of ascertaining, through the proper courts of Washington, who are the heirs of deceased allottees, and have guardians appointed for minors: to make deeds of the lands to the purchasers thereof, which, when approved by the Secretary of the Interior, shall operate as a full conveyance of the land, subject to such terms of payment as may be authorized by Congress: to obtain the full value of this land the trustees should be authorized to sell either for cash, or, in case the purchaser desires it, for one-third cash and the balance in one and two years, with notes secured on the land sold, bearing interest at 5 per cent. per annum: the whole amount, as collected, to be

placed to the credit of the individual Indian entitled, and to be paid to him in such sums and at such times as the Commissioner of Indian Affairs, upon the approval of the Secretary of the Interior, may determine best: that so much of the agency tract as shall not be necessary for school purposes, exclusive of the burying ground, be laid out in streets, lots, and blocks, as an addition to the city of Tacoma, on such plan as shall be deemed best by the Commissioner, and approved by the Secretary of the Interior, and sold, each lot separately; the amount received therefor to be placed to the credit of the tribe as a permanent fund for the benefit of schools to be maintained for these Indians.

The restriction upon the power of alienation of the allotted land should not be removed as to the permanent homes of the Indians for a period of twenty-five years.

The removal of the restriction now existing should be conditioned upon the assent of the Indians to the act to be passed to carry into effect the purposes of Congress, and the restriction should be continued as now expressed, unless such consent is given. This assent should be accompanied by an agreement by each Indian, creating the Commission, or a majority of its members, as the same may be constituted from time to time, trustees of such Indian and of the tribe, vested with full power to sell and convey the allotment of each, or any portion thereof, and to sell and convey the property held in common by the tribe; and that deeds made by these trustees shall be as effective to convey title to the land as if made by each Indian, or by all together.

All of which is most respectfully submitted.

JOHN W. NOBLE,  
*Secretary.*

REPORT  
OF  
THE PUYALLUP INDIAN COMMISSION.

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WASHINGTON, D. C., *March 11, 1891.*

SIR: The undersigned, appointed by you "to visit the Puyallup Reservation in the State of Washington, and to make full inquiry and investigation regarding such reservation," have the honor to submit the following report:

The appointment of this Commission was in pursuance of a provision in the act of August 19, 1890, "making appropriations for the current and contingent expenses of the Indian Department for the year ending June 30, 1891, and for other purposes," which provision is as follows:

That the President of the United States is hereby authorized to appoint a commission to consist of three persons not more than two of whom shall be of the same political party, and not more than one of whom shall be a resident of any one State, whose duty it shall be to visit the Puyallup Reservation, in the State of Washington, and to make full inquiry and investigation regarding such reservation; the nature of the title to and value of the lands allotted in severalty; whether there are any common lands which have not been allotted, and if so the value of the same, and of the interest of the Indians therein; whether such reservation embraces the land on Puget Sound between high and low water mark; whether any restrictions now existing upon the power of alienation by Indians of their allotted lands should be wholly or in part removed; as to the manner in which lands shall be disposed of when the Indian allottees shall be vested with power to dispose of their individual tracts; in what manner, if at all, individual Indians shall be indemnified for damage to their individual holdings, if railroads shall be granted a right of way through the reservation; in what manner the tribe shall be compensated for the damage consequent upon the granting of such right of way through any tribal or common lands belonging to said reservation; in what manner and by whom the legitimate heirs of deceased allottees shall be determined; under what circumstances and upon what conditions contracts have been obtained from Indians for the sale of their allotted lands, and regarding all other questions and matters bearing upon the welfare of said Indians, and the wisdom or necessity of the disposal by the Indians of their interest, in whole or in part, in any individual or tribal lands belonging to said reservation. And said commission shall report the facts ascertained and their conclusions and recommendations thereon to the President, to be communicated by him to Congress. And the sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purpose of defraying the expenses and compensation of said commission.

The members of the Commission, together with a secretary and a clerk, left the city of Washington on the 9th of January last, and arrived at the city of Tacoma, in the State of Washington, on the 14th of the same month. Placing themselves in communication with Mr. Edwin Eells, the Indian agent at the Puyallup Reservation, arrangements were immediately made for the holding of a general meeting of the Puyallup

men at the agency on the following Monday to meet the Commission. At that time and place the meeting was held, when about 150 men were present. Though a large proportion of this people understand and speak the English language, a competent interpreter recommended by the agent was procured, and all that was said by the members of the Commission was carefully interpreted by him to the Indians. After the Commission were formally introduced to the meeting by Mr. Bells, the chairman delivered the following prepared address to the Indians:

**MEN OF THE PUYALLUP TRIBE:** We are glad to see so many of you here to-day. We have much to say to you, now and hereafter, and we ask you to hear our words as the words of friends. We do not come to take anything from you or to do you any harm. Listen to us while we tell you what are our objects in meeting you.

We are here by the authority of the President of the United States, who appointed us under an act of Congress, and we wish you to know the spirit of that act.

The act states our duty in general terms to be "to visit the Puyallup Reservation and make full inquiry and investigation regarding such reservation."

The act then proceeds to state nine different points in regard to which the Commission shall make inquiry and investigation, and closes with direction that we shall inquire and investigate "regarding all other questions and matters bearing upon the welfare of the Puyallup Indians, and the wisdom or necessity of the disposal by them of their interest, in whole or in part, in any individual or tribal lands belonging to the reservation."

The Commissioner of Indian Affairs has given us instructions, from which we select two sentences in order to show you the mind of the Government in regard to you, and also in regard to the spirit in which our investigation should be conducted. Those sentences are as follows:

1. "All of the questions presented have an important bearing upon the final question as to what is best for the welfare of the Indians, and as to the wisdom or necessity of the disposal by them of their interest, in whole or in part, of their individual or tribal lands.

2. "It is confidently hoped that the conclusions and recommendations reached as the result of your investigation will enable Congress to take such action as shall be for the best interests of the Indians and the public good as well."

From the words of the act of Congress and of the instructions, as we have just stated them, we expect you to see and believe that this Commission has been sent here in the spirit of true friendship toward the Puyallup tribe; and we wish you also to believe that the members of the Commission have no other feeling toward you than that of kindness and good will; and that all our acts and doings shall be directed to the promotion of your welfare.

In view of the friendly spirit of the President, of Congress, and of the members of this Commission, we ask you to give us your friendly help in our work, and we mention the following points as some of those in regard to which we wish to hear from you as soon as you may feel ready to speak:

(1) Who among the allottees, to whom patents of lands have been granted, have died since the allotments were made to them?

(2) Whether those who are dead left any children; and if so, whether the children are now living, and where they are?

(3) How many of the allotments are now actually occupied by the allottees, or their heirs?

(4) Who among the allottees have made contracts for the lease or sale of their allotments?

(5) What, in each case of any such contract, was paid to the allottee for entering into the contract?

(6) Whether any allottees who made such contracts are dissatisfied with the contracts and wish them set aside?

We ask you to give us information on these matters as soon as you conveniently can; and we wish you to name now a day when we may meet you here again and talk with you further.

This is all we have to say now. If any of you wish to say anything to us to-day, we shall be glad to hear from you.

Dick Sennawah, the Puyallup chief, made the following response:

I am not going to speak a great deal, but will make a few remarks thanking you for the speech you have made to us. Some other day I will speak a little more. After I gather up my people and talk over these matters I will return and tell you what you want to know. I am very glad to hear what you have spoken to us. It all reaches to my heart, every word you have spoken to us. If there is anything I

wish to speak of and do not I will be excused because I do not think of it. As you have spoken kind words in our interest, I will speak everything to you. Before you came here, it was just the same as though we were lying on the ground without any assistance, and you gentlemen have come to assist in raising us up, and everything that is not right we will throw off and not ruin ourselves after what you have said. All the kind words which you have spoke to us will raise us up from what we have been. Because of all your good and kind words we will agree one with another. When one party speaks kind to us, we will speak kind to them, and we all agree. I suppose all my people here have listened, and I think they were all glad to hear you. We will have a meeting among ourselves some day and talk over these matters; then some other day we will meet you gentlemen and speak all that we know about the investigation you want. That is all I have to speak to you, my brethren. I am thankful to you.

Messrs. Kinkead and Harness also spoke, and speeches were made by several of the Indians.

It was then agreed that another meeting should be held one week from that day.

On Monday, the 26th of January, the second meeting was held, which was larger in numbers than the first, and reports from the Indians were read, giving the information which we had asked for. One of these papers, containing the names of deceased allottees and those of their heirs, we hereto subjoin as Exhibit A. The other, giving the names of the Indians who have made contracts for the sale of their allotted lands and of the parties with whom they contracted, we do not feel under obligation to append; for we do not deem it our duty, under the act, to give publicity to them, nor do we think any good would be likely to result therefrom.

At each of the meetings the Indians manifested entire willingness to aid us in every way in their power in our investigation, and it was agreed that we should meet them again before closing our work in Tacoma.

After those meetings the Commission pursued their investigations, as the result of which we will now proceed to state the facts, so far as we could ascertain them, under the several heads of inquiry presented in the act, and our views in regard thereto.

#### I.—THE NATURE OF THE TITLE TO AND VALUE OF THE LANDS ALLOTTED IN SEVERALTY TO THE MEMBERS OF THE PUYALLUP TRIBE.

1. *The nature of the title.*—The Puyallup Reservation was set apart under the treaty of December 26, 1854, between the United States and the Nisqually and other bands of Indians (10 Stat. L., 1132) and executive orders of January 20, 1857, and September 6, 1873. It lies in townships 20 and 21 north, ranges 3 and 4 east of the Willamette meridian, and, as finally established, it contained about 18,050 acres.

The treaty of December 26, 1854, contained this provision:

ARTICLE 6. The President may \* \* \* at his discretion, cause the whole or any portion of the lands hereby reserved, or of such other land as may be selected in lieu thereof, to be surveyed into lots, and assign the same to such individuals or families as are willing to avail themselves of the privilege, and will locate on the same as a permanent home, on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas, so far as the same may be applicable.

In pursuance of this article the Puyallup Reservation was surveyed into lots, and the survey was approved on the 30th of January, 1874, by the surveyor-general of Washington Territory.

Up to the 30th day of January, 1886, no lands in the reservation were patented to Indians in severalty; but on that day the President signed

166 patents to individual Indians for tracts, the aggregate quantity conveyed by all of which was a fraction less than 17,463 acres. The recitals and operative clauses in each of said patents were the same as in all the others. To show the terms of them all, a copy of one is here presented, as follows:

*The United States of America to all to whom these presents shall come, greeting:*

Whereas by the sixth article of the treaty concluded on the twenty-sixth day of December, anno Domini one thousand eight hundred and fifty-four, between Isaac I. Stevens, governor and superintendent of Indian Affairs of Washington Territory, on the part of the United States, and the chiefs, headmen, and delegates of the Nisqually, Puyallup, Steilacoom, Squawksin, S'Homamish, Stehchass, T'Peeksin, Squiatl, and Sa-heh-wamssh tribes and bands of Indians, it is provided that the President may, at his discretion, cause the whole or any portion of the lands hereby reserved, or of such other land as may be selected in lieu thereof, to be surveyed into lots, and assign the same to such individuals or families as are willing to avail themselves of the privilege, and will locate on the same as a permanent home, on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas, so far as the same may be applicable.

And whereas there has been deposited in the General Land Office of the United States an order bearing date January 20, 1886, from the Secretary of the Interior, accompanied by a return dated October 30, 1884, from the Office of Indian Affairs, with a list approved October 23, 1884, by the President of the United States, showing the names of members of the Puyallup band of Indians who have made selections of land in accordance with the provisions of the said treaties, in which list the following tract of land has been designated as the selection of Che-gay-lad or John Towallad, the head of a family consisting of himself and Mary Ann, viz, the southwest quarter of the northwest quarter of section one in township twenty north of range three east of the Willamette meridian, Washington Territory, containing forty acres.

Now know ye, that the United States of America, in consideration of the premises and in accordance with the directions of the President of the United States, under the aforesaid sixth article of the treaty of the sixteenth day of March, anno Domini one thousand eight hundred and fifty-four, with the Omaha Indians, has given and granted, and by these presents does give and grant, unto the said Che-gay-lad or John Towallad, as the head of the family as aforesaid, and to his heirs, the tract of land above described, but with the stipulation contained in the said sixth article of the treaty with the Omaha Indians, that the said tract "shall not be aliened or leased for a longer term than two years, and shall be exempt from levy, sale, or forfeiture, which conditions shall continue in force until a State constitution embracing such lands within its boundaries shall have been formed and the legislature of the State shall remove the restrictions" and "no State legislature shall remove the restrictions" \* \* \* "without the consent of Congress."

To have and to hold the said tract of land, with the appurtenances, unto the said Che-gay-lad or John Towallad, as the head of the family as aforesaid, and to his heirs forever, with the stipulation aforesaid.

In testimony whereof, I, Grover Cleveland, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, this thirtieth day of January, in the year of our Lord one thousand eight hundred and eighty-six, and of the Independence of the United States the one hundred and tenth.

By the President.

[SEAL.]

GROVER CLEVELAND.

By M. MCKEAN.

*Secretary.*

The reference in the patent to the sixth article of the treaty with the Omahas makes it proper to insert here that article. It is as follows:

ARTICLE 6. The President may, from time to time, at his discretion, cause the whole or such portion of the land hereby reserved, as he may think proper, or of such other land as may be selected in lieu thereof, as provided for in article first, to be surveyed into lots, and to assign to such Indian or Indians of said tribe as are willing to avail of the privilege, and who will locate on the same as a permanent home, if a single person over twenty-one years of age, one-eighth of a section; to each family of two, one quarter section; to each family of three and not exceeding five, one-half section; to each family of six and not exceeding ten, one section; and to each family over ten in number, one quarter section for every additional five

members. And he may prescribe such rules and regulations as will insure to the family, in case of the death of the head thereof, the possession and enjoyment of such permanent home and the improvements thereon. And the President may, at any time, in his discretion, after such person or family has made a location on the land assigned for a permanent home, issue a patent to such person or family for such assigned land, conditioned that the tract shall not be aliened or leased for a longer term than two years; and shall be exempt from levy, sale, or forfeiture, which conditions shall continue in force, until a State constitution, embracing such lands within its boundaries, shall have been formed, and the legislature of the State shall remove the restrictions. And if any such person or family shall at any time neglect or refuse to occupy and till a portion of the lands assigned and on which they have located, or shall rove from place to place, the President may, if the patent shall have been issued, cancel the assignment, and may also withhold from such person or family their proportion of the annuities or other moneys due them, until they shall have returned to such permanent home, and resumed the pursuits of industry; and in default of their return the tract may be declared abandoned, and thereafter assigned to some other person or family of such tribe, or disposed of as is provided for the disposition of the excess of said land. And the residue of the land hereby reserved, or of that which may be selected in lieu thereof, after all of the Indian persons or families shall have had assigned to them permanent homes, may be sold for their benefit, under such laws, rules, or regulations as may hereafter be prescribed by the Congress or President of the United States. No State legislature shall remove the restrictions herein provided for, without the consent of Congress.

From what has been presented we consider that the title to lands allotted and patented in severalty to these Indians is, in its nature, the same as that created by a patent from the United States to any purchaser of public land; subject, however, to the restriction contained in each patent, upon the Indian's right to alien or lease his land for more than two years. Does that restriction affect the Indian's title to the land? We are unable to see that it does, any more than an infant's estate in land is impaired by his legal inability to make a valid title to it, or an insane person's, by his legal incapacity to convey.

2. *The value of the land.*—It was not very easy to settle upon an altogether satisfactory way to arrive at a judgment on that subject; but after careful consideration, in view of the fact that we had no power to send for persons and compel them to appear before us and submit to examination under oath, we adopted the plan of framing a question and submitting it to citizens of Tacoma and its vicinity, whose length of residence, accustomed avocations, acquaintance with values, high character, and disinterestedness would entitle their opinions to weight. In that way, without letting the valuation of any one be known to any other, we obtained the independent judgment of each of thirty men, and found the average of the whole to be \$273.50 per acre. This is as near an approximation to its value as we have been able to make, and we adopt it as our conclusion on this point. It makes the value of the whole body of allotted lands \$4,776,130.

## II.—WHETHER THERE ARE ANY COMMON LANDS WHICH HAVE NOT BEEN ALLOTTED, AND, IF SO, THE VALUE OF THE SAME AND OF THE INTEREST OF THE INDIANS THEREIN.

1. *The lands which have not been allotted.*—The only unallotted land within the surveyed boundaries of the reservation is the tract upon which the buildings of the agency are situated and which is usually said to contain about 598 acres. Its exact quantity is not important to be specified here, but we are informed that, owing to the location of an interfering donation claim, before the treaty of December 26, 1854, was made, the quantity in the tract is only about 585 acres, which we accept as its area. The western line of this tract is about one mile across the head of Commencement Bay from the station of the Northern Pacific

Railroad in the city, and is the eastern boundary of the city's corporate limits; and west of that boundary and up to it the land is all laid out in blocks, lots, and streets, as additions to the city, and there is considerable population residing thereon. The tendency of population is to encircle the reservation on its western and southern sides; and should Tacoma continue to grow as it has for some years past, it may not be many years before the reservation may be quite surrounded by a white population; a state of things which we suppose has never existed in the case of any other Indian reservation.

2. *The value of the agency tract.*—Under these circumstances it seems to us that the value of the tract is not to be estimated with reference to its availability for cultivation, but merely in regard to its suburban character.

What is the tract worth now, just as it stands? As the result of all our inquiries, we believe it would sell readily for \$1,000 per acre, or \$585,000 for the whole; but if the Government should lay it out in streets, blocks, and lots, as a continuation of the city, its value would be greatly increased. The fact of its being sold by the Government, and therefore the certainty of a valid title, would, without doubt, cause it to bring higher prices than it otherwise would. In that case our inquiries lead us to the opinion that it would realize three or four times our estimate of its present value.

3. *The value of the interest of the Indians in this tract.*—To answer this inquiry we must first endeavor to find what interest they have in it.

Manifestly they have no legal title to it, individually or collectively. That is in the United States.

Whatever use the Indians are allowed to make of the tract as a place of resort, or for church, burial, school, police, or other purposes, is merely permissive, resting solely on the beneficence of the Government; and that is an interest in regard to which we do not see any way to estimate a pecuniary value in favor of any Indian or of the collective body.

That the Indians may rightly be said to have an equitable interest in the tract we are not disposed to deny; but, on the other hand, the following propositions in regard to it present themselves: (1) Their equitable interest, whatever it may be, does not rise to the dignity of a vested estate. (2) It exists only during the pleasure of Congress. (3) It confers no title to the soil. (4) It is incapable of assertion as a right before any tribunal against the owner of the soil, the United States. If these propositions are sound, as they seem to us to be, we are unable to see any way to go about the formation of an estimate of the pecuniary "value of the interest of the Indians" in the agency tract. In a subsequent part of this report we shall present some other views in regard to this tract. In this place we confine ourselves simply to the answer as to the money value of the interest of the Indians in it.

### III.—WHETHER SUCH RESERVATION EMBRACES THE LAND ON PUGET SOUND BETWEEN HIGH AND LOW WATER MARK.

In reference to this we consider the following propositions to be applicable and tenable: (1) In the region now covered by the State of Washington the common law prevailed at the time the reservation was surveyed. (2) At common law whenever the sea or a bay is named as a boundary, the line of ordinary high-water mark is always intended. (3) In the survey of lands bordering on navigable waters,

where the tide ebbs and flows, it has always been the general policy of the Government to extend the lines of the survey only to ordinary high-water mark. (4) Unless it be affirmatively shown that the President of the United States, before Washington became a State, did, by executive order, extend the boundary of the reservation to low-water mark, it never was extended to that mark. (5) No such executive order is known to us, and we do not believe any such was ever made.

The conclusion is inevitable that the reservation does not embrace the land on Puget Sound between high and low water marks.

We are informed, however, by Agent Eells, that at the head of Commencement Bay there are patented tracts, portions of which are submerged at high tide; but we did not consider it necessary to make an investigation of any such case.

#### IV.—WHETHER ANY RESTRICTIONS NOW EXISTING UPON THE POWER OF ALIENATION BY INDIANS OF THEIR ALLOTTED LANDS SHOULD BE WHOLLY OR IN PART REMOVED.

Recurring to the terms of the patents to the allottees, one of which is above set forth, we find this clause immediately following the granting words:

But with the stipulation contained in the said sixth article of the treaty with the Omaha Indians, that the said tract "shall not be aliened or leased for a longer term than two years, and shall be exempt from levy, sale, or forfeiture, which conditions shall continue in force until a State constitution embracing such lands within its boundaries shall have been formed and the legislature of the State shall remove the restrictions," and "no State legislature shall remove the restrictions \* \* \* without the consent of Congress."

The wide scope of these words demands notice. They operate upon the Indians, upon all other persons, and upon all authorities, national, State, and municipal.

They restrict the patentee from alienating or incumbering his land and from leasing it for a longer term than two years, and they declare an exemption from any levy, sale, or forfeiture of the patentee's land by any national, State, or municipal authority, for any cause; and so, in effect, forbid the taxation of the land in any form by any authority.

The manifest intent of these provisions seems to be to secure the lands of the Indians to them against all attempts on their part, or on the part of others, to divest their title, and this plain purpose is reinforced by another clause in said sixth article of said treaty, authorizing the President to "prescribe such rules and regulations as will insure to the family, in case of the death of the head thereof, the possession and enjoyment of such permanent home and the improvements thereon."

Should the restriction "be wholly or in part removed" from the lands patented to individual Puyallups?

After obtaining all the light we could in our intercourse with the Indians and others, it is our judgment that it would be unwise, and perhaps disastrous to the Indians, if the restriction were now wholly removed. Our information is that as a general rule they are not a thrifty people, do not well know the value of money, and spend it quickly and recklessly on present enjoyments, and sometimes worse, and do not make any serious effort to provide for the future. If they should find themselves at liberty to sell their lands at once as they pleased, the probability seems, from all we can learn, that at no distant

day many of them would become landless and go back to a wandering and, perhaps, vagrant life, from which they have been to a good extent redeemed, by having been made landholders in severalty and endowed with the privileges of citizenship.

But while these considerations seem sufficient to set aside the idea of wholly removing the restriction in question, they do not appear to us equally potent against a partial removal of it. We have before referred to the anomalous position of the reservation in its contiguity to a large and growing city, which is gradually extending around it. That city lies on the southwestern shore of Commencement Bay and the reservation on the northeastern shore, the bay in front of a large portion of the city being from 2 to 2½ miles wide and affording, a harbor of unusual commodiousness and safety, with exceptionally good anchorage. The northeastern shore has about 2 miles of deep-water front on the bay, along which railroads could be made and seagoing vessels moored, but which is now unavailable for commerce or residence. The whole of it, and almost the whole width of the reservation back of it to the reservation's northeastern boundary, is all in a state of nature and covered with a thick growth of timber. We are informed that it would cost from \$75 to \$150 per acre to clear this land, and the same rule would apply to other portions of the reservation, which are in like condition. From all we could learn, the Indians are not likely ever to clear much of the timbered land; and this view is strengthened by the fact that it is now almost as much in a state of nature as it was when the reservation was first set apart, thirty-four years ago. That it is a serious detriment to the city of Tacoma to have such a body of unoccupied land blocking its growth and hindering its commercial, manufacturing, and social development seems to us incontrovertible.

Ought this state of things to be permanent? Our judgment is that it ought not. We can not see any good reason why, for a community of only 600 Indians, there should be held a great body of land that stays the growth of a city of 40,000 people, if a way can be devised, without injustice to the Indians, to open it to the acquisition and occupancy of all who may be able and willing to pay a fair price for it, particularly when the Indians are very desirous to sell. Sooner or later they will certainly be allowed to sell, and the question is whether it is wise and expedient, all things considered, for the restriction on their right of alienation to be, as they request, immediately and totally removed. We think that would not be well; but, in our judgment, the restriction may be partly removed to an extent and in a way that would prove to be satisfactory to the Indians and afford to the whites a sufficient access to the reservation lands for many years to come.

In the sixth article of the treaty with the Omahas the rule of allotment was laid down, and the treaty with the Puyallups made it applicable to their case, as follows:

To a single person over 21 years of age, one-eighth of a section; to each family of two, one-quarter section; to each family of three and not exceeding five, one-half section; to each family of six and not exceeding ten, one section; and to each family over ten in number, one-quarter section for every additional five members.

In making the Puyallup allotment the wise plan was to a great extent adopted of allotting to each Indian a 40-acre tract (or one of less quantity in the case of a fraction) of farming land for a homestead and the remainder in the timbered land. How much of the land has been brought under cultivation? In the whole 17,463 acres allotted the entire quantity which is now actually cultivated by the Indians is no

more than 1,882 acres, as was found on careful inquiry last year by the enumerator of the census. They seem to have made little or no effort to clear and cultivate the timbered land, nor does there appear any likelihood of their entering on that work, for by the census of the Puyallups in 1890 there were then but 339 males of all ages, and to-day there are probably not more than 150 adult males capable of heavy work, and our information is that they are generally indolent and averse to work. So small a number of such people could not be reasonably expected to attack a dense forest to clear the land for cultivation, and they have not the money to pay for having it done by others.

And now the grave question is presented, whether the state of things we have described ought, for the sake of either the Indians or the surrounding white population, to be allowed to continue. That it is injurious to the Indians seems to us clear, for they have on their hands a great quantity of wild land which they can neither make available for cultivation nor convert into money. If they could by the sale or mortgage of the wild land obtain money to apply to the improvement of their homesteads and the purchase of personal comforts and conveniences, they would have the means of bettering their condition, and the sale and improvement of that land would greatly enhance the value of the rest; but the terms of their patents bar sale or mortgage. They are therefore owners of a large territory which in the hands of white men could and would be made productive and valuable, but which in the ownership of the Indians, under the terms of their holding, may be said to be practically almost worthless, and which they are ready and desirous but unable to sell.

That this state of things is injurious to Tacoma we need not repeat; and it is also a detriment, by no means inconsiderable, to a large region of rich land lying in the valley of the Puyallup River east of the reservation, the productive capacity of which can hardly be too highly estimated and which is largely devoted to the raising of hops, a very valuable and important industry. About one mile from the southeastern end of the reservation is the village of Puyallup, 9 miles distant from Tacoma and containing about 2,000 inhabitants, and 3 miles farther is the village of Sumner; and not far off are other villages. The only ways of travel between this region and Tacoma, through the reservation, are three dirt roads and one railroad, the Northern Pacific. The building of other railroads, which parties are ready and desirous to build, is prevented by the inability of their projectors to obtain the right of way through the reservation. Hence the Northern Pacific road has a monopoly of the paying travel through the reservation.

How to deal with the condition of things we have depicted is a momentous question to the Indians and to the whites as well. Can it be remedied without injury to the former? We think it can. Can it be done with benefit to them? We think it can. After as careful consideration as we could give to the subject in all its bearings, we are of the opinion that the restriction upon alienation contained in the patents to the Indians should be allowed to be removed as to all the wild and unoccupied lands, but left in force as to every tract of forty acres or less, any part of which shall be found to be in the actual occupation of a patentee or his heirs as a homestead, or under cultivation, in whole or in part, by him or them. As to such tracts, the question of removal of the restriction should be remitted to the future discretion of Congress; for, if the sale of them were now allowed, they would be particularly sought for and bought up by investors, and soon, perhaps, the Indians would

be homeless and landless, and perhaps moneyless. Every impulse of philanthropy, every desire for the welfare of the Indians, calls for the avoidance of that result as long as possible.

Were the Puyallups a band of savages this solution of the difficulty would not answer. But they are far from being such. It is mere justice to them, as it is a pleasure to us, to bear testimony to their intelligence and good deportment. In our intercourse with them, both in private and in the three public meetings at which we met them, their conduct was entirely respectable. There are two Indian churches on the reservation, a Presbyterian and a Roman Catholic, the former having about 140 enrolled members; the membership of the latter we had no means of ascertaining. There is a cemetery containing about 15 acres, the appearance of which is quite equal to that of the generality of country cemeteries among white people. A military band in uniform gives music that is better than country bands usually afford. One hundred and twelve of their children are at the school on the agency tract. The census of last year shows that of the 611 Puyallups, 262 can use English well enough for ordinary purposes, and 159 can read and write it. The number of dwelling houses occupied by them is 144. Every man, woman, and child wears citizen's dress. Their occupations are those of civilized life. In fact, though a considerable number of the old ones are not, and probably never will be, up to the mark of the civilization of the whites, there does not seem to be a remnant of the savage in any of them, much less in any of the younger ones. That probably a number of the men love whisky too much is sadly true; but perhaps no more than an equal number of white men would exhibit if placed in their condition and circumstances. That many of them are improvident and careless in the use of money can not be questioned, but at the same time our information is that they are sharp in bargaining in the ordinary affairs of life. Finally, they are generally peaceable and law-abiding. The facts we have thus grouped seem to us to support the suggestion of a removal of the restriction contained in their patents, to the extent we have indicated.

This brings us to the question, If the restriction is to be removed, upon what plan should it be accomplished? After careful reflection we have been able to see none better than the following: Let the Government send to the reservation trustworthy officers, with a competent surveyor, to visit and carefully inspect each tract of 40 acres or less, and report to the President every one which they find to be wild and unoccupied; and if their report should be approved, let the President issue a proclamation setting forth the numbers of the different tracts so found and declaring that as to each of them the restriction upon the right of alienation and lease and the exemption from levy, sale, or forfeiture are removed and canceled. The effect of this would be to establish officially, by a public document, authoritative for all time, the right of any patentee to convey any tract of his specified in the proclamation; and any future resort to parol proof for or against the right would be forever barred.

If it be asked why we did not undertake to ascertain and report what particular tracts are wild and unoccupied, we answer, first, that the act under which we were appointed did not specify that as one of our duties; and, secondly, that we were sent to Tacoma in midwinter, when rains prevail almost daily, and when it would have been dangerous, if not fatal, to some of us, to have attempted the personal exploration of each tract necessary to enable us to report accurately on each.

V.—AS TO THE MANNER IN WHICH LANDS SHALL BE DISPOSED OF WHEN THE INDIAN ALLOTTEES SHALL BE VESTED WITH POWER TO DISPOSE OF THEIR INDIVIDUAL TRACTS.

The answer to this involves two controlling facts: (1) That each allottee, to whom land has been patented, has a clear title to it in fee simple, subject only to the restriction contained in the patent; and (2) that each allottee comes within the following terms of the sixth section of the act of February 8, 1887, commonly called the "Dawes act," to-wit:

Every Indian born within the territorial limits of the United States, to whom allotments shall have been made under the provisions of this act, or under any law or treaty \* \* \* is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens.

Under this provision every patentee of land in the reservation, but for the restriction in his patent, has as perfect a right as any white man to dispose of his land by will or deed, executed in conformity with the laws of the State of Washington.

Such being the case, "the manner in which lands shall be disposed of when the allottees shall be vested with power to dispose of their individual tracts" would necessarily seem to be the same as that by which any white man would dispose of his lands.

VI.—IN WHAT MANNER, IF AT ALL, INDIVIDUAL INDIANS SHALL BE INDEMNIFIED FOR DAMAGE TO THEIR INDIVIDUAL HOLDINGS IF RAILROADS SHALL BE GRANTED THE RIGHT OF WAY THROUGH THE RESERVATION.

From the use there of the word "granted," and also from the fact that bills are before Congress to grant such right, we suppose that the question relates only to Congressional action in that respect. If so, we respectfully submit that Congress has no power to make to any railroad a grant of right of way over the private property of any individual. Of course that body may enact laws under which railroads in the Territories may acquire the right of way over the lands of private owners; but that is a wholly different matter from enacting a law which shall *ex vi termini* grant that right. In our judgment Congress has no constitutional power to make such a law.

The question then is whether Congress can aid railroads to obtain the right of way over the lands patented to the Puyallups. We deem it certain that it can. The only obstacle to the obtainment of such a right is the clause in the treaty with the Omahas, adopted into that with the Puyallups and others, and embodied in the patent of each Puyallup allottee, which provides that the land patented to him "shall be exempt from levy, sale, or forfeiture." While those words are in force no railroad can obtain the right of way under the laws of the State authorizing the condemnation of land for that purpose; for such condemnation would, in its essence, be nothing but an enforced sale of so much of the Indian's land as the right of way would require. But if it should please Congress to pass an act declaring that those words should not be so construed as to prevent any railroad from acquiring by legal proceedings in condemnation the right of way over land patented to an Indian, then the railroad could obtain it by judicial decree under the laws of the State. In our judgment, it would be wise, and every way beneficial to the city of Tacoma, to the region lying east of the reservation, and to the Indians, to pass such an act.

VII.—IN WHAT MANNER THE TRIBE SHALL BE COMPENSATED FOR THE DAMAGE CONSEQUENT UPON THE GRANTING OF SUCH RIGHT OF WAY THROUGH ANY TRIBAL OR COMMON LANDS BELONGING TO SAID RESERVATION.

This question supposes the Puyallups to have rights as a tribe in the common lands in the reservation, that is, in the agency tract; and that brings up the fundamental question, whether they are any longer a tribe, in the sense in which the Government has always in its laws and treaties used the word.

In one view, a division, class, or distinct portion of a people, from whatever cause that distinction may have originated, may be called a tribe; but manifestly that is not the sense in which the word is used in those laws and treaties.

As it seems to us, the laws and treaties, in the use of the word tribe, mean a savage or uncivilized people, united under one leader or government; and so, by such use, have established the legal meaning of the word.

If that view is tenable, can it be said of a community which has no authoritative leader or government, nor any organized existence; the members of which are subject to no government of their own, but wholly to outside governments; who have been vested with title in severalty, in them and their heirs, to the land they occupy; who have "adopted the habits of civilized life;" who are, by act of Congress, "declared to be citizens of the United States, and entitled to all the rights, immunities, and privileges of such citizens;" who have the high privilege of the elective franchise; and whose right to vote at all elections held in the State of Washington, under either national or State authority, can not be denied or abridged by the United States or the State, on account of their race; can such a people be any longer held, in law, to be a tribe? In common parlance, for convenience of reference to them as a body, they are so called,—we have so spoken of and to them,—but that does not make them a tribe in the eye of the law. We deem it quite clear that the Puyallups have no longer a tribal existence, in the legal sense. If such is the right view, they can not be said to have tribal lands. The agency tract—all that remains unallotted within the boundaries of the reservation—is open to the use of Puyallup men, women, and children, but it is in no sense their property. In every sense it is the property of the United States; and no Puyallup, nor all of them combined, has or have any right in the tract upon which he or they could base a claim for "compensation for the damage consequent upon the granting of right of way" to a railroad through it; for such compensation belongs only to him who has a tangible and vested right in the soil on which the road is to be built.

VIII.—IN WHAT MANNER AND BY WHOM THE LEGITIMATE HEIRS OF DECEASED ALLOTTEES SHALL BE DETERMINED.

By Article XIV of the amendments of the national Constitution, the Puyallups are citizens of the United States and of the State in which they reside; and, cumulatively, by the Dawes act, they are "entitled to all the rights, privileges, and immunities of such citizens." One of the rights of Indian citizens is to be subject to the same laws as white citizens are subject to, unless the State legislature should find in the circumstances of the Indians something requiring peculiar laws in regard to them. We find no such legislation in the State of Washington.

The result is that the general law of the State regulating descents applies to the Indians just as to all others; and, of course, the heir of an Indian must establish his heirship in the manner which that law prescribes. We do not suppose it to have been the intention of Congress to require us to state here what the Washington statutes are on this subject, as the printed volumes of them are all in the national library.

IX.—UNDER WHAT CIRCUMSTANCES AND UPON WHAT CONDITIONS CONTRACTS HAVE BEEN OBTAINED FROM INDIANS FOR THE SALE OF THEIR ALLOTTED LANDS.

Immediately after our arrival in the city of Tacoma, we commenced inquiry about such contracts. In the opening address of the chairman to the Indians they were requested to give us information of any such contracts that any of them had made; and at our second meeting with them they placed in our hands a list of their contracts. With this as a beginning we instituted inquiries, and found no objection on the part of citizens who had made the contracts to give us information concerning them, except that some agents declined to disclose the names of principals from whom they had not authority to make such disclosure. In almost every case the names of the contracting parties, both Indian and white, the dates of the contracts, the description of the land, and the price to be paid for it, were freely given. As the result of all our inquiries we found the following facts:

(1) One hundred and forty-six contracts, all dated in the years 1889 and 1890, have been made known to us.

(2) About 9,200 acres of land, more than half of the aggregate of allotments, have been contracted for.

(3) More than \$30,000 has been paid to the Indians as so-called "lease money;" the explanation of which is that the contracts make a lease of the land for two years, with an agreement that when the restriction in the patent is removed the deed shall operate as an absolute conveyance of the land in fee simple. This "lease money" is then to be considered as so much paid of the agreed price of the land.

(4) The aggregate of prices to be paid when the restriction is removed is about \$700,000.

(5) As nearly as we could compute from the data before us, the average price per acre to be paid for the lands was \$75.

(6) No possession of land contracted for was taken by any of the purchasing contractors.

As to the conditions upon which the contracts were obtained, we append hereto as Exhibit B the printed form used in one hundred and eleven, and perhaps more of the cases; and as Exhibit C, that which was used in ten cases; leaving twenty-five cases in which we have not obtained the forms used; but the fair presumption is that they were in effect much the same as those we append.

In regard to the circumstances under which the contracts were obtained, we endeavored to find what the intention of Congress was in the words used, namely: "Under what circumstances \* \* \* contracts have been obtained from Indians for the sale of their allotted lands." Was this a call for information in regard to the general subject of such contracts or was it a demand for specific information as to the particular circumstances under which each of the one hundred and forty-six or more contracts was obtained?

We had no hesitation in arriving at the conclusion that the former, and not the latter, was the intention of the act.

If it had been the desire of Congress to be informed as to the circumstances under which each contract was obtained, we submit that the act should have so said.

If Congress had intended the Commission to institute an inquiry into the circumstances under which each contract was obtained, it should have authorized the Commission to send for persons and papers, and armed it with sufficient powers and provided it with sufficient instrumentalities to enable it to make the inquiry effectual against any opposition that might, from any cause, have manifested itself; but we had not the least power to summon any one before us, much less to compel his attendance; nor had we authority to administer an oath to any one, nor to punish for contempt for refusal to testify, nor to compel the production of papers.

True, we were sent there to make "full inquiry and investigation;" but we submit that the inquiry and investigation could only be as "full" as the powers of the Commission, conferred by the act, enabled us to make it.

In the light of these positions we felt obliged to confine ourselves to a general view of the circumstances under which the contracts were obtained. Had we attempted more, it would be impossible to make a reliable computation of the length of time it would have taken to find and interrogate nearly one hundred and fifty Indians, whom it would be difficult to make understand the object of our questions, and whose suspicion would certainly be aroused of some harm intended to them.

Referring to the opening address of the chairman, it will be noted that the sixth question put by us to the Indians was, "whether any allottees who made such contracts are dissatisfied with the contracts and wish them set aside."

The written answer given by the Indians to this question was read and interpreted to them at our second meeting, as a part of the paper which they then presented, and which is subjoined as Exhibit A. After the reading and interpreting of the paper, the chairman called for objections to it, if any there were, but none were made, except one, which related only to a single case, and not to the paper as a whole. The answer, therefore, must be accepted as the well-considered response of the Indians to our question, and it is as follows:

In reply to the sixth question, whether any allottees who have made such contracts are dissatisfied with the contracts and wish them set aside, we have not been able to get definite answer from all or any considerable number of them. A few say they are dissatisfied. Quite a number say they are satisfied; but most of them appear to be afraid to say. They say they do not know the value of their land, and if the price agreed upon is a fair one, they are satisfied. If it is not enough, they want what it is worth.

We submit that if the Indians were afraid, or even disinclined, to say among themselves whether they were dissatisfied with their contracts, they would hardly have been communicative to us in regard to the circumstances under which they made them. We, therefore, did not attempt to interrogate them on that point.

To get at the real truth in that regard, both parties to the contracts should have been examined. The examination of either alone would have furnished one-sided statements, which would probably be misleading if not untrue. As we did not interrogate the Indians we saw no reason for interrogating the whites with whom they had made contracts, particularly when we did not read in the act under which we were appointed any requirement to investigate the circumstances under which any individual contract was made, but only those under which "contracts have been obtained from the Indians."

It seems to us that the best and only really practical answer to the present question is to be found in the condition and surroundings of the Indians. In the midst of wealth belonging to them they were poor; encircled by a landed possession of immense value, if in the hands of white men, but practically valueless to the Indians as it stood; they were exactly in a position to receive with favor, if not avidity, a proposition to pay them money down for a contract under which, when the restriction in their patents should be removed, they would receive in addition greater sums of money than they had probably ever dreamed of possessing. It was quite as natural that they should make the contracts as it was inevitable that white men should be found ready to contract with them.

Here we consider it not merely proper, but our duty, to say that, notwithstanding our public request, at our first meeting with the Indians, for information as to any dissatisfaction among them with the contracts they had made, no evidence came before us tending to prove that any fraudulent means were used to induce any Indian to make a contract, nor did any Indian complain to us of any fraud or wrong; though they had free access to us, and many of them visited us at our rooms in regard to other matters.

We will not close this branch of this report without referring to what would probably attract notice, namely, that we have mentioned no names of parties who made contracts with the Indians. In reference to this we would say, that the act under which we were appointed does not require us to report the names of either Indian or white contractors, and it would have been unjustifiable in us to volunteer their publication. We have, therefore, omitted from this report all names of contractors, both Indian and white, as, in Tacoma, we refused to the press and to individuals any information in regard to them.

Having answered the specific points designated for our inquiry and investigation, we come to the general requirement expressed in the following words of the act:

And regarding all other questions and matters bearing upon the welfare of said Indians, and the wisdom or necessity of the disposal by the Indians of their interest, in whole or in part, in any individual or tribal lands belonging to said reservation. And said commission shall report the facts ascertained and their conclusions and recommendations thereon to the President, to be communicated by him to Congress.

We have above expressed our views in regard to the disposal by the Indians of their lands in the reservation. We therefore pass to other points, which seem to us to require mention.

(1) The first question, and in our opinion the highest in immediate importance, is connected with their disposal of their lands. We have shown that the total amount agreed to be paid them for the lands which they have contracted to sell is about \$700,000, all of which is to be paid them within ninety days, or other short period, after the restriction is removed.

Would it be for their welfare that so large a sum of money should be paid to them at once? If they had been educated as white men are, and had grown up in the midst of the influences which generally surround white men, we would say that it should be so paid; for white men learn, in a greater or less degree as they grow up, the value of money. With every kind feeling toward the Puyallups, we can not disregard the testimony of many who know them well, that they have no just appreciation of the value of money, are prone to squander it, and many of them are easily duped, and many are prone to strong drink. Such

being the case our judgment is, that it would be promotive of their welfare if Congress would, as a condition of the removal of the restriction in any case of a sale, require that the purchase money payable to an allottee should be deposited somewhere at interest, and be paid to him in annual installments, with interest, through such series of years as Congress should prescribe—we would suggest at least ten. In this way it would be impossible for the Indian to get rid of all his money in hot haste, and would secure him and his family a support for at least that number of years, and perhaps tend to teach him lessons of economy and thrift, which he might not otherwise learn, and which, once learned, might abide with him.

(2) The second matter, and one of profound moment to the future of the Puyallups, is the education of their children. Our unhesitating judgment is that on no account should the school in the reservation be discontinued or neglected, but on every account it should be continued and liberally supported. Not many years hence the old men and women who never had any of what we call education will have passed away, and their places will be filled by a new generation, lifted by our education above the past condition of their fathers and mothers, and in a good degree prepared for the demands, duties, privileges, and enjoyments of citizenship and social life. By all means let that generation be well educated.

(3) We subjoin as Exhibit D the stenographic report of our third meeting with the Indians, held on the 13th of February, at which they gave expression in writing and orally to their wishes. This report will serve to give a fair idea of the character of their representative men and of the wishes of the people. In connection with this meeting we deem it incumbent on us to say that we do not approve of their request to divide 300 acres of the agency tract among young men who have come of age and have had no land given them. We are informed by Agent Eells, and have no reason to doubt the truth of the information, that the most of them have inherited, or may be expected to inherit, land allotted to their fathers. But whether so or not, we see no good reason why the agency tract should be severed in twain to make a present to them of what might prove their lifelong injury, and could hardly fail to be unfortunate for the school. On the contrary we think that for some years to come, at least, that tract should as far as practicable remain as it is. The time may come in the course of years when it may be expedient to sell a portion of the land and place the fund at interest and apply the interest to the support of the school, but we do not see that the circumstances make a present demand for such disposition of it.

(4) While in Tacoma the Commission was called upon by a representative of the Northern Pacific Railroad Company, in reference to the claim of that company for land in the odd-numbered sections embraced in the reservation. He was informed that we did not consider ourselves empowered to take cognizance of any such matter; but we consented, at his request, to append to our report any communication on that subject, with accompanying documents, which the company might desire to have so presented. Their communication and documents are hereto subjoined as Exhibit E.

(5) At the same time he desired the Commission to make an expression in their report in regard to granting that company the right of way for additional tracks through the agency grounds. In our opinion it would be reasonable and just to make the grant; and as it would be a benefit to the Indians as well as to the city of Tacoma, we did not

deem it out of place so to say in this report. We refer to Exhibit E for the grounds on which the company rests its claim for additional tracks.

We can not close without taking the opportunity to make an acknowledgment of the very valuable aid we received in our work from Agent Bells, and our high estimate of his character as an officer and a man. All our intercourse with him showed him to be a man of more than ordinary intelligence, of high moral principle, of vigilance, energy, and fidelity in the discharge of the duties of his office, and sincerely devoted to the welfare of the Indians. We subjoin as Exhibit F a communication received from him when we were about to close our work at Tacoma and after we had concluded the preparation of this report.

All which is respectfully submitted.

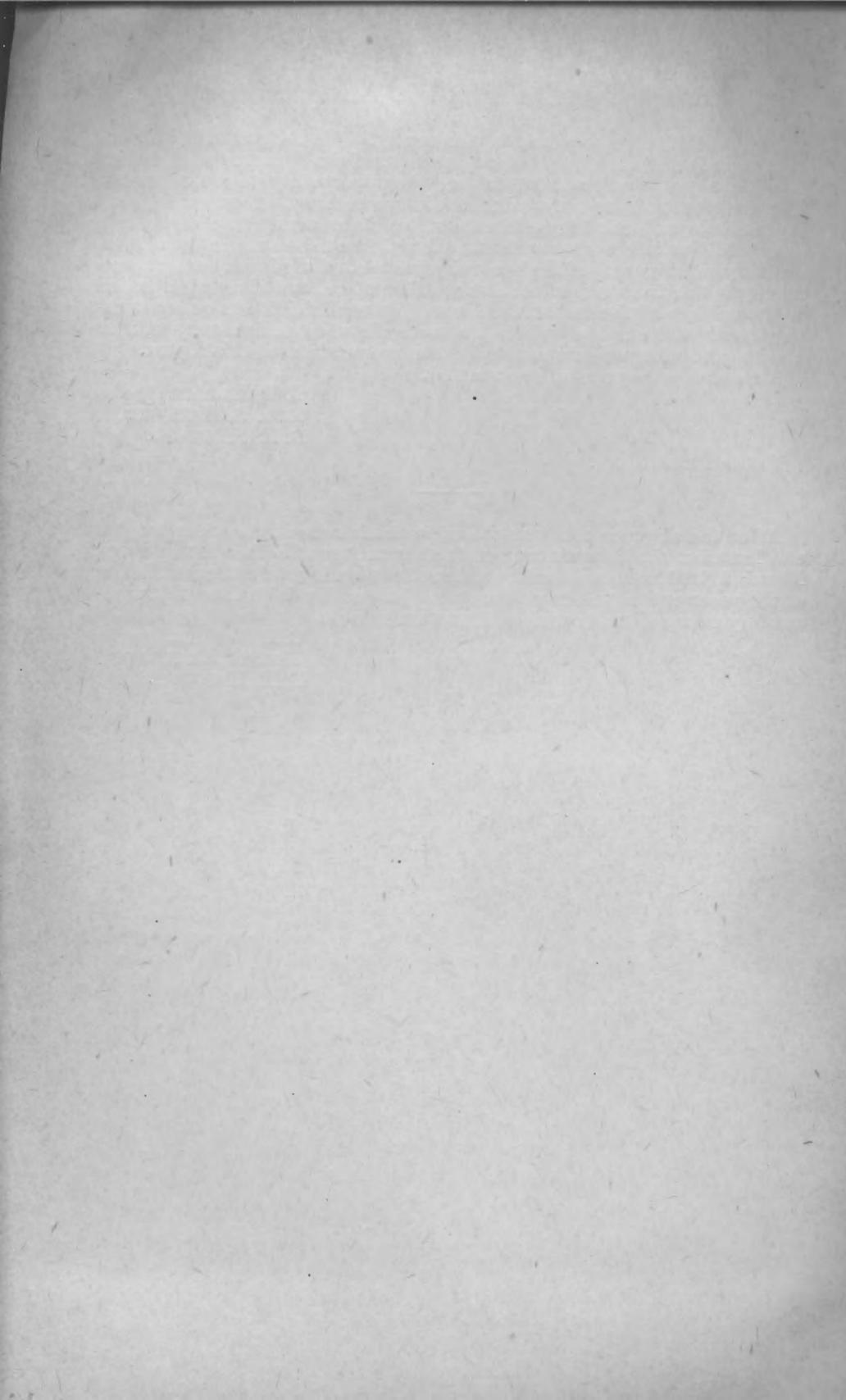
C. D. DRAKE.  
GEO. B. KINKEAD.  
B. F. HARNESS.

To the PRESIDENT.

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After the above report was placed in the hands of the Secretary of the Interior, the Commission received from Agent Eells a letter dated March 5, 1891, accompanied by a map of the lands within the boundaries of the reservation, which we hereto subjoin as Exhibits G and H, without any expression of opinion in relation thereto.

C. D. DRAKE.  
GEO. B. KINKEAD.  
B. F. HARNESS.



## EXHIBIT A.

PUYALLUP RESERVATION, WASH., *January 26, 1891.*

GENTLEMEN: Our people have carefully considered the address which you left with our agent for us, and are anxious to coöperate with you in giving all the information we can, to enable you to assist in relieving our present condition. We have held two meetings, and present herewith the answer to your questions, which are as correct as we have been able to make them. In reply to your first question: Who among the allottees have died since the allotment was made to them? and the second: Whether those who are dead left any children, and if so, whether the children are now living and where they are? we answer jointly. To the first, we reply that 40 of the original patentees are now dead, besides 22 wives of patentees who have also died, making 62 in all of both men and women to whom land was allotted as joint heads of families who are now dead, as follows:

Num-ber.	Names.	Heirs.
7	Charley Satiecum, jr.....	Four children and wife, all living on the place; wife remarried.
8	James Meeker.....	Wife and two sons grown and who have places, all living on reservation.
9	Elizabeth Kirshner.....	Husband and five children, all grown; part on the reservation. Husband was a white man.
14	Joe Peasup and wife.....	His father and her three children all grown and living on reservation.
29	Napoleon Gordon.....	Wife, three nephews and niece, all on reservation.
32	Chickamin Jack and wife.....	His mother and sister; her two sisters, all grown, owning other allotments and living on reservation.
38	Big Head Bob and wife.....	His son, her daughter, and granddaughter by another daughter, also second husband, all on reservation.
44	Louis Napoleon.....	Wife, now remarried, and two nephews, all on reservation. She on the place.
46	Old John Me-ander.....	Wife and son, who is grown and has a place, all on reservation.
63	James Skidshirt.....	Widow and three children, all on the place.
68	George Kitsap.....	Mother and sister, both on reservation.
76	Thos. Spotafo.....	Widow and daughter, both on reservation.
81	Wilson Sahobet.....	Widow and his sister, both on reservation.
86	Richard Syell.....	Widow and two children, all on reservation.
87	John Paines.....	Widow and one child, both on reservation.
97	Joseph Wannachin.....	Widow, remarried, and mother, both on reservation.
101	Sally Jake.....	Four brothers, all grown, with places of their own on reservation.
105	Adam Selmiton.....	Widow and two sons, all on reservation.
111	John Winyer.....	Widow and four children, on reservation.
116 1/2	Chehalis Jim.....	Widow and one sister on reservation; nephew at Tulalip Reservation.
118	Joe Donette.....	Widow, remarried, and four children, all on reservation.
119	Samson Zawheus.....	Widow, who is now living with white man off from reservation. She has one son who is living on reservation.
120	George Johnson.....	Widow and his daughter, grown, both on reservation.
122	Sam Squatahan.....	Widow and four children, all on reservation.
125	Joseph Kleshkamin.....	Nephew, grown and on reservation.
130	Bill Meeker.....	Widow on reservation. Sister at Tulalip Reservation.
131	George Jacobs.....	Cousin on reservation.
133	Lame Bob.....	Widow on reservation. Uncle and aunt off from reservation.
136	Kitty Kautz.....	Two sons, both on reservation.
139	John B. Sherlaboe.....	Widow, remarried to a white man, and one child living near reservation.
142	Tom Thompson.....	Two daughters on reservation.
148	Mrs. Chas. Snahal.....	One cousin and four second cousins, all same degree, all on reservation.
151	Old Kitsap and wife.....	Two grown daughters, both on reservation.
152	David Squatahan.....	Widow and two children, all on reservation.
155	Wm. Jack.....	Widow and son, both on reservation.
156	Peter Kump-quass.....	Widow, brother, and sister; two of them on reservation and one off.
159	Milton Fisher.....	Father, two brothers, and nephew, all on reservation.
165	Peter Satundra.....	Widow remarried to white man, living on reservation and two sisters living off.

## TWO WHO WERE DEAD WHEN PATENTS WERE ISSUED.

Number.	Names.	Heirs.
18	Chas. Sicade .....	Son on the place.
27	Julia Ha-haghtarry .....	Grandson whose name is in the patent with hers; also his brother and her two daughters, all on reservation.

## WIVES WHO HAVE DIED BUT WHOSE HUSBANDS ARE NOW LIVING.

5	Tenas Georg's wife .....	Husband and two children on reservation.
6	Wm. Tocanum's wife .....	Husband and daughter on reservation.
19	Jas. Coates .....	Husband and two sisters on reservation.
26	Chris Laughlet .....	Husband on reservation.
41	Henry Winyer's wife .....	Husband and daughter on reservation.
42	Joe. Swoyells' wife .....	Husband remarried, and brother and sister on reservation.
47	George Bird's wife .....	Husband remarried, and her two sons all on reservation.
50	Joseph Winyer's wife .....	Husband and son on reservation.
66	W. H. Wilton's wife .....	Husband and son on reservation.
71	Skookum Paines's wife .....	Husband and daughter on reservation.
72	Tommy Lane's wife .....	Husband remarried, and five daughters all on reservation.
84	Bill Petewow's wife .....	Husband and two children on reservation.
92	Thos. La Fleur's wife .....	Husband and her two daughters all on reservation.
100	Paul Wayallup's wife .....	Husband.
138	Jimmy William's wife .....	Husband on reservation and mother and sister off.
143	Johnny Sahn's wife .....	Husband on reservation, mother and two sisters.
145	Old Peasup's wife .....	Husband and her son on reservation.
164	Jno. Mowitch's wife .....	Husband and brother on reservation.

In reply to your third question: How many of the allotments are now actually occupied by the allottees or their heirs? we answer that 153 are those occupied, leaving 14 unoccupied, of which 9 are timber claims or entirely on the tide flats and unfit for settlement, 3 allottees have died and the heirs are not occupying the places, they also being undesirable for present occupancy, and 2 are unimproved, the allottees living on the reservation but on other land, their own being comparatively undesirable and expensive to put under cultivation.

In reply to your fourth and fifth questions, which we will answer together, submit the following list of names with the amount received opposite each name. It is not exact in all cases, but is as near as we can get it, and is very nearly right.

(The names are omitted, though they had been asked for; the Commission having, on reflection, concluded that the act under which they were appointed does not require them to give publicity to the names.)

In reply to the sixth question: Whether any allottees who have made such contracts are dissatisfied with the contracts and wish them set aside? we would say we have not been able to get definite answer from all or any considerable number of them. A few say they are dissatisfied. Quite a number say they are satisfied, but most of them appear to be afraid to say.

They say they do not know the value of their land, and if the price agreed upon is a fair one, they are satisfied. If it is not enough they want what it is worth.

Besides these answers we also present you here with a list showing to whom the land was contracted, as near as we know; the number of acres of each and the price we are to receive if we are allowed to sell; also a few of our own contracts which the parties holding them wish to have returned.

We have thus tried to give you freely and frankly all the information we can and hope you will use it for our benefit. We shall be glad to have you tell us what you think of this business.

*The Chairman and other members of the Puyallup Commission.*

## EXHIBIT B.

This indenture witnesseth, that \_\_\_\_\_, part— of the first part, for and in consideration of the sum of \_\_\_\_\_ dollars, in \_\_\_\_\_ of the United States of America; to \_\_\_\_\_ in hand paid by \_\_\_\_\_, part— of the second part, ha— granted, bargained, and sold, and by these presents do— grant, bargain, sell, and convey unto the said part— of the second part, and to \_\_\_\_\_ heirs and assigns, for two years from the date hereof, the following-described premises, situate, lying, and being in the county of \_\_\_\_\_, \_\_\_\_\_ of Washington, to wit : \_\_\_\_\_.

This instrument and conveyance is continued in force after two years, and is made absolute on the further consideration of \_\_\_\_\_ dollars, which shall be due and payable by the grantee— to the grantor— under this instrument within ninety days after the approval hereinafter provided for. The intention being that this indenture is, and shall be, binding on the grantor— herein, \_\_\_\_\_ heirs, executors, administrators, assigns, and legal representatives forever, and that it conveys to the grantee— herein, \_\_\_\_\_ heirs, executors, administrators, assigns, and legal representatives forever, the hereinabove mentioned land and real estate, and that the same is hereby granted, bargained, sold, and conveyed by this instrument for all time; and this indenture shall operate as a deed of absolute conveyance in fee simple of said above-described real estate and property by the grantor— herein, \_\_\_\_\_ heirs, executors, administrators, assigns, and legal representatives, without any further writing, upon approval of the same, in accordance with the terms of \_\_\_\_\_ of the \_\_\_\_\_ of the \_\_\_\_\_, so far as the same may be applicable, said \_\_\_\_\_ bearing date \_\_\_\_\_.

To have and to hold the said premises, with their appurtenances, unto the said part— of the second part, \_\_\_\_\_ heirs and assigns forever; and \_\_\_\_\_, the said part— of the first part, do— hereby covenant to and with the said part— of the second part, \_\_\_\_\_ heirs and assigns, that \_\_\_\_\_, the owner— in fee simple of said premises, that they are free from all incumbrances; and that \_\_\_\_\_ will warrant and defend the same from all lawful claims whatsoever.

Witness \_\_\_\_\_ hand— and seal— this \_\_\_\_\_ day of \_\_\_\_\_, A. D. one thousand eight hundred and eighty \_\_\_\_\_.

Witnesses:

\_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_. [SEAL.]  
\_\_\_\_\_. [SEAL.]

## EXHIBIT C.

This indenture, made the \_\_\_\_\_ day of \_\_\_\_\_, 1890, between \_\_\_\_\_, Indians living on the Puyallup Reservation, parties of the first part, and \_\_\_\_\_, of the second part, witnesseth, that for and in consideration of the sum of \_\_\_\_\_ dollars, lawful money of the United States, to \_\_\_\_\_ in hand paid by the said part— of the second part, and of the performance by said part— of the second part, \_\_\_\_\_ heirs, executors, administrators, or assigns, of the covenants and conditions hereinafter recited to be performed by said part— of the second part, \_\_\_\_\_ executors, administrators, or assigns, as part of the consideration of the alienation and sale, have alienated, granted, bargained, and sold, and by these presents do alien, grant, bargain, sell, and convey, unto the said part— of the second part, \_\_\_\_\_ heirs and assigns, for the full term and period of two years from the day of the date hereof, the following-described premises, situate, lying, and being within the tract known and described as the Puyallup Indian Reservation, in the county of \_\_\_\_\_ and State of Washington, particularly described as follows: \_\_\_\_\_.

To have and to hold said tract, hereby sold or intended so to be, with their appurtenances, unto the said part— of the second part, \_\_\_\_\_ heirs and assigns forever, to and for \_\_\_\_\_ only proper use and benefit, subject, however, to the conditions and covenants herein and hereby imposed, and upon the express terms herein stated, or intended to be stated, as the considerations of this grant, and at the termination of said term of two years if the Congress of the United States shall not have consented to the removal of the restrictions recited in certain let-

ters patent issued on the 30th day of January, 1886, which grant and convey said premises *inter alia* to said parties of the first part, and designate certain heirs recited therein, that is to say, to the said ———, which restrictions to the alienation and sale of reservation lands by Indians were removed by the legislature of the State of Washington by an act approved March 22, 1890, entitled "An act enabling the Indians to sell and alien the lands of the Puyallup Indian Reservation, in the State of Washington," it is hereby covenanted and agreed by the said parties of the first part, for themselves, their heirs, executors, administrators, and assigns, that the premises herein and hereby conveyed, or intended so to be, shall continue aliened, bargained, and sold unto the said part— of the second part and the title thereto shall remain in ———, heirs and assigns, for the further period of two years, upon the further condition that said part— of the second part, ——— executors, administrators, or assigns, pay for said continued alienation and sale to the said parties of the first part, their executors, administrators, or heirs, the further sum of ——— dollars; and at the expiration of each succeeding term of two years thereafter the alienation and sale of said premises to said part— of the second part, or ——— assigns, shall continue upon the payment of an additional sum of ——— dollars.

Provided always, and the alienation and conveyance of the above-described premises are upon these express conditions: Whereas the said sum or sums hereinbefore designated as part of the consideration for the alienation of said premises for the said period of two years, and thereafter for further and continuing periods of two years, are advances necessary to enable the said ——— to cultivate the tract which said party of the first part has selected and located upon as his permanent home, and are actually required for the subsistence and maintenance of himself and his said family, to enable them to reside upon the tract selected by him, the condition of the grant thereof to him being such residence with his family thereupon, and the tract hereby and herein alienated not being included in nor contiguous to or occupied as the said homestead of the said party of the first part, now the condition of this alienation and sale is, that at the end of two years, or at the end of any biennial period succeeding said first term, or should said restrictions be removed, then within ninety days from and after the assent of the Congress of the United States to the removal of the said restrictions, of sale heretofore made by the legislature of the State of Washington by the act aforesaid, the said party of the first part is to refund and pay back to the said part— of the second part, ——— executors, administrators, or assigns, the amount of the sums so advanced to and received by him, together with interest at the rate of 20 per centum per annum from the date of the advance, upon which payment the estate hereby created shall cease and determine as though this alienation and conveyance had never been made. But if said party of the first part shall elect he shall demand that the said part— of the second part, ——— executors, administrators, or assigns, shall within ninety days from and after the removal of said restrictions of sale pay or caused to be paid to the said party of the first part, his executors, administrators, or assigns the sum of ——— dollars, such being the valuation agreed upon by the parties hereto of the premises hereby alienated and conveyed, from which sum, however, is to be deducted the amount or amounts so advanced without interest; and upon such payment of said sum the said party of the first part hereby covenants for himself and his heirs that he or they will execute and deliver to the said part— of the second part, ——— heirs, or assigns, such other or further deed or conveyance or assurance in the law with proper covenants, which the said part— of the second part may demand, deemed necessary or adequate to convey and confirm said premises in the lawful and absolute possession of the said part— of the second part, ——— heirs or assigns, forever, free and discharged of every demand for and interest or estate therein of the party of the first part, his heirs, or of any person claiming by, through, or under him, them, or any of them; and the said part— of the second part for ———, heirs, executors, administrators, and assigns hereby covenants that upon the payment back to ——— of the advances so made, as aforesaid, with the interest, as herein provided, that ——— will reconvey, release, and quitclaim said premises to the said party of the first part and his heirs free and discharged of any claim or demand by virtue of this alienation or conveyance thereof; or said part— of the second part, ——— administrators, executors, or assigns, in the event of said party of the first part electing to convey said premises will pay the just and full sum of ——— dollars, agreed upon as the purchase price and valuation of the tract hereby conveyed less the amount of the said advances so made to said party of the first part without interest, as the full consideration for the release of any interest, claim, or estate which the said party of the first part

or his heirs shall have or might set up in said premises by virtue of the United States patent aforesaid, hereinabove recited.

In witness whereof the said parties have hereunto set their hands and seals on the day and date first above written.

Signed, sealed, and delivered in presence of—

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_.

STATE OF WASHINGTON, *County of Pierce, ss:*

On this \_\_\_\_ day of \_\_\_\_\_, 1890, before me \_\_\_\_\_, a judge of the superior court for said county and State, the said court being a court of record, personally appeared the within named \_\_\_\_\_ Indians, recited as grantors in, and who executed the within deed of alienation for the lands in said conveyance described, and at the same time also appeared the within named \_\_\_\_\_, grantee—in said conveyance mentioned, and each of said persons so subscribing said deed as parties thereto respectively acknowledged the execution thereof as voluntarily made for the uses and purposes mentioned. I further certify that in taking the said acknowledgment of the said Indian grantor—*aforementioned*, I explained to \_\_\_\_\_ the contents of the within deed, and the effect of the signing thereof. I further certify that to enable said deed to be admitted to record, that I duly examined and approved said deed.

In witness whereof I have hereunto affixed my hand, on the day and date in the above certificate written, and caused the seal of said court to be attached to this certificate.

## EXHIBIT D.

### FINAL MEETING WITH THE PUYALLUP INDIANS.

PUYALLUP INDIAN COMMISSION,  
*Puyallup Indian Agency, February 13, 1891.*

The meeting was introduced at 1:58 p. m. by music from the Indian band. About 80 men and 20 women, besides the agent and employes of the agency, were assembled in the chapel room of the agency school building. The full commission were present, Chairman Drake presiding.

Chairman DRAKE. We are glad, my friends, to meet you again before we go away. We have heard that you have some matters to bring before us. We shall be pleased to hear from you now.

DICK SENNAWAH. What we have to present to you gentlemen is already written but the papers is not here just now. I will speak a few words until they come. To-day we are going to express our minds to you gentlemen. My brethren, I have to thank you for the work you have come out to do for us. We are going to carry it out, and the Government knows what our thoughts is. The Government is our governor, and he is the one we are thankful to all the time for what he does for us. We do say that he is doing good work for us. All the school children that you see here, and the educated young men that you see around here, all that, the Government has done for us. The old people here are very glad to see their children educated the way they are, and all those that have died before us were always glad of the work the Government has done for us. We never thank any other, but are thankful to the Government for what he has done for us. I will be thankful as long as I live. If I would turn around from what he wants me to do, maybe that is not the way he would like me to do. What the Government wants me to do I will stay with all the time and do its wishes. I have never destroyed anything, or refused to do what the Government wants me to do. You see how old I am. I been following all he has asked me to do.

Chairman DRAKE. How old are you?

DICK SENNAWAH. I don't know the number of years old I am; I was living at the time when Governor Stevens was here. I was a man then, a young man.

Chairman DRAKE. That was in 1854.

Commissioner HARNES. That was over thirty-six years ago.

Chairman DRAKE. He is about 65 years of age. Go on, sir.

DICK SENNAWAH. I am not anxious to get anything off from the Government; no goods or anything for me; only my land is what I am anxious to get the right of, because that is the way I have been keeping myself straight all the time and doing what he has been telling me for a number of years past. That is what I have been, a brother. The Government all the time has to keep me in my place and protect me from anybody that would try to get my home from me. I ain't going to do anything outside of what the Government wants me to do. I will keep myself straight all the time I live. I will leave my boys words, my children here, that they should do what is right after I am gone. The sixty people that is with me did not get fooled as the rest of the people got fooled. I do not care what the people should do to us about giving us money, and we wouldn't listen to that unless the Government tell us what to do about it. Now, another thing I am going to speak of, that I am asking for now, is to get my right for my land and get a deed for my land before I die; that is the other thing I am going to speak of now. The right to have my land now is what I am going to ask of you gentlemen, and I wish you to take that out with you to the Government and tell him I am asking for the right of my land. I want to live on it and have just the same rights the white settlers do and to do what I please with it. I want that right about my land. I have been anxious about it for some time to get it. That is all I have got to say.

Chairman DRAKE. Have the committee with your report come yet?

Interpreter GOUDY. The papers are here.

PETER STANUP, (reading in English and being interpreted to the Indians):

*"To the Honorable Puyallup Indian Commission:*

"GENTLEMEN: The, the undersigned petitioners, residents and citizens of the Puyallup Indian Reservation, in Pierce and King counties in the State of Washington, do most sincerely and respectfully represent and pray that the restrictions against the alienation of our lands, contained in our patents, be immediately and wholly removed by the Government.

"We would further ask that the Government also apportion and allot 300 acres of land contained in, and being part of, what is known as the school or common lands, to the younger Indians who are now of age and have no land, 15 of said 300 acres to be patented to the trustees of the church and cemetery."

(This paper when presented had 71 names signed to it. Afterwards a duplicate of it was delivered to the Commission with 112 names signed.)

Chairman DRAKE. We will hear now any who wish to speak or address the Commission at this time.

TOMMY LANE. I will just speak a few words. I do not know how long since we have been trying hard for our land. We know that the land belongs to us, but the laws of the United States kind of check us from being the real owners of it. Whatever I am going to speak about, it will be just for the land. It is just lately that my eyes were opened and I see how we are. I and a good many others of my friends are working hard and improving our lands. All we earn in money outside of our farms, and what money we make off our farms, we just turn it right back and make more improvements. And now as I have been spending a good many dollars on my farm and improved it, I found out lately that the way my patent is drawn up I can't be the owner of that land. If I should die, I can't will that property; I can not give it to anybody after paying for it. I will say about one thing, it has shown me those things. Some of our men have died here on the reservation, and before they died they would make a will, draw up a writing, and the will that they would make was no good; that is one thing that is shown me about my land, that I can not dispose of it in any way. That is why I come to tell you of that, my friends. You have come here to do what is good for us. If we could get the rights for our lands and have those restrictions removed; the way it is now, that would be the only thing that would make us glad, I and the rest of my people. We would not say that the Government is not doing everything that is right, but then at the same time we say that about land matters that it is not as we want it. We want to be like the white settlers outside the reservation; they are the owners of what land belongs to them and we want to be just the same as they are. I think if the Government would give us that right about our lands there would be no more trouble for the Government after this; there would be nobody outside the reservation that would be going in and bothering about the lands that we have here. Another thing I am going to speak of, about railroads going through the reservation. There are companies that want to build roads through the reservation and al-

ways bother the Government when they go out and ask them for right of way through the reservation. Just the way we are fixed the railroad can not go through the reservation, because we have not the right for our land, and it is bothering us all the time. If we had our rights for our lands the same as white settlers outside of us, if the railroad companies wanted to build the road through our places, we could talk matters over and they could build it just the same as outsiders. That is what I speak of, to explain the troubles here with us. That is all I have to say.

ATWIN JACKSON (speaking in English and being interpreted to the Indians). Well, I have got a little something to say; a little more than a little. I want to ask you a little question. If I understand well, when we had a meeting here the first time you said you were sent by the Government. You told me you were sent by the Government to come to see me, to do me good, to help me. That is what I understand. That gives me foundation for what ground I am standing on now. When I see a person, I can tell whether he is a good man or not. I have been with the white man when I was little until I am now old. Now the Government is civilizing me. He wants me to do like white ways, to carry on all business. Now I am doing it; I am carrying on business now. And my friends said they give away their farms; that is business. And my friends, you see they are paying taxes; that is business. And my friends, they are voting; that is business. How much more do you want from me, Injun? [Applause.] Now as you said you were going to help me, now you help me. You take that restriction off my patent; that helps me. This is a free country, United States, and I belong to the United States; and this is a State now. Now you help me. Don't you go back to Congress and laugh at me. You know the poor Injuns are like little babes. Help me, lift me up like civilized people, and I will thank you for it as long as I live. That is all for me. [Loud applause.]

Chairman DRAKE. Are there any more who want to speak?

PETER STANUP. There were just three appointed to make speeches, and whatever they have said, they have spoken our whole mind.

Chairman DRAKE. If the members of Congress were present here to-day they would be impressed as I am with the character of this assembly. People where I came from do not know anything about the Puyallups, and they will perhaps be surprised when we tell them that the Puyallups that we have met here are just as orderly and respectable as any ordinary gathering of white people. When we go back, we shall have not one bad word to say about the Puyallups, but we shall tell the truth, that they are a worthy people. The petition that has been presented here to-day shall receive the very best consideration that we can give it. It shall accompany the report that we make to the President, so that in the history of the country that document will be embodied; and we have no doubt that it will receive kindly attention from the President and from Congress. We want to be remembered kindly by the Puyallups. We told them when we came here that we came to do them good if we could. We shall bid them good-bye to-day with the same purpose. We will try to determine, according to the best light we can get, what is best for your interests. As regards your lands, we will take into consideration carefully all that has been written and said here to-day, and when our report comes to be printed, you will see the conclusions at which we have arrived. We have not reached our conclusions yet, and, therefore, I can not make you any promise in regard to your lands. I can only tell you that whatever conclusions we do arrive at shall be intended for your benefit. And now nothing remains but that we should say good-bye. [Great applause.]

Agent EELLS. It would be a good plan to let them shake hands with you as they pass out.

PETER STANUP. Mr. Chairman and gentlemen of the committee, I have a document here to offer. It is called a resolution. [Reads in English and is interpreted to the Indians.]

"That whereas the honorable Puyallup Indian Commissioners have conducted the Puyallup Reservation investigation in an intelligent, able, and unbiased manner, and to them we shall be indebted for all the valuable information necessary to the speedy opening of the reservation: Therefore, be it

"Resolved, That we, the Puyallup Indians, respectfully and most sincerely extend our heartfelt thanks to Judge Drake, Judge Kinkead, and Senator Harness for the careful, able, untiring, and impartial manner in which they have discharged their duties; and further

"Resolved, That on their return journey we wish them a godspeed and a safe return to the nation's capital and finally to their respective homes."

Mr. Stanup then spoke to the Indians on the adoption of the resolutions, and they unanimously responded "Ay."

PETER STANUP. They have adopted this, Mr. Chairman.

Chairman DRAKE. This shall accompany our report, too, so as to show Congress and the President that we part good friends with the Puyallups.

The Indian band then rendered a selection.

ATWIN JACKSON. I want to ask you something, gentlemen. What do you call that? Tell me if that is Injun way. [Laughter.]

Commissioner HARNESS. It sounds like white man's ways.  
Handshaking followed.

CHARLES B. TITUS.  
*Secretary and Stenographer.*

## EXHIBIT E.

NORTHERN PACIFIC RAILROAD COMPANY,  
LEGAL DEPARTMENT, WESTERN DIVISIONS,  
*Tacoma, Wash., February 21, 1891.*

Hon. C. D. DRAKE, Hon. G. B. KINKEAD, Hon. B. F. HARNESS, *Commissioners in re Puyallup Indian Reservation, pursuant to act of the United States Congress approved August 19, 1890:*

DEAR SIR: Referring to the matters mentioned in our communication to you of the 12th instant, and other matters incident thereto, and pursuant to the understanding with your body at the hearing which you kindly gave our Mr. Ashton on the 16th instant, the proceedings of which were duly reported at the time, we beg leave to hereby formally present (under three leading heads) the claims and requests of the Northern Pacific Railroad Company regarding the matters hereinafter mentioned:

First. We desire such a report from your honorable body as will enable us to successfully introduce and pass through Congress an act confirming the right of way of the Northern Pacific Railroad Company between the city of Tacoma and the town of Puyallup, in Pierce County, in this State; that is to say, all parts of said right of way embraced within the Puyallup Indian Reservation.

Clearly, this right of way should be confirmed by Congress as long as said company continues to use it in operating its main line of railroad or any of its branches.

On the 21st of November, 1876, Gen. Milroy, the agent in charge of the Indians, and Gen. Sprague, then the general superintendent of the railroad, entered into the following agreement, to wit:

"This article of agreement, made and entered into by and between J. W. Sprague, general superintendent of the Northern Pacific Railroad Company, on behalf of said company, and R. H. Milroy, agent in charge of the Puyallup Indian Reservation, on behalf of the Indians of said reservation, witnesseth:

"That said railroad company, being desirous of locating and constructing a branch line of their said railroad from New Tacoma to the Puyallup coal fields, which said branch line must pass through said reservation, being desired for the permanent location and construction of said branch line, said Sprague hereby agrees on behalf of said railroad company, and binds the same in consideration of the Indians of said reservation, through their chiefs and head men, giving their consent to said right of way to the following stipulations, to wit:

"First. To pay reasonably for all damages that may be occasioned to improvements on said reservation by the construction and permanent right of way through said reservation.

"Second. To construct at some convenient point upon said branch line within the limits of said reservation, where it will be of the most benefit to the same, a switch in connection with a side track of practical length, with the right to said Indians to have a warehouse or depot constructed adjoining said side track, at which the passing trains of cars on said branch line will stop for the shipment of passengers and freight.

"Third. That during the construction of said branch line preference will be given in the employment of Indian laborers over white and Chinese laborers when the Indian laborers will perform the work required to be done as well and as cheaply as it would be done by white or Chinese laborers.

"Fourth. That during the construction of said branch line through said reservation no intoxicating liquors of any kind shall be brought within the limits of said reservation by any of the employes of said railroad company, or be allowed to be used within said reservation by any of the employes of said railroad company, or be allowed to be used within said limits by any of its laborers; and that after the completion of said branch line no intoxicating liquors of any kind shall be taken out of the cars within the limits of said reservation to be delivered to Indians, or be allowed to be used within said limits by persons engaged in operating or keeping said line in repair.

"Fifth. That during the construction of said branch line through said reservation no drunken, disorderly, or grossly immoral men shall be employed as laborers by said company, nor shall such men be brought and permitted by said company to stop within the limits of said reservation for any purpose that is within the control of the company, nor shall such men, after the completion of said branch line, be employed within the limits of said reservation in operating or keeping said branch line in repair.

"Sixth. That a plain, palpable violation of any of the foregoing stipulations shall, at the discretion of the Indians of said reservation, annul and work a withdrawal of their consent to the granting of said right of way.

"In consideration of the agreement of said Sprague to the stipulations aforesaid, the said Milroy, on behalf of said Indians, hereby agrees and binds himself to assemble them in council without delay and to obtain from them through their chiefs and headmen their written consent to the permanent right of way for said branch line through said reservation. In case said consent is not fully obtained, as aforesaid, this agreement is to be null and void, else to be in full force and virtue in law, as witness our hands at Kalama, Wash. Ter., this 21st day of November, A. D. 1876.

"THE NORTHERN PACIFIC RAILROAD COMPANY,  
 "By J. W. SPRAGUE, *General Superintendent.*  
 "R. H. MILROY, *Agent in Charge.*"

That thereafter, on the 23d day of November, 1876, the Indians, through their chiefs and headmen, confirmed this agreement by a compact or treaty, a true copy of which is as follows, to wit:

"Be it known that on this 23d day of November, A. D. 1876, we, the chiefs and headmen of the Puyallup Indian tribe and reservation, being in general council assembled, and having heard, read, interpreted, and explained to us, the written agreement made and entered into between J. W. Sprague, general superintendent of the Pacific division of the Northern Pacific railroad on behalf of said railroad company, and our agent, R. H. Milroy, on our behalf, under date of November 21, 1876, relative to our granting the right of way for a branch line of said railroad from New Tacoma to the Puyallup coal fields through our reservation, and being convinced that it would be for our best interest and that of all our people to grant the right of way for said branch line through our reservation, hereby agree and consent, on behalf of our people, to grant the permanent right of way to said railroad company for the construction of their said branch line through our reservation upon the terms and conditions named and set forth in said agreement.

"In testimony of which we have hereunto set our hands this the day and year first above written.

"Joshua (his x mark) Sitwell, head chief; Richard (his x mark) Sineyawah, subchief; Marcillas (his x mark) Spot, subchief; Joseph (his x mark) Zell, subchief; George (his x mark) Wash, headman; Jonas (his x mark) Stanup, headman; August (his x mark) Jackson, headman; James (his x mark) Coots, headman; Lewis (his x mark) Napoleon, headman; John (his x mark) Swan, headman; Saleskin (his x mark), headman; Robert (his x mark) Gamble, headman; John (his x mark) Cook, headman; John (his x mark) McLeod, headman; John (his x mark) Seattle, headman; Lewis (his x mark) Peanes, headman; Charles (his x mark) Joke, headman; Fred (his x mark) Moses, headman. James Lewis, interpreter. Peter C. Stanup, sheriff.

"All of the foregoing names were signed in the presence of M. G. Mann, John Flett, R. H. Milroy, agent."

On April 27, 1877, during or after the construction of the line of railroad, Gen. Milroy, the Indian agent, wrote Gen. Sprague a letter showing that the company

had fulfilled its part of the agreement as to compensating Indians for damage, etc. A copy of this letter is as follows, to wit:

"OFFICE UNITED STATES INDIAN AGENT FOR THE  
"PUYALLUP, NESQUALLY, AND OTHER INDIAN TRIBES,  
"Olympia, W. T., April 27, 1877.

"Gen. J. W. SPRAGUE,  
"Superintendent Pacific Division Northern Pacific Railroad:

"DEAR SIR: I have the honor to acknowledge the receipt of yours of the 23d instant (night before last), inclosing eight vouchers in duplicate, which I herewith return, receipted by me, for \$848.55, in full for all money due the Puyallup Indian Reservation and Indians for damages, etc., occasioned by the construction of the Puyallup Branch of the Northern Pacific Railroad. Said vouchers contained the itemized information for which I wrote you in my last.

"Very truly, yours,

"R. H. MILROY, *United States Indian Agent.*"

The Indians, so far as we have been able to ascertain, have never objected to any acts of the railroad company in constructing the line or operating the same since the above dates; in fact, the utmost harmony has prevailed between the Indians and the railroad company regarding this matter.

We desire now to have Congress confirm these agreements, by either granting the right of way to the railroad company or ratifying and confirming the acts of the Indians in granting such right of way, thereby vesting in the railroad company absolutely the easement which has existed for years under these agreements.

We also attach hereto, marked Exhibit 1, a copy of a letter from Indian Commissioner J. D. C. Atkins, written on the 29th of June, 1887, to Edwin Bells, then and now the agent in charge of the Indians. This letter shows the difficulty the company has been suffering under for years, and also refers, in the latter part thereof, to another and very serious difficulty which it labors under on account of its inability to construct a spur connecting its freight yard at the head of Commencement Bay with its main line at a point on the main line of its railroad shown on the map heretofore submitted to you with letter, under date of the 19th instant, from H. S. Huson, the company's principal assistant engineer. This matter we will treat under the second head of this communication.

It is also highly desirable that, in taking early action affecting this reservation, the Northern Pacific Railroad Company, now in full operation at this point, together with other railroad companies, be given the right to construct and operate railroad lines along the northeasterly shore of Commencement Bay at all points where it borders upon the reservation, or where it may be necessary to occupy Indian land, as this land is now in demand for transportation facilities, and will be required by the Northern Pacific Railroad Company, the Union Pacific Railway Company, the Great Northern, and other lines now constructed or in process of construction to this point.

We also attach hereto, marked Exhibit 2, a copy of a letter from the general manager of the Northern Pacific Railroad Company to its second vice-president, from whom we have received our instructions in this matter, and which, at the meeting of the 16th instant, it was understood should be furnished.

Second: Our second request is that your honorable body assist us, so far as possible by the terms of your report, in procuring from Congress legislation permitting us to construct the spurs and other tracks over the triangular piece of land mentioned in Mr. Huson's letter of the 19th instant, and shown upon the map accompanying the same.

In discussing this matter on the 16th instant reference was made to the fact that if these tracks were to cross an odd section, and the company claimed to be the owner of the odd sections within the reservation, the action of Congress might not be necessary; that is, assuming the company's position regarding the odd sections to be correct, which, of course, your body did not concede, but which we urgently maintained at that time was the legal status of the matter. This point, however, will be referred to under the next head of this letter.

The Government, in establishing the school farm and granting allotments to the Indians, has practically forced us, under the law and the rules and regulations of the Indian Department, to securing the legislation which the company now desires. If the United States Government is willing to concede that no controversy exists with the Northern Pacific Railroad Company regarding the odd sections, then, of course, we can immediately proceed to construct these spur

tracks and take possession of this odd section, together with all others within this reservation. The Government, however, by its own acts, in granting these lands to the Indians, compels the company to assume that the Government denies the right of the railroad company as owner of the odd section, and denies its right at this time to sell and dispose of or in any manner use or appropriate the same. We, therefore, think that beyond question Congress, in fairness and justice to the people of the city of Tacoma, and to all patrons and shippers over the Northern Pacific Railroad Company, which practically means the residents of this northwest coast, should immediately take steps granting us the rights requested that the business of said company at this terminal point may be successfully and properly handled.

Third. The Northern Pacific Railroad Company claims to be the owner and to be now entitled to the use and possession of all land embraced within odd sections in this reservation. All parts of the reservation are within the 40-mile limit of the grant to this company under its charter passed by Congress on the 2d day of July, 1864. (U. S. Stat. at L., vol. 13, p. 365.)

We therefore request your honorable body to report the fact of the company making this claim at this time, and request that in the event of Congress in any manner dispossessing the Indians or giving them the right to dispose of their property, the rights of this company to the odd sections be recognized, preserved, and duly protected by the terms of any act of Congress passed for such purposes.

Under the decisions of the Interior Department and of the Supreme Court of the United States, the only rights to these odd sections which can possibly exist, adverse to those of the Northern Pacific Railroad Company, are the Indians' rights of occupancy so long as the Indians exist as wards of the Government and remain in their primitive condition—that is to say, without enfranchisement or citizenship. It would seem that these rights do not now exist so far as the odd sections within this particular reservation are concerned, as the Government has treated them as citizens ever since the act giving them rights as such, and allotting them their lands in severalty.

It would, therefore, seem that the rights of the railroad company to the odd sections within this reservation are at this time absolute, and should be recognized and protected by Congress in any legislation which may be enacted pertaining to this reservation.

Taking the decisions of the Supreme Court of the United States and the leading decision of the Interior Department regarding this matter in the order in which they have been rendered, we beg leave to call your attention, first, to the case of *Buttz vs. Northern Pacific Railroad Company*, reported at page 55 of volume 119 of the Reports of the Supreme Court of the United States, which establishes clearly that these odd sections passed to the company under the grant to it by Congress hereinbefore referred to, subject only the Indians' right of occupancy. This is the first and doubtless the leading case, going directly to the point. This case discusses at considerable length the entire matter, and, it seems to us, is a very able, exhaustive, and sound declaration of the law upon the subject.

We also call your attention to the decision of Secretary Vilas in his letter to Commissioner Stockslager, under date of August 2, 1888, in deciding the appeal in the case of the Northern Pacific Railroad Company *vs.* Guilford Miller, reported in volume 7 of the Decisions of the Department of the Interior, at page 100. We direct your attention particularly to the third paragraph on page 125 of this decision, in which the learned Secretary, in considering the point now under discussion, uses the following language, and refers to the case above cited, to wit:

“But the final and governing answer to this claim of a basis for selection for lands embraced within the Indian reservation has been furnished by the Supreme Court in the case of *Buttz* against this company, *supra*, in which it has been explicitly adjudged that such lands passed by the grant to the company, in fee, subject to the Indian right of occupancy, which the Government will, at its pleasure, extinguish. The tracts listed in October, 1887, as lost to the grant because lying within the Yakima Reservation, in fact passed to the company by the grant, and afford no basis of claim to select others in lieu thereof.”

There can not be the slightest difference in principle between the rule which we ask to have applied in this case and that applied in the above decision in the Guilford Miller case. The Yakima Indian Reservation, there under discussion, is also located in this State, and within the 40-mile limit of the grant to this company.

This doctrine has been followed, and these decisions recognized and adopted by the Supreme Court of the United States as late as December 22, 1890, in the

case of the St. Paul, Minneapolis and Manitoba Railroad Company vs. Ransom Phelps, not yet reported in volume form. The opinion in this case was rendered by Mr. Justice Lamar as of October term last. We call your attention particularly to the last paragraph of the opinion, where the learned justice refers to the above case of *Buttz vs. Northern Pacific Railroad Company*, and endorses and adopts the law as there decided.

We therefore request that, regarding the three subjects herein referred to, your honorable body report in favor of the Northern Pacific Railroad Company acquiring grants and rights as herein referred to, and that its vested rights as they now exist be duly protected.

All of what is respectfully submitted.

MITCHELL, ASHTON & CHAPMAN,  
*Attorneys for Northern Pacific Railroad Company, on its Western Division.*

#### EXHIBIT I.

WASHINGTON, D. C., *June 29, 1887.*

SIR: Referring to your report of the 1st instant on the subject of the proposed spur of the Northern Pacific Railroad on the school farm, Puyallup Reservation, I have to say that a copy of said report was duly transmitted to the president of the railroad company, and I now inclose a copy of his reply, dated the 22d instant, from which you will perceive that the company agrees to all the terms and conditions suggested by you, viz:

That the company be allowed a right of way for a distance of 1,225 feet and 60 feet in width as indicated on the map filed, on the following conditions:

First. They shall before commencing work erect a good, lawful fence on both sides of the track so as to protect the field through which it runs from stock.

Second. They shall put in a waste gate to allow the water to escape, where the road crosses the creek, and at the same time keep out the salt water from coming in during the high tide.

Third. They shall put in gates on each side of the track and make a crossway so as to allow the hauling of the hay and produce from across the track to the buildings.

Fourth. They shall pay for the land so taken at the rate of \$700 per acre, the market price of the land at the present time.

In regard to the existing road used for a number of years as a coal road, but soon to become a part of the transcontinental road, of which you remark that the company has the use and occupancy but not the right of way, I find on the files of this office the original of an agreement (copy herewith), made November 21, 1876, between J. W. Sprague, general superintendent of the company, and R. H. Milroy, the agent in charge of the Puyallup Indian Reservation, on behalf of the Indians of said reservation, whereby, after reciting that said railroad company being desirous of locating and constructing a branch line of road from New Tacoma to the Puyallup coal fields, which said branch line must pass through said reservation, and the right of way through said Reservation being desired for the permanent location and construction of said branch line, "said Sprague agreed on behalf of said railroad company, and did thereby bind the same, in consideration of the Indians of said reservation through their chiefs and headmen giving their consent to said right of way" to certain stipulations therein contained, principal among which were:

First. That the railroad company should pay reasonably for all damages that may be occasioned to improvements on said reservation by the construction and permanent right of way of said branch line through said reservation.

Second. To construct at some convenient point upon said branch line within the limits of said reservation, where it will be of the most benefit to the same, a switch in connection with a side track of practicable length, with the right of said Indians to have a warehouse or depot constructed adjoining said side track, at which the passing trains of cars of said branch line will stop for the shipment of passengers and freight.

I also find on the files of this office a memorandum of consent, copy herewith, dated November 23, 1876, signed by the chiefs and headmen of the Puyallup Indians, to a permanent right of way to the Northern Pacific Railroad Company for the construction of a branch line through their reservation, upon the terms and conditions named and set forth in said agreements.

The agreement as approved by the Commissioner of Indian Affairs, December 14, 1876, and by the Secretary of the Interior April 13, 1877, and a copy as approved, was transmitted to Agent Milroy April 16, 1877.

A somewhat hasty examination of the files of this office since that date fails to disclose any evidence of what, independent of the fact that the road was built, was done under this agreement. In so far as the stipulations above cited were concerned, whether the Indians were reasonably compensated by the company for damages occasioned to improvements, and whether the switch, side track, and warehouse therein provided for were actually built.

In your letter to this office of October 5, 1886, presenting the Indians' request that the road should be fenced, you remark: "They say that a number of years ago this tribe gave permission for the Northern Pacific Railroad Company to build a railroad through their reservation to some coal mines above here on certain conditions, which were complied with," but the general tenor of that letter would seem to imply that they had never been compensated.

In your report of the 1st instant you recommend "that the company be granted a right of way on the line as at present used for 60 feet in width, on certain conditions, which I will suggest at the proper time."

It will save time and labor to have all questions affecting the main line and spur adjusted together, and I will therefore thank you to at once examine the situation, ascertain what, if anything, remains to be done under the original agreement of November, 1876, and report with such suggestions for the additional protection of the Indians as you may deem necessary and expedient for the further consideration and action of this office.

In the mean time, the existing status will be maintained and the construction of the spur prohibited until the further orders of the Department.

Yours, very respectfully,

J. D. C. ATKINS,  
*Commissioner.*

EDWIN BELLS, Esq.,  
*U. S. Indian Agent, Nisqually and Skokomish Agency,  
Tacoma, Wash.*

EXHIBIT 2.

ST. PAUL, MINN., *December 15, 1889.*

MY DEAR SIR: A commission has recently been appointed, under an act of Congress approved August 19, 1890, for the purpose of visiting the Puyallup Reservation and adjusting the right of way and any other questions in relation thereto. This Commission is authorized to act as to the manner in which lands shall be disposed of when the Indian allottees shall be vested with power to dispose of their individual tracts; in what manner, if at all, individual Indians shall be indemnified for damage to their individual holdings if railroad shall be granted right of way through the reservation; in what manner the tribe shall be compensated, etc. The act is known as Public 235, "An act making appropriation for the current and contingent expenses of the Indian Department, etc."

This Commission will shortly be out at Tacoma. One of the most important factors in the recent troubles we have had in moving freight has been that we could not use one end of our freight yard at Tacoma on account of not being able to get a short piece of right of way through the Puyallup Reservation, so as to connect with the main track, and it is of the greatest importance that this matter be settled up. I wish, therefore, that you would kindly take it up, meet the commissioners, and so arrange with them that they will report in favor of granting the Northern Pacific the right of way it requires, as well as ratifying the contract made many years ago by Gen. Sprague, Gen. Milroy acting for the Indians or the Commissioner of Indian Affairs, under and by which the Cascade Branch was constructed through said reservation. That contract, by some oversight, after being made was filed away, and has never been ratified by Congress. Mr. McNaught advises me that Mr. Ashton is familiar with the details and facts in relation to this matter, and he will advise him to immediately confer with you in relation to the matter.

I herewith hand you copy of the act, which may be useful. Page 21 advises the powers of the Commission, etc. I have instructed Mr. Kendrick to immediately prepare plats of the right of way we want and to get the matter in shape,

and if any further information is necessary, which Mr. Kendrick can give, he will get it into Mr. Huson's office immediately.

Yours, very truly,

W. S. MELLE, N,  
General Manager.

C. H. PRESCOTT, ESQ.,  
Second Vice-President, Tacoma.

TACOMA, WASH., February 19, 1891.

DEAR SIR: At the request of Mr. Schulze, of the land department, and our western attorneys, I beg to address this communication to you upon the necessity of having additional right of way through the Puyallup Indian Reservation grounds in connection with the operation of the extensive yards of the Northern Pacific Railroad Company at the head of Commencement Bay, in the city of Tacoma.

I presume you are familiar with the location of the tracks of this company in that neighborhood. The accompanying map will serve to freshen your memory, and will illustrate the points which I wish to make. The only access to these yards from the east is by the way of the track marked in red upon the plat, connecting with the main line just as it emerges from the reservation. This track contains two 10° reverse curves, and enters the yard some 800 feet west of their eastern termini, thereby rendering useless, or extremely difficult of operation, fully one-third of the company's yard as at present constructed, and rendering it impossible to make any eastern connection at all with that portion of the yard which has been graded, and upon which we wish to lay tracks, lying south of Twenty-third street.

We have already expended upon these grounds \$572,742.10, and our estimates for improvements which we wish to make the present season is \$172,815.76. These improvements are of vast utility to the citizens of Tacoma, and, indeed, to all the inhabitants of the State of Washington, for the handling of its commerce and transportation of the business of the State. It is self-evident that the utility of these yards is greatly impaired and the commerce of the State impeded so long as the company can not complete the improvements as planned and gain proper access to the property from the east.

In order to complete these yards and provide for the future growth and development of transportation facilities of the road in this city, it is necessary for the company to acquire from the Puyallup Indian lands all that triangular tract marked A, comprising 12.1 acres. It is possible that the immediate requirements might be obtained by acquiring right of way marked B and C upon the plat, but you will see that this only affords temporary relief, and that the future development of this yard and the rendering of proper transportation facilities to this Commonwealth requires the possession of all the tract marked A.

Very truly yours,

H. S. HUSON,  
Principal Assistant Engineer.

Hon. Judge DRAKE,  
Chairman Puyallup Indian Commission,  
Tacoma Hotel, City.

## EXHIBIT F.

PUYALLUP INDIAN AGENCY (CONSOLIDATED),  
Tacoma, Wash., February 20, 1891.

DEAR SIR: I have the honor to submit the following brief statement of facts relating to the Puyallup Indian Reservation, with a few suggestions concerning the manner of the disposal of the lands by the Indians, in accordance with your direction.

First. The nature of the title to and the value of the lands allotted in severalty.

By treaty, proclaimed March 3, 1855, there was set apart for the use and occupancy of the Puyallup Indians 1,280 acres, in a square form, on the south side of Commencement Bay. Subsequently, the Indians being dissatisfied and the loca-

tion being found unsuitable, a new agreement was entered into with them, in accordance with which another tract of land, in which was included the present reservation, was set apart for them by Executive order, dated January 30, 1857, in lieu of the first-named tract which was released by the Indians at that time. This was done under the authority granted to the President in the sixth article of said treaty. A map was submitted in connection with this agreement, and made a part of the Executive order, which gave a description of the new reservation. This map, which seems to me to be very important, I have never seen, and I am informed it is not in the Indian Office, but I presume it is in the office of the Secretary of the Interior.

A survey was then made shortly after, for the purpose of defining the boundaries of the new reservation in accordance with that agreement and Executive order. The field notes of this survey were burned in the office of the surveyor-general at Olympia many years ago, and I have not been able to learn when or by whom it was made. I presume the only copy of said notes is in the General Land Office at Washington. The Indians were dissatisfied with this survey, which they affirmed did not include all the land they were to receive. Upon examination, this having been found to be true, another Executive order was issued bearing date of September 6, 1873, which was intended to supply this deficiency as far as practicable, and to give them all of what had been left out by that survey that the Government then owned. This included all that part of section 34 not already included within the reservation. In 1873 the reservation was subdivided, and the boundary lines again established; but the boundary lines of the latter survey do not conform in all parts with the boundary lines of the first survey, which is supposed to have been inaccurate. The fractional subdivisions of land lying near and adjoining the west boundary line of the reservation were apparently calculated from the field notes of the first survey, while the fractional subdivisions on the inside of said boundary line were calculated from the field notes of the last survey and the acreage does not agree. Patents have been issued to parties living on both sides of the line to land which laps on to each other. I think there are about 100 acres that are thus patented to both whites and Indians. As the land commands a very high price in the market, it is very important that the location of the correct boundary line be determined, and the patents corrected accordingly.

In 1886 patents were issued to the Puyallup Indians covering all of the land in said reservation except 598.81 acres, which was reserved for school and agency purposes. By the terms of these patents, which were issued under authority granted by the sixth article of the treaty, the title to the land was vested in the patentees, with certain restrictions upon its sale, until a State constitution embracing such lands within its boundaries shall have been formed and the legislature of the State shall remove the restrictions. But no State legislature shall remove the restrictions without the consent of Congress. The State legislature by act approved March 22, 1890, removed the restrictions, and it now remains for Congress to give its consent, or modify those restrictions, as it shall see fit.

Next, its value. Certain conditions have been developed which have made the land immensely valuable. Its increased value consists in the fact of a part of it being adjacent to 2 or more miles of water front contiguous to the waters of Commencement Bay, and adjoining the city of Tacoma. Near this would be fine residence property. A part is so near the city limits that it would immediately become city property if it were put on the market. A part borders on the corporation limits of the town of Puyallup. A large part is the very best of agricultural land, and lying as it does between these two important places is near to market, while a comparatively small proportion is hill land, and not specially valuable, except as its contiguity to the cities above named have made it so.

Second. Whether there are any common lands which have not been allotted, and if so the value of the same, and of the interests of the Indians therein.

All of the land on the reservation was allotted except 598.81 acres, which was reserved for school and agency purposes. Since then it has been found that the Delin claim, which bounds the school farm on its west side, laps over onto it and takes out a fraction over 13 acres, leaving just about 585 acres that has not been allotted. About one-half of it is at present used for the benefit of the school which is located on it. An Indian graveyard is on a part of it, which the Indians are very tenacious of. This land is specially well adapted for school purposes, and by its use in that way the Indians all get the benefit of it. Being adjacent to the city of Takoma, it is very valuable.

Third. Whether such reservation embraces the land on Puget Sound between high and low water mark.

It is claimed by the Indians that the map above referred to and which contained the description of the land they agreed to receive in lieu of that released by them and on which the city of Tacoma now stands included all the land on the borders of Commencement Bay to low-water mark. It seems important that this map should be found, and I submit that if this land was included in that map, as stated by them, it was also included in the Executive order of January 20, 1857, above referred to, is a part of the reservation, and belongs to the Indians. If the representatives of the Government agreed to give this land to the Indians, and the President, in accordance with that agreement, set it apart for them, as the Indians claim, should they be the losers on account of the negligence or carelessness of the surveyor who ran out the lines designating the tract so agreed upon by the parties unless the Government has put itself in a position to be unable to perform its obligations?

Fourth. Whether any restrictions now existing upon the power of alienation by the Indians of their allotments should be wholly or in part removed.

The whole area of the land allotted to the Puyallup Indians is 17,463 acres. There are about 600 Indians now living on the reservation. The agricultural land lies in a compact body, and on this part the Indians live. Each family owns about 40 acres of good agricultural land in one piece by itself, the other part of each allotment being either hill land or tide flats, which is in another part of the reservation. This latter portion, on account of its contiguity to the water front and city limits, is the most valuable. It is not needed for actual use by the Indians, and is especially needed for the extension of the city limits. There seems to be no question but that at least two-thirds of the land on the Puyallup Reservation should, under proper regulations, be disposed of so that it can be improved and used. This, if sold for anything like its market value, would enable them to improve the remainder of their land, and if their money was properly invested live in affluence. But it appears to me that their best interests imperatively demand that the part on which they live and where their homes and improvements are should still remain inalienable. They are improvident, are easily imposed upon, and if left unprotected would in a very short time be out of house and home, without money and without friends. This part of the reservation is not particularly needed by others in order to advance the material interests of the country, but is invaluable to them. Many would neglect or be unable to pay their taxes, others would run in debt or mortgage their land, and in one way or another their land would be gone in a very few years, and the munificence of the Government in giving them this desirable property be entirely wasted.

Some of them are very anxious to have the restrictions entirely removed from all of their land as soon as possible, but they little know the danger to them in so doing. Probably the time when the restrictions upon the sale of these homesteads should be removed should now be definitely fixed. I would suggest about fifteen years. By that time their children, who are now in school and are acquiring a fair common-school education, would be sufficiently matured to be competent to protect their own interests, if they ever will be. But if their interests are to be considered at all, it seems to be very clear that it is vital to their existence as anything but waifs that these restrictions remain for the present upon the sale of their homesteads of not to exceed 40 acres each.

Fifth. As to the manner in which lands shall be disposed of when the Indian allottees shall be vested with the power to dispose of their individual tracts.

This is the most important as well as the most difficult of all the questions under consideration. To determine wisely it will be necessary to carefully consider all the attending circumstances with their environments. First consider the best interests of the Indians themselves. They have very little appreciation of the actual value of the land. And even after they should know its value they would sell it for a small fraction of what it is worth if they wanted money very much. Were no guards set about them they would be the victims of the worst elements of society which would make use of all kinds of artifices to get their land away from them for the least possible sum.

In connection with this and what seems to me to be equally important is that they need assistance in the care of their money after they should get it, providing they should sell for a fair price. It would be a great misfortune for an ignorant Indian, who can neither read nor write and knows but very little about business, to have thrust upon him the care of \$10,000, \$20,000, \$50,000, or \$100,000, as some of these estates would be worth, and he would be like a carrion upon whom would swoop down every unscrupulous swindler, who would make him a pauper in an incredibly short space of time. Next should be considered the best

interests of the country to be developed by the opening up of this immensely valuable tract of land. It is imperative, in the first place, that the title of the land to be sold be good. About one-fourth of the original patentees are now dead. The heirs of a large proportion of them are not their own children, but collateral. The parents of most of the adult Indians were never married by any law except the customs of the tribe. No record has been kept and it will very soon be an exceedingly difficult matter to trace the relationship so as to find the proper heirs. Unless proper provision is made whereby these titles can be definitely settled before the land is disposed of there is great danger that endless expense and loss would ensue, and the growth and prosperity of the city greatly retarded. In the second place, nearly all of this land would immediately become city property. Its value would be greatly enhanced if it could be platted and surveyed before being put on the market. Its location is such that it must eventually become an important part of a great and wealthy city. Now, if that part of the reservation which borders on tide water and immediately adjoins the present city of Tacoma, could be laid out in a comprehensive city, under one general plan, before being put on the market, it would be vastly better than that there should be a spotted city, made up by each man that could get hold of a legal subdivision, platting it to suit his personal taste or individual interests, and calling it an "addition," without regard to the symmetry of the city or the general good. It would be very creditable to all having any responsibility in the management of this business if a well laid out city should be the inheritance of future posterity.

There seem, then, these four matters of importance to be considered in the disposal of their lands:

First. The Indian needs protection in the sale of his land, so as to get its full value.

Second. He needs protection in the care of the money received for it for a reasonable length of time.

Third. There should be a complete settlement of the estates before the land should be put on the market.

Fourth. It would be very desirable if a large part of the land should be platted before being sold.

There may be a number of ways for providing for all of these things. I will suggest what have occurred to me. The value of the land could be determined by appraisers, and not sold for less than the appraised value. These appraisers might be appointed by the United States district judge, or under the direction of the Secretary of the Interior. If they were appointed from the immediate vicinity great care should be exercised lest they be interested in some way. If appointed from a distance it would be very expensive, unless a large amount of land was appraised at the same time, and the values might change before it should be sold.

Next, as to the best manner of protecting them in the investment of their money after the land should be sold. If they could receive it in installments at stated times, so that it would last them from ten to twenty years, it would be much better every way than to have them receive it all in one payment. The lands might be sold to the Government, and bonds issued with coupons attached, arranged in such a way that 4 per cent only of the principal should be paid each year, and a low rate of interest to run on the unpaid principal. These coupons should be made payable to the allottees, or, if deceased, to their heirs, indorsed and certified by the acting probate judge, and countersigned by the United States district judge. In case of there being no heirs, then the money to be used for the education of the children of the tribe; or if sold to private parties, compel the payments to be made in United States securities into the United States district court, and only a certain per cent be allowed to be delivered to them each year.

Third, as to the settlement of the estates. The issue of marriages under the customs of the tribe should be legalized, and a limit should be fixed by law for the time in which any new heirs afterwards discovered should be allowed to intervene. It is very desirable, too, that the court should have power to segregate the joint interests where there are heirs, or between original allottees where there have been divorces, so that each should have his or her individual share designated and described.

Lastly, as to the best manner of having it laid out and platted before being put on the market, there are three ways in which this might be done. One would be for the Government to purchase the land, and then plat and survey it before offering it for sale. Another way would be for the Government to survey and

plat it for the Indians, and then allow the Indians to sell it in lots and blocks, the expense of the survey to be a lien on the lands, to be paid from the first sales that should be made. Another would be to have the whole tract sold to a railroad company or syndicate, which would plat and survey it before putting it on the market. This latter plan would be unpopular, as the sale would be limited to the rich few, and the people generally be compelled to pay a rich monopoly a per cent for handling it. Either of the other two plans would seem to be preferable.

In view of all these facts, I beg leave to suggest the outline of two plans, either of which would seem to meet the exigency.

The first would be to have all that part of the reservation lying north of the fifth standard parallel, and which lies in King County, this being the boundary line, appraised by three appraisers to be appointed by the Secretary of the Interior, and the owners be permitted to sell to the Government at said appraised value, taking their pay in Government bonds with coupons attached, as above described, and then the Government plat and sell the land through the Land Office by lots and blocks in the same manner as other lands are sold. This would protect the Indian in the best manner possible, and insure to the purchaser a good, safe title, and give all an equal chance to invest.

South of that line, including that part of the reservation which lies in Pierce County, let any Indian be permitted to sell any land he chooses, except his homestead of not to exceed 40 acres, under the direction of the United States district court. The said court shall appoint three appraisers, who shall appraise the land, and the court shall then investigate all the circumstances of each case and act as guardian of his interests, giving such protection as he shall need. Payment to be made in United States Government bonds or approved securities, and not more than 10 per cent of the amount of such sales to be drawn by the Indian each year.

The other plan would be for the Government to plat and survey all that part of the reservation lying in both counties, which would naturally come within city limits, the expense therefor to be a lien on first sales, as above described, and then permit any Indian to sell what land he should choose, excepting his homestead, as above described, under the direction of the United States district court, in the manner above indicated. None of the restrictions on any part of the land to be removed until sale is made through the court, as above described.

This plan, while it would not be so well for the Indian, would be simpler, and perhaps give more general satisfaction.

Sixth. In what manner, if at all, individual Indians should be indemnified for damage to their individual holdings if railroads shall be granted a right of way through the reservation.

As the Indians are not competent to determine the damage themselves, the Government should, either through the Interior Department or in some other way, have these damages appraised, taking especial care that it be done by disinterested parties, a part, if not all, of whom should not be residents of this State.

Seventh. In what manner the tribe shall be compensated for the damage consequent upon the granting of such right of way through the tribal or common lands belonging to said reservation.

These damages should be determined in the same way that the others are, but the funds should be used for the support of the school, which is an equal benefit to all.

Eighth. In what manner and by whom the legitimate heirs of deceased allottees shall be determined.

By the courts of the State having probate jurisdiction. But a law is needed making the issue of Indian marriages performed under the customs of the tribe legitimate; also fixing a limit to the time in which other heirs, not known at the time of the settlement of the estate, shall intervene. The courts should also have the power to make a division of the property held jointly by heirs, or where divorces have been granted to parties who received patents to lands jointly while married.

Ninth. Under what circumstances and upon what conditions contracts have been obtained from Indians for the sale of their allotted lands.

This question has been so thoroughly investigated that it is unnecessary for me to enlarge upon it here.

Tenth. And regarding all other questions and matters bearing on the welfare of said Indians, and the wisdom and necessity of the disposal of the interests in whole or in part, in any individual or tribal lands belonging to said reservation.

As above stated, it seems to be both wise and necessary that a part of the allot-

ted lands should be disposed of under such rules and regulations as would protect the Indians and advance the best interests of the community. It also appears to be just as wise and necessary that the restriction clause should remain in force over their homes for a long time to come.

I have the honor to transmit herewith a map showing where these homesteads lie and what proportion of the reservation would still remain protected should this be done.

There is one other matter, which perhaps does not come within the jurisdiction of this commission, but which Congress should consider in connection with this whole subject, and that is this: The act of the legislature removing the restrictions from the land on this reservation also removed them from the lands on all the other reservations in the State. I think there are eight or nine others that have the same kind of patents and are similarly situated as regards the title. There is no such necessity for these lands to be disposed of as in this case, and I do not think any other Indians are yet ready for it to be done.

Very respectfully submitted,

EDWIN EELLS,  
*United States Indian Agent.*

Hon. C. D. DRAKE,  
*Chairman Puyallup Commission, Tacoma, Wash.*

## EXHIBIT G.

UNITED STATES INDIAN SERVICE,  
*Puyallup Agency, Tacoma, Wash., March 5, 1891.*

SIR: I inclose herewith a map of the reservation on which the 40-acre homesteads which I think it is important the Indians should keep are marked in light yellow. To make all the allottees keep 40 acres each would also hold the tracts marked with light red. To remove restrictions from all land except that within the boundary red line\* would leave in a solid body all the land they really need. Some few would not be allowed to sell all but 40 acres, that is, would be compelled to keep 80, but I really believe to retain this body of land in a compact form would be the best way. I have cut off what is adjacent to the town of Puyallup as well as that near Tacoma, and their timber lands. What is left would nearly all be good agricultural land and would practically include all that it is really desirable for them to keep.

Very respectfully, your obedient servant,

EDWIN EELLS,  
*United States Indian Agent.*

Judge C. D. DRAKE,  
CHAIRMAN PUYALLUP COMMISSION,  
*Washington City, D. C.*

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,  
*Washington, January 23, 1891.*

SIR: I have the honor to transmit herewith a letter dated January 12, 1891, from Mr. J. H. Mitchell, jr., assistant counsel for the Northern Pacific Railroad Company, requesting that the Commission—of which Hon. Charles D. Drake is chairman—now engaged in investigating matters regarding the Puyallup Indian Reservation in the State of Washington, under authority of recent law (26 Stats., p. 354) be furnished by this office with full information as to the status of the right of way of said company through said reservation, and advised of the terms of the contract relating to the same as appearing in the records and files of this office.

Upon this subject I would respectfully state that a brief history of the case of the Northern Pacific Railroad through the Puyallup Reservation was submitted to the Department on August 24, 1888, with request for a decision upon certain questions therein presented.

Reply was made by the Department November 21, 1888, but before any action

\* This line in heavy black in map as printed herewith.

was taken by this office in pursuance thereof the Department letter and the maps and papers in the case were informally withdrawn, and have never been returned to this office.

In view of the foregoing, I do not care to go into any discussion of the question of the rights of said railroad on said reservation, nor to instruct the Commission in regard thereto, nor furnish papers, unless the Department shall think best to furnish the Commission with the brief history contained in office letter of August 24, 1888, above referred to.

I should be pleased to receive any directions that you may desire to give in the premises.

Very respectfully, your obedient servant,

T. J. MORGAN,  
*Commissioner.*

The SECRETARY OF THE INTERIOR.

1714 CONNECTICUT AVENUE NW.,  
*Washington, D. C., January 12, 1891.*

DEAR SIR: The officials of the Northern Pacific Railroad Company are desirous that the Commission, now on the way to adjust matters pertaining to the Puyallup Indian Reservation in the State of Washington, should be fully informed as to the status of the right of way of that company through the reservation and advised of the terms of the contract relating to the same in accordance with the papers on file in your office.

The Commission has undoubtedly received instructions from your office relative to the matter in a general way, but owing to the inability of the officers of the company to find in their possession the papers necessary for furnishing the proper information in detail, it is desired that your office should kindly supply the Commission with such specific information as will enable them to act, or report upon the matter as intelligently as if they were within access of the records of your office.

Your kind attention to this matter at your earliest convenience will greatly oblige,

Yours respectfully,

J. H. MITCHELL, JR.,  
*Assistant Counsel Northern Pacific R. R. Co.*

Hon. T. J. MORGAN,  
*Commissioner Indian Affairs, Washington, D. C.*

[Telegram.]

DEPARTMENT OF THE INTERIOR,  
*Washington, March 18, 1891.*

EDWIN EELLS,  
*Indian Agent, Puyallup Agency, Tacoma, Wash. :*

Please send the Secretary, without delay, a list of the Puyallup Indians, showing lands owned by each under original patents. When may it be expected? Send written explanation of map forwarded by you to the Commissioners, particularly setting forth your views as to what lands should be retained and what sold, giving definite boundaries.

JOHN W. NOBLE,  
*Secretary.*

UNITED STATES INDIAN SERVICE, PUYALLUP AGENCY,  
*Tacoma, Wash., March 21, 1891.*

SIR: Replying to your telegram of the 18th instant asking for a list of the Puyallup Indians, showing lands owned by each under original patents, and written explanation of map forwarded by me to Commissioners, particularly setting forth my views as to what lands should be retained and what sold, giving definite boundaries, etc., I have the honor to submit the inclosed list, showing names of original patentees, with description of the land given to each,

with itemized description of the land of each which should be retained and what might be sold. Of the 61 who would not be protected, by having a tract of land retained for them, 36 are either dead or make practically little or no use of their land for homes or their support, leaving 25 able-bodied, efficient men, whose homes would not be protected. A few of these are intelligent enough to protect their homes, and as a refuge for those who would be driven off there is a surplus of land inside the boundaries which would more than supply their needs if they could either purchase or lease.

The locating these boundary lines of a new reservation to be retained was an afterthought which came to me, after studying the matter thoroughly in connection with making my report to the Puyallup Commission. As it seems to me, the land lying contiguous to the two cities of Tacoma and Puyallup should not be tied up. Then the timbered lands on both sides of the settlements are useless to the Indians, and there is no object in keeping them from market. What I have reserved is the most thickly settled part of the reservation, and includes, I think, four-fifths of their improvements.

It seems to me it would be preferable to have the land reserved for them all in a body than to have spots scattered about, surrounded with white settlers. While some few would have to move, the greatest good to the greatest number would be subserved by this division. The lines I have drawn, have, as near as I could do it, dispensed with all except what they are actually occupying and using. I mean a considerable proportion of each 40-acre tract. By this division a generous allowance has been made for both cities, and a good provision is made for the Indians, as much as all will need for a long time to come. If in addition to this a law could be passed allowing Indians to sell to each other, on conditions that the purchaser should not have more than half white blood, and not acquire more than 40 acres in all, so as to straighten out the mixed claims coming by descent, it seems to me they would be well provided for.

I would not have wills made, as in a weak state very foolish and unjust bequests would be made; but let the heirs sell to each other under proper restrictions, and I think good result would follow. After carefully considering it all over, it appears clear to me that the best adjustment of the case would be to allow that outside these boundaries to be sold, and that inside should be kept, with, if possible, some plan by which what is retained could be evenly divided among those who needed it.

The boundaries, which I inclose, correspond with the lines drawn on the map forwarded to the commissioners.

I have the honor to be, very respectfully, your obedient servant,  
EDWIN EELLS,  
*United States Indian Agent.*

HON. JOHN W. NOBLE,  
*Secretary of the Interior, Washington, D. C.*

DEPARTMENT OF THE INTERIOR,  
OFFICE OF ASSISTANT ATTORNEY-GENERAL,  
*April 3, 1891.*

SIR: Agreeably to your verbal request, I have carefully examined the report of the Puyallup Indian Commission appointed under the act of Congress approved August 19, 1890 (26 Statutes, 354), and accompanying papers, and have the honor to submit the following memoranda containing my views thereon. I am unable to assent to some of the propositions asserted, or concur in all of the recommendations made by the Commission.

#### I.—TITLE OF ALLOTTED LANDS.

There can be little question, I think, as to the nature of the title to the lands allotted to these Indians and their rights thereunder. By Article II of the treaty of December 26, 1854 (10 Statutes, 1132), it is stipulated that certain tracts specifically designated "shall be set apart, and, so far as necessary, surveyed and marked out for their exclusive use," and by Article VI of the same treaty, it is agreed that:

"The President may hereafter, when in his opinion the interests of the Territory may require and the welfare of the said Indians be promoted, remove them from either or all of said reservations to such other suitable place or places within said Territory as he may deem fit, on remunerating them for their im-

provements and the expenses of their removal, or may consolidate them with other friendly tribes or bands. And he may further, at his discretion, cause the whole or any portion of the lands hereby reserved, or of such other land as may be selected in lieu thereof, to be surveyed into lots and assign the same to such individuals or families as are willing to avail themselves of the privilege, and will locate on the same as a permanent home, on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas, so far as the same may be applicable." \* \* \*

By Article VI of the Omaha treaty (*id.*, 1044), it is provided that the President may, at his discretion, cause the land reserved to be surveyed into lots and assigned to such Indian or Indians who may locate thereon as a permanent home, in certain quantities, namely: "If a single person over 21 years of age, one-eighth of a section; to each family of two, one-quarter section; to each family of three and not exceeding five, one-half section; to each family of six and not exceeding ten, one section; and to each family over ten in number, one-quarter section for every additional five members."

Said article also authorizes the President to prescribe rules and regulations to secure to the family, in case of the death of the head thereof, the possession and enjoyment of the tract allotted and the improvements thereon as a permanent home; and after the location is made by "such person or family" upon the land assigned as a permanent home, to "issue a patent to such person or family for such assigned land, conditioned that the tract shall not be alienated or leased for a longer term than two years; and shall be exempt from levy, sale, or forfeiture, which conditions shall continue in force until a State constitution, embracing such lands within its boundaries, shall have been formed, and the legislature of the State shall remove the restrictions."

Said article further provides that if the allottees "shall at any time neglect or refuse to occupy and till a portion of the lands assigned and on which they have located, or shall rove from place to place, the President may, if the patent shall have been issued, cancel the assignment, and may also withhold from such person or family their proportion of the annuities or other moneys due them, until they shall have returned to such permanent home and resumed the pursuits of industry; and in default of their return the tract may be declared abandoned, and thereafter assigned to some other person or family of such tribe, or disposed of as is provided for the disposition of the excess of said land."

It further provides that after the allotments have been made to all the "Indian persons or families," the residue of the land "reserved" may be sold for their benefit, under such laws, rules, or regulations as may hereafter be prescribed by the Congress or President of the United States, and that "no State legislature shall remove the restrictions herein provided for without the consent of Congress."

By the tenth article of said treaty of 1854 the United States agreed "to establish at the general agency for the district of Puget Sound, within one year from the ratification hereof, and to support for a period of twenty years, an agricultural school to be free to the children of said tribes and bands in common with those of the other tribes of said district," the expenses of which were to be paid by the United States and not to be deducted from the annuities.

It appears that no permanent settlement was made upon the reservation designated in the second article of said treaty of December 26, 1854, and the Commissioner of Indian Affairs, on January 19, 1857, transmitted to the Secretary for his consideration and the action of the President a report recently received from Governor Stevens, dated December 5, 1856, with the reports and maps therewith, proposing, among other things, an enlargement of the Puyallup Reserve at the south end of Commencement Bay, to accommodate 500 Indians, and stating that the Indians "assent thereto."

This report was transmitted by the Secretary of the Interior to the President on January 20, 1857, with a request that "the reservation selected" be approved by the President, which was accordingly done on the same day. (Report of Commissioner Indian Affairs, 1886, p. 372.)

Afterwards, on August 26, 1873, the Acting Commissioner of Indian Affairs, in a communication addressed to the Secretary of the Interior, called attention to the action theretofore taken by the Department establishing the Puyallup Indian Reservation, and stated that "it was intended to have this reservation bounded on its western side by the waters of Commencement Bay from the southeasterly extremity of said bay around northwardly to the northwest corner of the reservation on the southerly shore of Admiralty Inlet. The survey was thought to be made so as to give to the Indians this frontage upon the bay, with

free access to the waters thereof. More recent surveys, however, develop the fact that there is land along this shore and outside of the reservation, arising from an error of the surveyor in leaving the line of low-water mark along the shore of said bay, and running a direct line to the place of beginning."

The Acting Commissioner also refers to the report of Superintendent Milroy, dated March 20, 1873, recommending the adjustment of the western boundary of said reservation "so as to conform to the intentions of those agreeing to the same, as well as for the comfort and wants of the Indians. \* \* \* Instead of the direct line to the place of beginning, to follow the shore line at low-water mark to the place of beginning," and also on account of the lands in the proposed change falling within the limits of the grant to the Northern Pacific Railroad Company and conflicting with certain donation claims, it was recommended that the reservation be extended so as to include "all that portion of section 34, township 21 north, range 3 east, in Washington Territory, not already included within the limits of the reservation." The Acting Commissioner states that "this would give them a mile of water frontage directly north of Puyallup River, and free access to the waters of Commencement Bay at that point."

On August 28, 1873, the Acting Secretary transmitted to the President a copy of said communication, stating that he agreed "with the Acting Commissioner in his views, and respectfully request that, in accordance with his recommendation, an executive order be issued setting apart the tract of land described for the purpose indicated." On September 5, 1873, an executive order was issued by the President, as follows:

"Agreeable to the recommendation of the Acting Secretary of the Interior, it is hereby ordered that the Puyallup Reservation in Washington Territory be so extended as to include within its limits all that portion of section 34, township 21 north, range 3 east, not already included within the reservation." (Report Indian Office, 1886, p. 375.)

All of the lands within the reservation, except the agency tract, were allotted to the Indians, and on January 30, 1886, patents were issued therefor.

The patent contains the restriction expressed in the treaty as to alienation by the Indians, and requires, as a condition precedent to any conveyance or lease of more than two years, the removal of the restriction by State action, with the "consent of Congress."

In the case of the Puyallups it is evident that they have not the absolute control of the lands covered by their patents, but that, by the very terms of the treaty, upon certain contingencies, the allotment may be canceled, although the patent has been issued therefor, and the land reassigned or sold in the same manner as the residue, if any, of unallotted lands.

## II.—UNALLOTTED LANDS.

That the Indians have an interest in the agency tract, and that if the school shall be discontinued or the land no longer needed for the general benefit of the Indians, it must be disposed of "for their benefit" as "the residue of the land hereby reserved," I think must be admitted. This view is strengthened by the provisions of the general allotment act of February 8, 1887 (*supra*), which prescribes the manner of allotting lands in severalty to Indians on the various reservations, and authorizing the Secretary of the Interior, at any time after or before the "lands have been allotted to all the Indians of any tribe," to negotiate with such Indian tribe for the sale of the lands unallotted upon just and equitable terms, in conformity with the treaty or statute under which such reservation is held. It matters not, then, whether the interest of the Indians is "a vested estate" or "confers no title to the soil," if the treaty or statute, as appears to be the case here, prescribes the manner in which the residue of unallotted land shall be disposed of. The plan agreed upon should be carried out unless duly changed by the contracting parties.

## III.—TIDE LANDS.

The conclusion of the Commission that the reservation does not embrace the land on Puget Sound between high and low water mark, is in my judgment correct. It does not appear that there was any express stipulation by treaty that the reservation should extend to low-water mark, nor do said Executive orders in terms extend the lines of the reservation below ordinary high-water mark. Hence, upon its admission, the State of Washington acquired the title and control over the lands within its limits below high-water mark. (See the case of Frank Burns, 10 L. D., 365, and authorities cited.)

## IV.—REMOVAL OF RESTRICTIONS.

The Commission did not ascertain the amount of "wild and unoccupied land" covered by each patent, which they recommend the patentee should be allowed to dispose of, for two reasons: (1) that they were not officially required to do so by the act under which they were appointed, and (2) that it would have been impracticable for them to have made a personal examination of each tract on account of the inclement season.

It is apparent that the act would have fully justified the Commission in ascertaining the quantity of land in each tract that was wild and unoccupied, and if the commissioners could not examine the land in person, they could have ascertained the facts from the report of trustworthy persons employed to make the examination for them.

It is quite impossible from the report of the Commission to determine the location or quantity of the wild and unoccupied land, although it is stated that "the entire quantity which is now actually cultivated by the Indians, is no more than 1,882 acres," according to the report of the census enumerator last year. If it be true, as reported by the Commission, that the Indians "are generally indolent and averse to work," that they "have made little or no effort to clear the timbered land," and there is little prospect of their engaging in that work in the future, it would seem to be questionable whether it was for their interest to be allowed to sell their timbered and unoccupied land and receive the proceeds thereof to be disposed of as they pleased. It would seem to be the duty of the Government to supervise any disposition that might be made of the land allotted, to the end that the Indian should not in anywise be defrauded. This could be provided for by legislative enactment, prescribing the manner and extent of the removal of the restriction of alienation and the disposition of the purchase money.

## V.—COMPENSATION FOR RIGHT OF WAY THROUGH UNALLOTTED LANDS BELONGING TO THE RESERVATION.

The view expressed by the Commission that the Indians have no longer any tribal existence, and are therefore not entitled to compensation for damages caused by the granting of a right of way through the unallotted lands, does not appear to be sound. The right of occupancy of lands within the reservation by the Indians "is as sacred as that of the United States to the fee" (19 Wall., 593), and both the treaty and the general allotment act provide for the disposal of the unallotted lands or residue for the benefit of the Indians, and it is expressly stated in the sixth section of the latter act that the acceptance of allotments under its provisions shall not impair or otherwise affect "the right of such Indian to tribal or other property."

The fact that the Puyallups become citizens of the United States under said sixth section of the general allotment act, and not by virtue of the fourteenth amendment to the Constitution of the United States, as stated by the Commission (see *Elk vs. Wilkins*, 112 U. S., 94), does not wholly absolve them from the watchful care of the General Government. These Indians have continued under the care of an agent appointed and paid by the United States up to the present time. (See act of March 3, 1891, Pub., 144; also *Opin. Att'y Gen. Miller*, March 12, 1890.)

## VI.—CONTRACTS.

The Commission did not ascertain and report fully upon the circumstances under which *each contract*, or lease, or sale was made with the Indians. The general terms and conditions of the contracts for the sale of the allotted lands are shown by the Exhibits B and C filed with the report.

It is quite clear that any attempt on the part of the contracting parties to contract for the conveyance or lease of the patented lands for a longer term than two years is in conflict with the restriction upon the power of alienation contained in the treaty stipulations and in the patent, and must be held to be invalid. The intention of the parties and their relations to each other, the amount of interest demanded, the price agreed upon for the lands being less than one-third their average value, and the failure of the grantees to take possession of the land seem to indicate an effort to avoid the restriction upon the power of alienation, and, therefore, the contracts are illegal, in my judgment.

## VII.—THE NORTHERN PACIFIC RAILROAD COMPANY.

With reference to the claim of the Northern Pacific Railroad Company for the odd sections within the limits of said reservation, the Commission expressed no opinion. The company claims that all parts of the reservation are within the primary limits of its grant by act of Congress, approved July 2, 1864 (13 Stats., 365), and that, under the rulings of the Department and the decisions of the United States Supreme Court, "the only rights to these odd sections which can possibly exist, adverse to those of the Northern Pacific Railroad Company, are the Indians' rights of occupancy, so long as the Indians exist as wards of the Government and remain in their primitive condition; that is to say, without enfranchisement or citizenship."

To this contention it may be replied that the Indian title has not been extinguished by the United States; on the contrary, the odd sections have been allotted to individual Indians in accordance with treaty stipulations made long prior to the grant to said company.

Moreover, it is my opinion that the provision in the second section of said granting act, that "the United States shall extinguish, as rapidly as may be consistent with public policy and the welfare of the said Indians, the Indian titles to all lands falling under the operation of this act, and acquired in the donation to the (road) named in this bill," does not include Indian reservations established by treaty long prior to the granting act with specifically defined boundaries.

The statement in the departmental decision in the case of Guilford Miller (7 L. D., 100), referred to by counsel for said company, is now under consideration by the Department, on review, and need not be noticed further herein.

There does not appear to be any objection to a recommendation, as requested by the company, that the right of way through the reservation for the road already built and accepted should be confirmed by Congress. Nor do I see any good reason why Congress should not grant permission to the company, upon equitable conditions, to build an additional track or spur line through the agency tract. This question was submitted to the Department on November 21, 1888 (7 L. D., 450), and it was then held that the application for the right of way for such a road should be addressed to Congress.

It may be remarked that under the legislation of Congress the Indians receiving allotments of lands in severalty are not wholly emancipated from the guardianship of the United States. They are enfranchised by the sixth section of the allotment act, but by the very terms thereof the lands allotted can not be alienated for a period of twenty-five years, after which the Indian or his heirs are entitled to a patent from the United States conveying the land "in fee," unless the President in his discretion shall extend the time, and until the restriction as to alienation is removed by the consent of Congress. (See Opin. Acting Attorney-General Jenks, dated July 27, 1888.)

The report of the Commission fails, in my judgment, to show any good reason why the restriction of the power of alienation, at least upon the permanent home of the Indian, should not be continued at least twenty-five years. The report of Indian Agent Eells, dated September 2, 1890 (Report Commissioner of Indian Affairs, 1890, p. 227), states that these Indians "are not capable of taking care of as much money as some of their surplus lands would bring."

"The moral effect of prosperity on these Indians has been bad. There has been more drinking and trouble resulting therefrom during the past year than any previous year since I have had charge of them. Special temptations to drink have been thrown in their way by those who are trying to influence them to dispose of their lands, and the feeling has been cultivated among them that as citizens and voters they are or should be free from the control of the Indian Department. There may be other causes, but the fact is painfully apparent that they have retrograded very much in morals during the past twelve months."

If the above report be true, the desires of the Indians that all restrictions upon the power of alienation of their allotted lands should be removed ought not to have great weight. The best welfare of the Indians, as well as the effect upon the growth of the city of Tacoma, should be kept clearly in view, and no action should be recommended which will inevitably tend to hinder the Indians from becoming honorable and useful citizens of the community in which they live.

The restriction upon the power of alienation of the allotted land should not be removed, as to the permanent homes of the Indians, for a period of twenty-five years. So much of the patented land which is not required for the permanent homes and use of the Indians might, in my judgment, be sold, with the consent of the Indian allottees, respectively, under rules and regulations to be prescribed

by the President, and the proceeds thereof be placed in the United States Treasury at a certain rate of interest, which, together with such portion of the principal as in the judgment of the President the best interests of the Indians demand, could be paid annually to the respective allottees.

The agency tract may be disposed of for the benefit of the Indians, under rules and regulations to be prescribed by the President, or by act of Congress, in accordance with the provisions of the treaty. The proceeds thereof could also be placed at interest in the Treasury of the United States, and the interest and principal could be paid to the individual Indians of the tribe, in annual instalments, as their necessities require.

It would require legislative action to execute fully the plan above indicated.

Until the restriction as to alienation is removed as provided in the treaty, the allotted lands are not subject to taxation by the State. (Opin. Acting Attorney-General Jenks, *supra*.)

The report of the Commission and other papers submitted are herewith returned.

Very respectfully,

GEO. H. SHIELDS,  
Assistant Attorney-General.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, April 16, 1891.

THE COMMISSIONER OF INDIAN AFFAIRS:

*Sir:* There is herewith transmitted the report of the Puyallup Commission, which I have to request you will give your early consideration and report to the Secretary your views thereon with any suggestions you may deem proper.

The subject is one of such extraordinary importance in all its bearings, and the questions of law involved such that I have taken the opinion of the Assistant Attorney-General of this Department before forwarding the report, as to the correctness, in his judgment, of the conclusions of the Commissioners. These you are at liberty to question if you think proper, as my purpose is to have a free and full consideration of this whole business.

The Assistant Attorney-General has gone somewhat beyond the questions of law; but in the domain of practical management you are of course recognized as the source of recommendation, as with you rests the chief responsibility under the Department.

It, in my judgment, may be necessary to have a supplementary report to ascertain the lands to be sold; unless we can find in the letter and list, required by me of Agent Eells, facts enough to authorize a recommendation to Congress so definite as will probably secure its approval. My telegram to the Indian agent was sent as soon as I became fully aware of the shortcoming of the report as to the lands to be sold. A copy is inclosed, and the reply and list sent with the report (proper) of the Commissioners.

You will please keep this report entirely private and confidential, as also the correspondence, until the President see fit to act upon it.

Yours truly,

JOHN W. NOBLE,  
Secretary.

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
Washington, July 8, 1891.

SIR: I have the honor to acknowledge the receipt of your letter of April 16, 1891, referring, for consideration and report by this office, the final report of the Puyallup Commission—Messrs. Drake, Kinkead, and Harness—dated March 11, 1891.

On March 26, 1890, I submitted to you a communication setting forth somewhat in detail the condition of the Puyallup Indians situated near Tacoma, Wash., and recommending the appointment of a commission to take into consideration all the various difficult questions arising regarding the relation of these Indians to this Department and to the State of Washington. In brief, the situation is this:

These Indians, numbering in all about 600, occupy a body of land on Commencement Bay, near Tacoma, amounting to 18,061.53 acres, of which 17,462.72 acres

have been allotted and patented to individual Indians, and 598.81 acres, still unallotted and held in common, are now occupied by the agency and school.

The act of Congress, approved August 19, 1890 (25 Stats., 354), authorized the President to appoint a commission in accordance with the recommendations of this office. Said clause is as follows:

"That the President of the United States is hereby authorized to appoint a commission to consist of three persons, not more than two of whom shall be of the same political party, and not more than one of whom shall be a resident of any one State, whose duty it shall be to visit the Puyallup Reservation, in the State of Washington, and to make full inquiry and investigation regarding such reservation; the nature of the title to and value of the lands allotted in severalty; whether there are any common lands which have not been allotted, and if so, the value of the same, and of the interest of the Indians therein; whether such reservation embraces the land on Puget Sound, between high and low water mark; whether any restrictions now existing upon the power of alienation by Indians of their allotted lands should be wholly or in part removed; as to the manner in which lands shall be disposed of when the Indian allottees shall be vested with power to dispose of their individual tracts; in what manner, if at all, individual Indians shall be indemnified for damage to their individual holdings, if railroads shall be granted a right of way through the reservation; in what manner the tribe shall be compensated for the damage consequent upon the granting of such right of way through any tribal or common lands belonging to said reservation; in what manner and by whom the legitimate heirs of deceased allottees shall be determined; under what circumstances and upon what conditions contracts have been obtained from Indians for the sale of their allotted lands; and regarding all other questions and matters bearing upon the welfare of said Indians, and the wisdom or necessity of the disposal by the Indians of their interest, in whole or in part, in any individual or tribal lands belonging to said reservation. And said commission shall report the facts ascertained, and their conclusions and recommendations thereon, to the President to be communicated by him to Congress. And the sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purpose of defraying the expenses and compensation of said commission."

October 4, 1890, full instructions, issued by this office and approved by the Department, were given to this Commission, and on March 11, 1891, the Commission submitted its final report to the Department. On April 16, 1891, the report of the Commission was transmitted by the Department to this office for consideration, accompanied by a memorandum from the Assistant Attorney-General, dated April 3, 1891, in relation to the several points of law which had been submitted to him by you for his consideration.

The anomalous condition of the Puyallup Indians in the transition period from wards under the control of an agent to citizens, with the full rights of citizenship, the sudden and vast increase in value of their lands arising from the extension of the railroad system, the sudden growth of the city of Tacoma, the eagerness with which white men had sought to evade the law, and to secure by indirection the alienation of the lands of the Indians by contracts under the name of leases, the conflicting interests of various railroads striving to gain admission to Tacoma through Indian lands, the delicate questions arising thereunder as to the relation of these allotted lands to the Indians, the State, and the nation, and the perplexities regarding inheritance springing from the loose marriage customs obtaining among the Indians, combined to render the work of this Commission one of exceeding great importance, not only in its immediate relation to these particular Indians, but as bearing upon the general subjects suggested by this office in their relation to other Indians who are or may become similarly situated.

Exceptional pains were taken in the constitution of the Commission in order that the work might be done with the greatest possible thoroughness and furnish a basis, not only for Congressional action, but for administrative work hereafter.

On reading the report of the Commission my first and deepest impression was that of profound disappointment at the results. I feel constrained to say that the work done by the Commission is not at all satisfactory.

In discussing this report I have made free use of the memorandum of the Assistant Attorney-General, before referred to, in some instances agreeing with him and in others venturing to differ.

As I am called upon to submit my views and any suggestion I may have to make upon the work and final report of the commissioners, I will, for the sake

of convenience. take up the several points of inquiry in the order in which they are discussed, and follow with my own views respecting the conclusions reached by them.

I.—THE NATURE OF THE TITLE TO AND VALUE OF THE LANDS ALLOTTED IN SEVERALTY.

(1) *The nature of the title.*—The commissioners, after citing the treaty and Executive orders under which the reservation was set apart, and giving its location and approximate area, quote the provision (Article VI) in the treaty of 1854, authorizing the President to cause a survey of the lands to be made and to assign lots to individuals or families, and state that in pursuance of that provision the Puyallup Reservation was surveyed in 1874, and that on January 30, 1886, patents to the number of 166 were signed by the President and issued to individual Indians, covering a fraction less than 17,643 acres.

As showing the terms of these patents, the full text of one is given, with the statement that the recitals and operative clauses in each patent are the same. They also insert the sixth article of the Omaha treaty referred to in the patent.

The conclusions of the commissioners as to the nature of the title are as follows:

“From what has been presented, we consider that the title to the lands allotted and patented in severalty to these Indians is, in its nature, the same as that created by the patent from the United States to any purchaser of public land; subject, however, to the restriction contained in each patent upon the Indian's right to alienate or lease his land for more than two years. Does that restriction affect the Indian's title to the lands? We are unable to see that it does any more than an infant's estate in land is impaired by his legal inability to make a valid title to it, or an insane person's by his legal incapacity to convey.”

With this view of the commissioners I can not agree, for it is evident that the Puyallups have not absolute control of the lands covered by their patents, but that by the very terms of the treaty upon certain contingencies the allotment may be canceled, although a patent has been issued therefor, and the lands re-assigned or sold in the same manner as residue, if any, of unallotted lands. (See memorandum, Assistant Attorney-General).

The Government of the United States, acting in its capacity as guardian for these people, ignorant of the value of land, improvident as to the future, desiring to settle them upon permanent individual homes where they and their children might enjoy all the privileges and immunities attendant upon individual land-holdings, and enjoy all the benefits that might accrue to them by the advance of civilization, and to protect them from any and all persons that might desire to avail themselves of the ignorance of the Indians to possess themselves of these lands, purposely and wisely provided in the treaty, and caused to be inserted in the patents issued to these Indians, the restriction prohibiting alienation and reserving to itself a certain right of ultimate control of these lands in case the welfare of the Indian made it necessary.

The case, therefore, is not parallel with the issue of a patent or patents to American citizens in fee simple for land upon which they settled, the long habit of the American citizens having accustomed them to the proper use of land and familiarized them with the value attaching to it, and rendering any guardianship of their interests by the National Government unnecessary and undesirable.

It will be proper to state here that there were 167 patents issued to individual Indians on the day above mentioned, instead of 166, as reported by the Commissioners, the area of land covered thereby being, as stated by the Commissioners, a fraction less than 17,463 acres.

(2) *The value of the land.*—The Commissioners place the value of the allotted lands at \$273.50 per acre; total value, \$4,776,130.

The plan adopted by the Commissioners in obtaining a just estimate of the value of these lands was, in my opinion, a good one, and I have no doubt the figures represent a fair valuation of the land.

While the price per acre, \$273.50, may be a fair average valuation of the entire body of land taken as a whole, it furnishes only an approximate estimate of the value of any particular tract of land which it may be desirable to alienate. Those lands that lie in immediate relationship to the rapidly growing city of Tacoma, which may and can be laid off in lots and sold for residence purposes, are worth vastly more than the average price.

As was stated in the instructions issued to this Commission, “some of the lands are said to be worth as high as \$6,000 an acre, while the water front alone has been estimated to be worth millions of dollars.”

It is evident, therefore, that to estimate the average price per acre settled upon by the Commission as a fair criterion by which to judge of the value of any particular tract of land which it is desirable to sell would be entirely misleading and wholly unjust to the individual owner.

II.—WHETHER THERE ARE ANY COMMON LANDS WHICH HAVE NOT BEEN ALLOTTED; AND, IF SO, THE VALUE OF THE SAME AND OF THE INTEREST OF THE INDIANS THEREIN?

(1) *The lands which have not been allotted.*—The Commissioners report that the only unallotted lands within the surveyed boundaries of the reservation are the lands upon which the buildings of the agency are situated, said to contain 598 acres. They were informed that owing to the location of an interfering donation claim before the treaty of 1854 was made the area of the tract is reduced to 585 acres, and they accepted that as the correct area of the tract.

(2) *The value of the agency tract.*—The Commissioners estimate the present value of this tract at \$1,000 per acre, or \$585,000. If laid out into streets, blocks, and lots, as a continuation of the city of Tacoma, its value would, they observe, be greatly increased—say three or four times their estimate of its present value. It is presumed that the commissioners based their estimate upon the information furnished them by citizens of Tacoma much in the same way as in the case of the allotted lands, and no doubt the valuation is reasonable and fair.

In the absence of any data other than that furnished by the Commission, I am of course unable to express an independent opinion as to the value of this land, but certainly justice to the Indians and fairness to all parties concerned would suggest that before any of it should ever be sold it should be appraised, not in whole, but specifically and in detail, by disinterested experts.

(3) *The value of the interest of the Indians in this tract.*—The Commissioners conclude that the Indians have no legal title to it, individually or collectively, and that the title is in the United States, and that whatever use the Indians are allowed to make of the tract as a place of resort, or for church, burial, school, police, or other purposes, it is merely permissive, resting solely on the beneficence of the Government. For this reason they saw no way to estimate a pecuniary value in favor of any Indian or of the collective body. They observe further, as follows:

“That the Indians may rightly be said to have an equitable interest in the tract we are not disposed to deny, but, on the other hand, the following propositions in regard to it present themselves: (1) Their equitable interest, whatever it may be, does not rise to the dignity of a vested estate. (2) It exists only during the pleasure of Congress. (3) It confers no title to the soil. (4) It is incapable of assertion as a right before any tribunal against the owner of the soil, the United States. If these propositions are sound, as they seem to us to be, we are unable to see any way to go about the formation of an estimate of the pecuniary ‘value of the interest of the Indians’ in the agency tract. In a subsequent part of this report we shall present some other views in regard to this tract. In this place we confine ourselves simply to the answer as to the money value of the interest of the Indians in it.”

From this opinion of the commissioners I must earnestly dissent. The tract now occupied by the agency and the school belongs to the original reservation, and is in the nature of a residue or unallotted portion of the reservation, and whatever right or title the Indians had originally to the reservation as a whole attaches now to this unallotted portion. The entire reservation was set apart and bestowed upon the Indians for their benefit, and whatever right or title attaches to any Indian reservation attached to that.

Their title to this land is confirmed to them by the terms of the treaty, by express Executive order, and is recognized by the terms of the general allotment act, which provides for the negotiation with Indians for the sale of any unallotted lands. (See memorandum assistant attorney-general.)

III.—WHETHER SUCH RESERVATION EMBRACES THE LAND ON PUGET SOUND BETWEEN HIGH AND LOW WATER MARK.

Upon this inquiry the commissioners state their conclusions as follows:

“In reference to this we consider the following propositions to be applicable and tenable: (1) In the region now covered by the State of Washington the common law prevailed at the time the reservation was surveyed. (2) At common law, whenever the sea or a bay is named as a boundary, the line of ordinary high-

water mark is always intended. (3) In the survey of the land bordering on navigable waters where the tide ebbs and flows it has always been the policy of the Government to extend the line of survey only to the ordinary high-water mark. (4) Unless it be affirmatively shown that the President of the United States, before Washington became a State, did, by Executive order, extend the boundaries of the reservation to low-water mark, it never was extended to that mark. (5) No such Executive order is known to us, and we do not believe any such was ever made.

"The conclusion is inevitable that the reservation *does not* embrace the land on Puget Sound between high and low-water mark.

"We are informed, however, by Agent Eells that at the head of Commencement Bay there are patented tracts, portions of which are submerged at high tide, but we did not consider it necessary to make an investigation of any such case."

I can not accept the view of the commissioners in relation to the ownership of the lands on Puget Sound lying between high and low water mark.

It appears to me that the Government in selecting this particular tract of land, situated upon the borders of Puget Sound, as a home for the Puyallup Indians, and throwing about them the lines of a reservation as a separation between them in their home, on the one hand, and all others on the outside of that line on the other, had in mind, primarily, the isolation of these people temporarily and their protection under the specific care of the Government, until they could reach the point of self-protection. I can hardly think that the Government designed to withhold from these people any rights or privileges of any kind whatever which would ordinarily attach to an act of Government vesting in them the right and title to this particular body of land. If the Government had intended to reserve to itself or for another the right and title to the lands lying between high and low tide bordering upon the reservation, I think that fact would have been expressly stated in the Executive order extending the reservation.

On the other hand, the letter of the Acting Commissioner of Indian Affairs, dated August 26, 1873, in asking for the extension of the boundaries of the reservation (see pamphlet Executive orders to Indian reservations, prior to April 1, 1890, p. 88), stated expressly that "this would give them a mile of water frontage directly north of Puyallup River, and free access to the waters of Commencement Bay at that point."

The Executive order issued by President Grant, September 6, 1873, extending the reservation in accordance with the request of the Acting Commissioner, confirmed, as it seems to me, specifically, this express stipulation, and thus secured to the Indians, beyond any question, any and all right and title to any land whatever lying between them and the deep water.

It is worthy of note, also, as stated by the Commission on the authority of Agent Eells, that at the head of Commencement Bay there are patented tracts, portions of which are submerged at high tide, from which it would appear that not only has the Government in general terms conveyed to them this tide land in consideration, but in specific cases has patented to them a portion thereof.

This view seems to be confirmed by a map of the reservation, prepared in 1856 by Governor Stevens, who made the treaty with the Puyallups, in which, while not conclusive in itself, the water line of the reservation is so drawn as to certainly seem to include a considerable portion of land that ordinarily would be overflowed by high tide. While this is not conclusive in itself, it certainly adds weight, in so far as it goes, to the conclusion which I have set forth.

In differing in this particular with the views of the honorable Assistant Attorney-General (see his memorandum), I beg leave to suggest that the setting apart by the Government of this particular tract of land to these people was, from the nature of the case, as being intended to provide an isolated home for them, exceptional in its character, and takes it out of the operation of the common law as set forth by the commissioners.

#### IV.—WHETHER ANY RESTRICTIONS NOW EXISTING UPON THE POWER OF ALIENATION BY INDIANS OF THEIR ALLOTTED LANDS SHOULD BE WHOLLY OR IN PART REMOVED.

The commissioners conclude that it would be "unwise and perhaps disastrous to the Indians if the restrictions were now *wholly* removed;" and that they are of the opinion that it might be "partly removed, to an extent and in a way that would prove satisfactory to the Indians and afford to the whites a sufficient access to the reservation lands for many years to come." The reasons upon which their conclusions were based were fully set forth in their reports.

The following is quoted therefrom as showing more particularly their views as to what lands the restrictions should be removed from, and what not, and in what manner and when the restrictions should be removed:

"How to deal with the condition of things we have depicted is a momentous question to the Indians and the whites as well. Can it be remedied without injury to the former? We think it can. Can it be done with benefit to them? We think it can. After as careful consideration as we could give to the subject in all its bearings, we are of the opinion that the restriction upon alienation mentioned in the patents to the Indians should be allowed to be removed as to all the *wild and unoccupied* lands, but left in force as to every tract of 40 acres or less, any part of which shall be found to be in the actual occupation of a patentee or his heirs as a homestead or under cultivation, in whole or in part, by him or them. As to such tracts, the question of the removal of the restriction should be remitted to the future discretion of Congress; for if the sale of them were now allowed, they would be particularly sought for and bought up by investors, and soon, perhaps, the Indians would be homeless, landless, and perhaps moneyless. Every impulse of philanthropy, every desire for the welfare of the Indians calls for the avoidance of that result as long as possible. \* \* \* This brings us to the question, if the restriction is to be removed, upon what plan should it be accomplished?"

"After careful reflection we have been able to see none better than the following: Let the Government send to the reservation trustworthy officers with a competent surveyor to visit and carefully inspect each tract of 40 acres or less, and report to the President every one which they find to be wild and unoccupied, and if their report should be approved let the President issue a proclamation setting forth the numbers of the different tracts so found, and declaring that as to each of them the restriction upon the right of alienation and lease, and the exemption from levy, sale, or forfeiture, are removed and canceled. The effect of this would be to establish officially, by a public document authoritative for all time, the right of any patentee to convey any tract of his specified in the proclamation, and any future resort to parol proof for or against the right would be forever barred. If it be asked why we did not undertake to ascertain and report what particular tracts are wild and unoccupied we answer, first, that the act under which we were appointed did not specify that as one of our duties, and secondly, that we were sent to Tacoma in midwinter, when rains prevail almost daily, and when it would have been dangerous, if not fatal, to some of us to have attempted the personal exploration of each tract, necessary to enable us to report accurately on each."

I am constrained, also, to dissent from this conclusion of the Commission as not being sufficiently explicit. We are not told as to what constitutes the "wild and unoccupied lands." Besides it is apparent that much of the land whose alienation in whole or in part is most desirable in order to facilitate the growth of the city, to encourage the building of railroads, and to promote the best interests of the Indians, is not wild and unoccupied land, but on the contrary, land that is occupied and lying either contiguous to the city itself or near the line of the railroads.

Acting in accordance with your suggestion, Agent Eels was called upon to submit a list of lands that might be alienated with more specific information and recommendation, and that report is now with the papers under consideration.

I think it very desirable, both for the sake of the Indians and in the furtherance of the development of that particular region of country, and in the interest of the railroads connecting the different parts of the country, that the restriction as to alienation should be partly removed. It is, in my opinion, however, necessary to have the matter again canvassed by men who will take the pains to examine specifically each tract of land which it is proposed to suffer to be alienated, and to fix therefor the minimum price at which it should be sold, in order that the individual owners thereof may be properly remunerated for the alienation of any portion of their title to their present possessions.

V.—AS TO THE MANNER IN WHICH LANDS SHALL BE DISPOSED OF WHEN THE INDIAN ALLOTTEES SHALL BE VESTED WITH POWER TO DISPOSE OF THEIR INDIVIDUAL TRACTS.

Upon this inquiry, the commissioners conclude that under the sixth section of the general allotment act (24 Stats., 388), every patentee of land in the reservation, but for the restriction in his patent, has as perfect a right as any white man to dispose of his land by will or deed, executed in conformity with the laws of the

State of Washington, and that such being the case, "the manner in which lands shall be disposed of when allottees shall be vested with power to dispose of their individual tracts" would necessarily seem to be the same as that by which any white man would dispose of his land.

The commissioners, referring to the condition, etc., of the Puyallup Indians, observe, on page 13 of their report, as follows:

"Our information is that, as a general rule, they are not a thrifty people, do not well know the value of money, and spend it quickly and recklessly on present enjoyments, and sometimes worse, and do not make any serious effort to provide for the future. If they should find themselves at liberty to sell their lands at once as they please, the probability seems, from all we can learn, that at no distant day many of them would become landless and go back to a wandering, and, perhaps, vagrant life, from which they have been to a good extent redeemed by having been made landholders in severalty, and endowed with the privileges of citizenship."

If this be true, it is clear to my mind that the Government should supervise any disposition that may be made of the patented tracts, by prescribing the manner and the extent of the removal of the restriction of alienation, and as to what shall be done with the purchase money. If they were left to dispose of the purchase money as they saw fit, it is easy to see that they would, in a short time, be penniless, and a burden upon the community in which they lived. Furthermore, Agent Eells, who probably knows them better than does anyone else, is decidedly opposed to allowing them complete freedom to dispose of their lands as they might see fit.

Almost the entire body of youth of school age of these people are now under instruction in various schools, and thus a new generation is rising who will possess the average intelligence of American citizens, and if they can be protected in their property rights they and their children will enjoy fully all the rights and privileges naturally accruing to them from the possession of valued estates. The Government is morally bound to protect this young generation, who are still, in a sense, its wards, in their property rights, and is under obligation to prescribe such manner of alienation of land in which they are so deeply interested, and such disposition of the funds arising therefrom as will inure to their benefit.

VI.—IN WHAT MANNER, IF AT ALL, INDIVIDUAL INDIANS SHALL BE INDEMNIFIED FOR DAMAGE TO THEIR INDIVIDUAL HOLDINGS, IF RAILROADS SHALL BE GRANTED A RIGHT OF WAY THROUGH THE RESERVATION.

Upon this inquiry, the commissioners conclude as follows:

"From the use there of the word *granted*, and also from the fact that bills are before Congress to *grant* such right, we suppose that the question relates only to Congressional action in that respect. If so, we respectfully submit that Congress has no power to make to any railroad a *grant* of right of way over the private property of any individual. Of course that body may enact laws under which railroads in the *Territories* may acquire the right of way over the land of private owners; but that is a wholly different matter from enacting a law which shall *ex vi termini* grant that right. In our judgment Congress has no constitutional power to make such a law.

"The question, then, is whether Congress can aid railroads to obtain the right of way over the lands patented to the Puyallups. We deem it certain that it can. The only obstacle to the obtainment of such a right is the clause in the treaty with the Omahas adopted into that with the Puyallups and others and embodied in the patent of each Puyallup allottee, which provides that the land patented to him 'shall be exempt from levy, sale, or forfeiture.' While those words are in force no railroad can obtain the right of way under the laws of the State authorizing the condemnation of land for that purpose; for such condemnation would in its essence be nothing but an enforced *sale* of so much of the Indians' land as the right of way would require. But if it should please Congress to pass an act declaring that those words should not be so construed as to prevent any railroad from acquiring, by legal proceedings in condemnation, the right of way over land patented to an Indian, then the railroad could obtain it by judicial decree under the laws of the State. In our judgment, it would be wise and every way beneficial to the city of Tacoma, to the region lying east of the reservation, and to the Indians to pass such an act."

From this conclusion of the commissioners I also dissent, inasmuch as the Indians have not the absolute control of the lands covered by their patents, and

that by the very terms of the treaty under which they received their patents, upon certain contingencies, the allotment may be canceled, although a patent has been issued therefor, and the land reassigned or sold for the benefit of the Indians, in the same manner as the residue, if any, of unallotted lands. Holding to this view, I think that Congress might grant right of way to railroads through the individual holdings of the Indians, with their consent, and at the same time authorize the Secretary of the Interior to fix the damages resulting to individual Indians by reason of the construction of such railroads, as is usually done in the case of railroad grants through Indian reservations. It might also provide for condemnation proceedings, as recommended by the commissioners, in the case of failure to make satisfactory settlement with the individual Indians.

VII.—IN WHAT MANNER THE TRIBE SHALL BE COMPENSATED FOR THE DAMAGE CONSEQUENT UPON THE GRANTING OF SUCH RIGHT OF WAY THROUGH ANY TRIBAL OR COMMON LANDS BELONGING TO SAID RESERVATION.

The question of the rights of the Indians in the unallotted lands, the school tract, has already been discussed in this report (pp. 8 to 11). The commissioners hold that said tract—all that remains unallotted within the boundaries of the reservation—is in every sense the property of the United States, and that no Puyallup Indian, nor all of them combined, has or have any right in the tract upon which he or they could have a claim for "compensation for the damage consequent upon the granting of right of way" to a railroad through it.

On the other hand, I hold to the opinion that the Indians have an interest in the agency tract, and that if the school should be discontinued, or the land no longer needed for the general benefit of the Indians, it must be disposed of for their benefit. Adhering to this view, I think the Indians should be compensated for the damage consequent upon the granting of right of way to a railroad through such unallotted lands, and that the measure of damages should be ascertained and fixed by the Secretary of the Interior, as in the case of individual holdings.

VIII.—IN WHAT MANNER AND BY WHOM THE LEGITIMATE HEIRS OF DECEASED ALLOTTEES SHALL BE DETERMINED.

Upon this inquiry the commissioners conclude that the general law of the State of Washington regulating descents applies to the Puyallup Indians just as to all others, and that the heirs of an Indian must establish their heirship in the manner which that law prescribes.

Under the general allotment act of February 8, 1887 (24 Stats., 388), which provides that all allotments made thereunder shall be held in trust for a period of twenty-five years for the use and benefit of the Indian allottee, or in case of his decease, of his heirs, according to the laws of the State or Territory where the land is located, it is provided that the law of descent and partition in force in the State or Territory where such lands are situate shall apply thereto after patents therefor have been executed and delivered, except as therein otherwise provided.

Applying the laws of the State regulating descent to the lands would not, I submit, affect the status of the lands in any manner to deprive the United States of whatever control it may have over them, and I think the "legitimate heirs of deceased allottees" should be determined in the manner indicated by the commissioners.

Attention is especially invited, however, to the clause of the general allotment act as amended February 28, 1891 (26 Stats., 794), which is as follows:

"That for the purpose of determining the descent of land to the heirs of any deceased Indian, under the provisions of the fifth section of said act, whenever any male and female Indian shall have cohabited together as husband and wife, according to the custom and manner of Indian life, the issue of such cohabitation shall be, for the purpose aforesaid, taken and deemed to be the legitimate issue of the Indians so living together, and every Indian child otherwise illegitimate shall for such purpose be taken and deemed to be the legitimate issue of the father of such child." \* \* \*

It was the evident design of this amendment to protect Indians in their property rights who might, by reason of a strict construction of the laws of descent in the various States in which they are located, be debarred from inheritance of that which it was the intention of the Government should be theirs.

IX.—UNDER WHAT CIRCUMSTANCES AND UPON WHAT CONDITIONS CONTRACTS HAVE BEEN OBTAINED FROM INDIANS FOR THE SALE OF THEIR ALLOTTED LANDS.

The commissioners report under this inquiry that, as the result of their investigations, they find the following facts:

- (1) "One hundred and forty-six contracts, all dated in the year 1889 and 1890, have been made known to us."
- (2) "About 9,200 acres of land—more than half of the aggregate of allotments—have been contracted for."
- (3) More than \$30,000 has been paid to the Indians as so-called 'lease money,' the explanation of which is, that the contracts make a lease of the land for two years, with an agreement that when the restriction in the patents is removed the deed shall operate as an absolute conveyance of the land in fee simple. This 'lease money' is then to be considered as so much of the agreed price of the land."
- (4) "The aggregate of prices to be paid when the restriction is removed is about \$700,000."
- (5) "As nearly as we could compute from the data before us, the average price per acre to be paid for the lands was \$75."
- (6) "No possession of land contracted for was taken by any of the purchasing contractors."

As to the conditions upon which contracts were obtained the commissioners append to their report the printed form used in 111 "and perhaps more" of the cases, and another form used in 10 cases, leaving 25 cases in which they did not obtain the forms used. They observe, however, that the fair presumption was that they were in effect much the same as the others.

They arrived at the conclusion that the intention of Congress was to call for information in regard to the general subject of these contracts, and not for specific information as to the particular circumstances under which each of the contracts was obtained, and therefore they felt constrained to confine themselves to a general view of the circumstances under which the contracts were obtained.

The commissioners explain at some length their reasons for so doing, and then state their conclusions. They state that the condition and surroundings of the Indians led them to receive with favor, if not avidity, a proposition to pay them money down for a contract, under which, when the restriction in their patents should be removed, they would receive, in addition, greater sums of money than they had probably ever dreamed of possessing. No evidence came before them tending to prove that any fraudulent means were used to induce any Indian to make a contract, nor did any Indian complain to them of any fraud or wrong, though they had free access to the commissioners and many visited them at their rooms in regard to other matters. They explain the reasons why they mention no names of parties who made contracts with the Indians, which are, first, that the law did not require them to report the names of either Indian or white contractors, and, second, that it would have been unjustifiable in them to volunteer their publication.

This portion of the report of the Commission is particularly unsatisfactory to this office. Both by the terms of the treaty and of the patents under which these Indians hold their lands they are expressly debarred from the privileges of alienation. It was the evident intent of the law, and is clearly the beneficent purpose of the Government, to protect these people in the enjoyment of franchises of whose value they, from the nature of the case, are ignorant, and to shield them from spoliation by those who are better versed in the present and prospective value of the lands they occupy.

The so-called leases or contracts which men now hold, covering a large portion of the land belonging to these people, are in reality of the nature of alienation and are intended by the persons who made them to be *ipso facto* deeds, by providing that the lease shall renew itself at the expiration of every two years, the limit fixed by the law, until the restriction as to the alienation has been removed, whereupon the contract under the lease for the alienation of the property becomes operative, conveying the property absolutely and completely. It is evident at a glance that the object and purpose and practical operation of these contracts, if recognized, is a clear violation of the express terms of the treaty and of the patent, and must of necessity work harm to the Indians.

It is not germane to the purpose to say that no fraud was used in procuring these contracts; that they were entered into freely by the Indians, and that the Indians are now entirely satisfied with them and anxious to have them consummated.

From the nature of the case these Indians, improvident as to the future, utterly ignorant as to the prospective values of the land with which they so readily part, eager for the advantages that come to them from the possession of money in hand, and anxious for the payment of still additional sums which to their inexperienced eyes seem large, could be very readily persuaded, without fraud in the ordinary acceptation of the word, to part with their valuable possessions for sums vastly below their real worth. It is the old story of the mess of pottage. That the Indians are happy in this trade is no more valid as an argument for its consummation than is the happiness of the child who is led to barter a diamond ring, of whose value it is ignorant, for a stick of candy that appeals to its appetite.

To consummate by law these contracts, which have been made in violation of the letter and the spirit of the treaty and the patents, would be to invite fraud everywhere in the disposal of Indian lands, and to encourage men to resort to a species of spoliation which would set at defiance all the beneficent oversight which the Government now exercises toward its wards, as well as to lead, in many cases, to the speedy pauperization of those who, under proper guardianship, may not only become self-supporting but prosperous, and even rich.

It is no sufficient argument to say that the Indians have always been poor, that they do not know the value of money, and that they would spend it improperly if they had it. As I have already said, there is rising a new generation of Indians who are being trained to the uses of money, are taught its privileges and its worth, and who, under the proper guardianship of the nation, will make certainly as good use of this vast estate as would be made by the average white man who seeks to despoil them of it.

#### X.

Having answered the specific points designated for their inquiry and investigation, the commissioners take up the general requirements embraced in the following words of the act:

"And regarding all other questions and matters bearing upon the welfare of said Indians, and the wisdom or necessity of the disposal by the Indians of their interest, in whole or in part, in any individual or tribal lands belonging to said reservation. And said committee shall report the facts ascertained, and their conclusions and recommendations thereon to the President, to be communicated by him to Congress."

The first of these questions, and in their opinion, as they observe, the highest in immediate importance, is connected with the disposition by the Indians of their lands in the reservation.

They call attention to the fact that the total amount agreed to be paid the Indians for the lands which they have contracted to sell is about \$700,000; all of which, they observe, is to be paid them within 90 days, or other short period, after the restriction is removed.

I desire to call especial attention to their remarks upon this subject which have direct bearing upon these contracts. They observe as follows (p. 30):

"Would it be for their welfare that so large a sum of money should be paid to them at once? If they had been educated as white men are, and had grown up in the midst of the influences that generally surround white men, we would say that it should be so paid; for white men learn, in a greater or less degree, as they grow up, the value of money. With every kind feeling toward the Puyallups, we can not disregard the testimony of many who know them well, that they have no just appreciation of the value of money; are prone to squander it; many of them are easily duped, and many are prone to strong drink. Such being the case, our judgment is that it would be promotive of their welfare if Congress would, as a condition of the removal of the restriction in any case of a sale, require that the purchase money payable to an allottee should be deposited somewhere at interest, and be paid to him in annual installments, with interest, through such series of years as Congress should prescribe. We would suggest at least ten. In this way it would be impossible for the Indian to get rid of all his money in hot haste, and would secure him and his family a support for at least that number of years, and perhaps tend to teach him lessons of economy and thrift, which he might not otherwise learn, and which, once learned, might abide with him."

From the foregoing, it would seem that the commissioners must have presupposed that the 146 contracts obtained from the Indians for the sale of their allotted lands would be binding upon the Indians, and that the lands covered

thereby would be disposed of thereunder, whenever the restriction as to alienation is removed therefrom.

It will be observed that while they suggest that it would be for the welfare of the Indians for Congress to prescribe as a condition of the removal of the restriction in any case of a sale, as to how the purchase money should be disposed of, they do not make any suggestion looking to the protection of the Indians against the enforcement of the contracts they have made, and the inference is clearly to be drawn from their remarks that they were of the opinion that the lands covered by these contracts will eventually be sold to the purchaser who made the contracts with the Indians, under the terms and conditions named in the said contracts.

I agree with the commissioners that the question as to the disposal of their lands by the Indians is "the highest in immediate importance," and for that reason the matter should be guarded with the greatest care.

What result would follow if these contracts were held to be legal and binding upon the Indians?

The commissioners report the value of all the allotted lands of the reservation to be, as near as they could arrive at an approximation of its value, \$4,776,130, or an average of \$273.50 per acre. They report that 9,200 acres of these allotted lands, or more than half of the aggregate of the allotments, are covered by these contracts. Therefore, if these contracts should be allowed to stand, and the lands should be sold to the parties who made the contracts with the Indians at the prices agreed upon, the contracting parties would acquire from the Indians for \$700,000 lands estimated by the commissioners to be worth over \$2,500,000, a clear profit of \$1,800,000.

If I thought that Congress would not interpose its power to prevent the sale of these lands by the Indians under these contracts, I would never recommend the removal of the existing restriction as to alienation from any of the lands covered by the contracts.

It seems to me that the safest course to pursue would be for Congress in removing the restriction as to alienation, no matter from what particular lands the restriction may be removed, to declare that any and all contracts that have been made in any manner touching the disposition of any of the lands held by the patentees are null and void. Congress has power to remove the restriction, or to continue it in force. If it shall see fit to remove the restriction, it has power to say in what manner and under what conditions it shall be removed, and I think that every consideration of justice, and a proper regard for the rights and interests of the Indians, requires that Congress should protect the Indians against these unreasonable, unfair, and illegal contracts.

In view of the fact that the report of the Commission is not satisfactory, either as to what lands it is best to allow to be sold or as to their value, and is wanting as to any specific recommendation in regard to the manner of disposing of the same, and in consideration of the fact that there remains a portion of the money set apart for the accomplishment of this important work (about \$3,000), I would respectfully recommend the reorganization of the commission. Should this recommendation be approved, I would suggest that the commissioners be specifically instructed by this office to supply the desired facts and information, as above set forth, and that they be further instructed to estimate the value of the lands it may be deemed best to allow to have sold, and fix a minimum price below which, in their opinion, they should not be sold, and recommend a method and time for their disposal.

In this connection, I would suggest the desirability that the lands thus designated should, with the consent of the individual owners, be sold at public auction to the highest bidder, and that the proceeds of the sale be used for the benefit of the individual owners, under the direction and at the discretion of the Secretary of the Interior.

I further recommend that Congress set apart, by special act of legislation, the tract now used for agency and school purposes, for such time as it may be needed for such uses, and that in that act it shall specify the manner of the ultimate disposition of this tract when no longer needed for agency or school purposes.

I would suggest, also, that, inasmuch as the lands now allotted to these Indians have become so valuable that from their sale the prospective wants of these people will be met for an indefinite period, the proceeds of any portion of the allotted lands which it may be desirable to sell might constitute a permanent endowment fund for the enlargement, equipment, and maintenance of the industrial school now in such successful operation near Tacoma, in which, so

long as it may be necessary, these Indians, and others, with their consent, may be educated.

If this recommendation for the reorganization of the Commission for the purposes herein stated is favorably acted upon, it will be practicable, on receipt of the supplemental report submitted by them, to make a definite and final recommendation of the whole matter for submission to Congress.

The report of the Commission and all accompanying papers are herewith returned.

Very respectfully, your obedient servant,

T. J. MORGAN,  
*Commissioner.*

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS.  
*Washington, September 15, 1891.*

SIR: I am in receipt of a letter dated August 24, 1891, from United States Indian Agent Eells, of the Puyallup Agency, Washington, stating that there is a "good deal" of land bordering on the Puyallup and other Indian reservations in said State, below the "meander line and deep water," or "between the high and low water mark," which may or may not be a part of the reservations referred to; that there are two kinds of claims bordering on the Puyallup Reservation:

- (1) Several miles that border on that reservation as surveyed in accordance with the first Executive order, dated January 20, 1857.
- (2) The lands bordering on the reservation as extended by Executive order of September 6, 1873.

Agent Eells also states that the tide lands bordering on that portion of the Puyallup Reservation as extended by the Executive order last referred to, is estimated to be worth as much as \$500 per acre; that the lands thus comprised amount to some 460 acres; that four white men, named A. Rydstrom, J. E. Young, S. Pearson, and H. C. Dears have, under the advice of James Wickersham, the attorney for the parties who tried to "jump" the lands embraced within the Puyallup school farm, made application to the local land office at Seattle for permission to enter the same; that their applications were refused by the said local land officers upon the ground that the lands applied for form a part of the Puyallup Reservation; and that an appeal has been taken from the decision rendered by said local land officers to the General Land Office.

The said agent further states that several miles of water front border on lands patented to individual Indians on the Puyallup Reservation; that part of the patented lands are in section 34, which includes the extended portion of the reservation and portions of other sections, and requests that the question as to whether the Puyallup Reservation embraces the land on Puget Sound between "high and low water mark" be determined by this Department, in order that proper steps may be taken to protect the Indians in whatever rights they may have to the lands involved.

On March 26, 1890, this office submitted to the Department a communication setting forth somewhat in detail the condition of the Puyallup Indians situated near Tacoma, Wash.

April 30, 1890, you determined in letter to the General Land Office, relative to the applications of George Herriott *et al.*, to enter lands within the Puyallup Indian Reservation that "the authority of the Executive, in making the treaty of December 26, 1854 (10 Stats., p. 1132), with the Nisqually, Puyallup, and other bands of Indians, carried with it the right to reserve the lands therein set apart for the use and occupancy of the Indians, and empowered the President to make such other or additional reservations as might be found necessary, to a faithful execution of the purposes of the treaty; that the additional reservation created by Executive order of January 20, 1857 (and as extended by Executive order of September 6, 1873), was within the scope of the authority conferred upon the President by the sixth article of said treaty: that the construction of said treaty adopted by the Executive, with the assent of the Indians, in the matter of additional reservation, having been recognized and indorsed by subsequent Congressional action, should be accepted as conclusive; that the act of September 27, 1850, relative to the public lands of Oregon, and the acts amendatory thereof, do not impose upon the Executive any restriction in the matter of creating Indian reservation, or limit the amount of lands that may be reserved

for such purposes; and that no rights can be secured under the homestead laws to lands reserved by competent authority from settlement and entry" (10 L. D., 514).

In approving the decision of the General Land Office rejecting the applications of George Herriott *et al.*, then in question, you determine the integrity and validity of the Puyallup Indian Reservation, as created and extended by the Executive orders referred to.

The commissioners—Messrs. Drake, Kinkead, and Harness—appointed to take into consideration all the various difficult questions arising regarding the relation of the Puyallup Indians to this Department and the State of Washington, make the following statement in their report of March 11, 1891, pertaining to the question whether the Puyallup Reservation embraces the land on Puget Sound (or Commencement Bay), between "high and low water mark:"

"In reference to this, we consider the following propositions to be applicable and tenable:

"(1) In the region now covered by the State of Washington the common law prevailed at the time the reservation was surveyed. (2) At common law, whenever the sea or a bay is named as a boundary, the line of ordinary high-water mark is always intended. (3) In the survey of land bordering on navigable waters, where the tide ebbs and flows, it has always been the policy of the Government to extend the line of survey only to the ordinary high-water mark. (4) Unless it be affirmatively shown that the President of the United States, before Washington became a State, did, by Executive order, extend the boundaries to low-water mark, it never was extended to that mark. (5) No such Executive order is known to us, and we do not believe any such was ever made.

"The conclusion is inevitable that the reservation *does not* embrace the land on Puget Sound between high and low water mark.

"We are informed, however, by Agent Eells that at the head of Commencement Bay there are patented tracts, portions of which are submerged at high tide, but we did not consider it necessary to make an investigation of any such case."

The Commissioner of Indian Affairs in his report to the Department on July 8, 1891, upon the final report of the said Puyallup commissioners, dissented from the views as expressed by them in relation to the ownership of the lands on Puget Sound lying between high and low water mark.

The following is the opinion of the Commissioner pertaining to this question, as expressed in his said report:

"I can not accept the views of the commissioners in relation to the ownership of the lands on Puget Sound lying between high and low water mark.

"It appears to me that the Government in selecting this particular tract of land, situated upon the borders of Puget Sound as a home for the Puyallup Indians and throwing about them the lines of a reservation as a separation between them in their homes on the one hand, and all others on the outside of that line on the other, had in mind, primarily, the isolation of these people temporarily and their protection under the specific care of the Government until they could reach the point of self-protection. I can hardly think that the Government designed to withhold from these people any rights or privileges of any kind whatever which would ordinarily attach to an act of Government vesting in them the right and title to this particular body of lands. If the Government had intended to reserve to itself or for another the right and title to the lands lying between high and low tide bordering upon the reservation, I think that fact would have been expressly stated in the Executive order extending the reservation.

"On the other hand, the letter of the Acting Commissioner of Indian Affairs, dated August 26, 1873, in asking for the extension of the boundaries of the reservation (see pamphlet Executive orders relating to Indian reservations, prior to April 1, 1890, p. 88), stated expressly that 'this would give them a mile of water frontage directly north of Puyallup River and free access to the waters of Commencement Bay at that point.'

"The Executive order issued by President Grant, September 6, 1873, extending the reservation in accordance with the request of the Acting Commissioner confirmed, as it seems to me, specifically this express stipulation, and thus secured to the Indians beyond any question any and all right and title to any land whatever lying between them and the deep water.

"It is worthy of note also, as stated by the Commission on the authority of Agent Eells, that at the head of Commencement Bay there are patented tracts, portions of which are submerged at high tide, from which it would appear that

not only has the Government in general terms conveyed to them this tide land in consideration but in specific cases has patented to them a portion thereof.

"This view seems to be confirmed by a map of the reservation, prepared in 1856 by Governor Stevens, who made the treaty with the Puyallups, in which, while not conclusive in itself, the water line of the reservation is so drawn as to certainly seem to include a considerable portion of land that ordinarily would be overflowed by high tide. While this is not conclusive in itself it certainly adds weight in so far as it goes to the conclusion which I have set forth.

"In differing in this particular with the views of the honorable Assistant Attorney-General (see his memorandum), I beg leave to suggest that the setting apart by the Government of this particular tract of land to these people, was, from the nature of the case, as being intended to provide an isolated home for them, exceptional in its character and takes it out of the operation of the common law as set forth by the commissioners."

Your attention is especially invited to the following statements:

(1) That made by the said commissioners pertaining to certain tracts patented: "We are informed, however, by Agent Eells that at the head of Commencement Bay there are *patented tracts, portions of which are submerged at high tide*, but we did not consider it necessary to make an investigation of any such case."

(2) That made by the Acting Commissioner of Indian Affairs in his letter dated August 26, 1873, in asking for the extension of the boundaries of the reservation (see pamphlet Executive orders relating to Indian reservations, prior to April 1, 1890, page 88), wherein he stated expressly that "this would give them a mile of water frontage directly north of Puyallup River, and free access to the waters of Commencement Bay at that point."

The Department concurred in the views of the Acting Commissioner, and requested that in accordance with his recommendation an Executive order be issued setting apart the tract of land described for the purpose indicated.

It was clearly the intention of this office, when the Puyallup Reservation was set aside and extended as indicated, to secure for the Indians thereof *free access* to the waters of Commencement Bay, and this view of the matter is supported by the fact that the Government has already patented to certain of the Puyallup Indians lands between the high and low water mark, or, in other words, "*lands, portions of which are submerged at high tide.*"

As far back as 1857 the Indians in that section of the country lived almost wholly from the fruits of the chase and fishing, and in order that they might conduct their fishing operations with success and *without molestation*, it was then necessary for them to have a water frontage on the said bay, and free access to the waters thereof, and now that these Indian tide lands have suddenly and vastly increased in value by reason of the immense growth of the city of Tacoma, the extension of railroad systems and the multiplication of shipping interests, it does not seem just and right that they should be deprived of their vested rights in them, and that white men should be permitted to enter them, or the State of Washington lay claim thereto.

I most respectfully urge that the Government did not design to withhold from the Puyallup Indians any rights or privileges of any kind whatever which ordinarily attach to an act of the Government vesting in them the right and title to this particular body of land. If the Government had intended to reserve to itself or for another the right and title to the lands lying between high and low tide bordering on the reservation, I think that fact would have been expressly stated in the Executive order extending the reservation.

I therefore think that it was the intention and purpose of this Department and the President to secure these tide lands for the use and benefit of these people, and as the acts of the executive branch of the Government in this matter have been recognized and indorsed by Congressional action, I beg leave to repeat the suggestion that the setting apart by the Government of this particular tract of land to these Indians is, from the nature of the case, exceptional in its character and takes it out of the operation of the common law as set forth by the commissioners.

As this important matter involves grave questions of law in which both the Indians and the State of Washington are interested, I have the honor to request instructions in the premises.

In view of the importance of this matter, you may deem it advisable to obtain an authoritative opinion from the honorable Attorney-General, and if you shall concur in this suggestion I would respectfully recommend that the question as to whether the Puyallup Reservation, Washington, embraces the lands on Puget

Sound (Commencement Bay) between high and low water mark be submitted to him for that purpose. I transmit herewith blue-print copy of map of the Puyallup Reservation, showing the allotted tracts.

Very respectfully, your obedient servant,

R. V. BELT,  
*Acting Commissioner.*

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,  
OFFICE OF ASSISTANT ATTORNEY-GENERAL,  
*Washington, October 14, 1891.*

THE PUYALLUP INDIAN RESERVATION—AS TO THE TIDE LANDS.

SIR: I am receipt, by your reference, of a communication from the Commissioner of Indian Affairs, under date of September 15, 1891, in respect to the subject-matter of which you request an opinion from me.

It appears from the Commissioner's letter that there is a quantity "of land bordering on the Puyallup and other Indian reservations," in the State of Washington, "below the meander line and deep water, or between high and low water mark, which may or may not be a part of the reservations referred to," and my opinion is desired upon the question whether the lands along the water front of the Puyallup Reservation, "between high and low water mark," are parts of said reservation.

The Puyallup Reservation was established on January 20, 1857, by virtue of a treaty between the United States and said Indians, negotiated December 26, 1854. (10 Stats., 1132.)

By the first article of said treaty the Indians ceded to the United States certain described lands; by the second article certain tracts were reserved for the use and occupation of the Indians, one being described as a "square tract containing two sections, or 1,280 acres, lying on the south side of Commencement Bay." By article 3 it was provided that—

"The right of taking fish at all usual and accustomed grounds and stations is further secured to said Indians, in common with all citizens of the Territory, and of erecting temporary houses for the purpose of curing," etc.

And by article 6 it was further provided that the President may, at his discretion, cause the reserved lands, "or such other land as may be selected in lieu thereof," to be surveyed and allotted to such Indians as are willing to locate on the same as a permanent home, on the same terms and subject to the same regulations as provided in the sixth article of the treaty with the Omahas. (10 Stats., 1043.)

By this last article and treaty the President might, in his discretion, make allotments of lands to the Omahas, and after the allottees located themselves upon the assigned tract a patent might be issued therefor, conditioned that the tract shall not be aliened or leased for a longer term than two years, and be exempt from levy, sale, or forfeiture until a State constitution, embracing such lands within its boundaries, shall have been formed and, the legislature of the State shall remove the restrictions, with the consent of Congress. If the allottees fail to occupy or till their lands, the same may be declared abandoned, and either assigned to others, or, with the surplus lands, be sold thereafter for the benefit of said Indians.

The Commissioner of Indian Affairs, in his communication of August 26, 1873, to the Secretary of the Interior, states that the exterior lines of the reservation were surveyed and established originally in 1856, by order of Governor Stevens, the then superintendent of the Indians in Washington Territory, and a map of that survey was sent to the Indian Office here, "giving a description of the courses and distances of said exterior boundaries of the reserve as taken from the field notes of survey," on file in the office of the superintendent.

As thus established the reservation was set apart by executive order of January 20, 1857. He says further that it was intended to have the reservation bounded on its western side by the waters of Commencement Bay to the southerly shore of Admiralty Inlet, and it was supposed that the survey had been so made as to give the Indians frontage on the bay, "with free access to the waters thereof."

More recent surveys, however, showed that there is land along the shore and out-

side of the reservation, caused by the error of the survey or in leaving the low-water mark along the shore of the bay and running a direct line to the place of beginning. He states that Superintendent Milroy urges the correction of said mistake, and the carrying out of the original intention, by making the western boundary follow the shore line at low-water mark. This change the Commissioner says can not be made because the lands proposed to be included are partly covered by the grant to the Northern Pacific Railway Company and partly by donation claims. He therefore proposes that the President be requested to order the setting apart, for the use of the Indians, and as an addition to the reservation, of all of section 34, township 21 north, range 3 east, not already within the reservation, which addition he says would give the Indians "a mile of water frontage directly north of the Puyallup River, and free access to the waters of Commencement Bay at that point."

The Secretary of the Interior concurred in this recommendation, and on September 6, 1873, the President ordered that the Puyallup Reservation be so extended "as to include within the limits all that portion of section 34, township 21 north, range 3 east, not already included within the reservation." (See executive orders relating to Indian reservations prior to April 1, 1890, p. 88.)

It was decided by this Department in the case of George Herriott (10 L. D. 513) that this extension of the reservation by the President was authorized by section 6 of said treaty with the Puyallup Indians; so that said reservation in its present condition was established under the special authority of Congress, and not that of the executive alone.

If it be conceded that Congress can grant lands below high-water mark along the shores of navigable tide waters in the United States Territories, the question arises whether such grant was made in the present instance.

The territory in which the Puyallup Reservation is located is within the Louisiana purchase, which, though obtained through treaty with France, was subject to and governed by the laws of Spain at the time of its cession to the United States (*New Orleans vs. United States*, 10 Peters, 724).

If, then, Congress possesses the right to make such a grant, it is because it succeeded to the powers with which the King of Spain was clothed (*Ib.*, 736).

In *Gould on Waters* (p. 42), it is said that "the crown may grant to a subject the soil of tide waters," and the United States Supreme Court seem to recognize the validity of such a grant by the Spanish King in the cases of *city of Mobile vs. Hallett* (16 Peters, 261) and *Goodtitle vs. Kibbe* (9 How., 471).

In the last case it is said: "Undoubtedly Congress might have granted this land (between high and low water mark) to the patentee or confirmed his Spanish grant before Alabama became a State. But this was not done."

Now, in relation to such grants, when made by the crown, in *Gould on Waters* (p. 48), it is stated that "under a royal grant no alienation will be presumed beyond what is clearly and undisputably expressed."

And again, on page 60, the same writer says: "The presumption that the shore belongs to the crown, as far as high-water mark, gives rise to the presumption that the title to lands adjacent to tide water extends to this line, and places the burden of proof upon those who claim beyond it."

These rules of construction, it seems to me, should govern where such a grant is claimed to have been made by Congress, as in the present instance.

It is under the treaty alone that the Indians derive their rights in the premises, and to that treaty we must look to ascertain those rights.

It received the solemn sanction of Congress and the Indians, and where its language needs construction we must apply the ordinary and well-settled rules, as recognized by the courts. Those rules do not authorize us to go outside of the treaty and take parole testimony as to what was intended by its plain and solemnly declared provisions.

Were it permitted to go into parole testimony we should use that of contemporaneous actors, who are most competent to speak on the subject, rather than that of those who testify from hearsay twenty or thirty years afterwards. Governor Stevens, who, as agent of the United States, negotiated the treaty in 1854, also caused the survey of the reservation to be made in 1856, in accordance with his understanding of the terms of the treaty. A map of that survey was, by him, sent to the Indian Office here as correctly showing the outlines of the reserve, and the boundaries thereof did not anywhere go to low-water mark. The field notes of survey were on file in his office and showed, independent of the plat, which was made therefrom, that the tide lands were not included. This survey was acquiesced in by the Indian Office for seventeen years, when in 1873, upon information of another Indian agent, the then Commissioner of Indian Affairs finds out that the survey is defective.

I do not think this last testimony ought to outweigh that of Governor Stevens as shown by his official acts.

If the tide lands be public lands, Congress, under the Constitution, alone can dispose of them. If they were granted to the Indians it was by the treaty of 1864, and they could not thereafter be granted to either the railroad company or claimants under the donation acts. So that the title must yet be in the Indians. It is, therefore, remarkable that the Commissioner in 1873 should have been willing to abandon claims to those lands in behalf of junior grantees. This waiver of itself would indicate that at that time no serious claim to said lands was thought to be in existence or was intended by the Indian Office to be asserted. In fact, in his recommendation to have the reservation enlarged, though the exclusion of the tide lands is mentioned it is not recommended by the Commissioner that any portion of them be included, but only that portion of section 34, which was not within the original boundaries, be thereafter included so as to give the Indians "free access" to the waters; and it is shown by the official survey of said reservation, made by the General Land Office about that time, and which was approved in January, 1874, that the line of the Stevens survey, where it passed through section 34, was located considerably above the high-water mark. So that the addition made by the order of the President only had the effect of giving the Indians "free access" to the waters of the bay by extending the reservation at that point to the high-water mark, as meandered by the official survey, and as is shown thereby also to have been done by the Stevens survey elsewhere along the western boundary of the reserve.

It is thus evident the President was not asked to, and did not attempt to, include any lands beyond high-water mark. Had such purpose been in contemplation proper language would have been used to show it, and both recommendation and order would have directed the western line of the reservation to be extended to "low-water mark" on Commencement Bay.

But the fact is the Commissioner recommended and the President only directed that the reservation be enlarged by the addition of certain legal subdivisions of the public lands, and it is plain that the legal subdivisions referred to could only be those ascertained or to be ascertained in the usual way by the public surveys. As the public surveys on tide waters always stop at high-water mark, neither the Commissioner nor the President can nor ought to be presumed, in view of the language used, to have intended the reservation to extend over lands which are excluded from the public surveys. If such an order had been issued, in my opinion its validity would have been more than questionable, in the absence of plain authority to that effect in the treaty.

Looking to the treaty establishing the reservation, I fail to find any stipulation therein that either expressly or by implication shows that the purpose was to grant the tide lands. On the contrary, I think that the language of the third section opposes such a theory, where it gives to the Indians the right of fishery only "in common with all citizens of the Territory," precluding expressly the idea of any exclusive rights being accorded to the Indians in the waters or shores of the reservation. So that whatever right was given to them was to be enjoyed in common with all other citizens.

The contention that this guaranty of the common right of fishery carried with it the exclusive right and title to the soil below high-water mark, can not be maintained. The statement of the proposition carries its own refutation and needs the citation of no authorities to show its fallacy.

There is not another word in the treaty which in any way can be construed as referring directly or indirectly to the waters of the Territory or the shores thereof, or as conferring any rights in connection therewith.

In view of what has been said, it is my opinion that said reservation does not extend below high-water mark, and does not, consequently, embrace the tide lands, as claimed by the Commissioner of Indian Affairs.

I do not wish to be understood herein as expressing an opinion as to whether a grant could be made by the United States in the Territories of the tide lands. It is not necessary at this time to discuss that question. But conceding *arguendo* that such grant could be made, I have shown, I think, that in this instance it was not made nor contemplated to be made.

In his letter of September 15, 1891, the Commissioner refers to the statement of Agent Eells that the Government has already patented to some of the Puyallup Indians certain lands at the head of Commencement Bay, "portions of which are submerged at high tide;" and the Commissioner seems to think that this is evidence that the tide lands were granted to the Indians. I do not concur in this conclusion. If the officers of the Government have patented such lands as are

described they have simply acted without the authority of law, and their action can not bind the Government or compel it to commit further errors of the same sort.

The above statement, however, is made on the authority alone of the Indian agent at that reservation.

An examination of the records of the General Land Office, which I have caused to be made, do not sustain his assertion. The plat of the official survey of the reservation, approved in 1874, shows the subdivisions thereof in sections, quarter sections, and lots where meandered to the shore line or high-water mark. These subdivisions are marked plainly on that plat, and patents were issued for the lands thus described, on lists approved by the Commissioner of Indian Affairs, October 23, 1884; and there is no other description given of the land conveyed in any of the patents issued, than in the manner stated, and no recital to show that any of said lands extend to low water, or beyond high-water mark, or even to high-water mark, further than by reference to the survey, which is legally a part of the patent, as much so as if written out at length and incorporated therein. (*Cragin vs. Powell*, 128 U. S., 691-696.)

How it is that, in the face of this record evidence on file here, the agent knows that lands below high-water mark have been patented to some of the Indians, I am at a loss to understand. This statement, however, I do not regard as of as much importance as does the Commissioner, and if any such patents have been issued, the question of their effect and validity must be determined by another tribunal.

Herewith are returned the papers sent me.

Respectfully,

GEO. H. SHIELDS,  
*Assistant Attorney-General.*

The SECRETARY OF THE INTERIOR.

[Telegram.]

DEPARTMENT OF THE INTERIOR,  
*Washington, September 14, 1891.*

EDWIN EELLS,

*U. S. Indian Agent, Puyallup Indian Agency, Tacoma, Wash.:*

Have made and sent me without delay map showing where the Puyallup Indians should be located severally, with names and what lands should be sold, with your views thereon and reasons therefor. Similar to one given Commission, but not the same necessarily. Make a report so far as you know the circumstances under which present contracts were made with Indians. The Commission did not examine into this. I want to know the facts as far as you can state them. Keep me advised of progress in this business and whether you are having any difficulty with settlers, trespassers, etc. I intend the law shall be enforced, and will protect this reservation. The injunction business is illegal, and I am endeavoring to have the trespassers removed by the military. Advise me as to this matter also. If anything is urgent, telegraph. When may I expect map?

JOHN W. NOBLE,  
*Secretary.*

UNITED STATES INDIAN SERVICE,  
*Puyallup Agency, Tacoma, Wash., September 17, 1891.*

SIR: In reply to your telegram of the 14th instant, I have the honor to transmit herewith inclosed a map of the Puyallup Indian Reservation, showing what lands should not be sold, and what might be permitted to be sold. A list of all the names of the original patentees, with a full description of the land that might be sold and that ought to be kept, has just been prepared and forwarded to the Commissioner of Indian Affairs at his request, presumably for your use.

As stated in my letter to you of March 21, 1891, the Indians occupy only a part of the Puyallup Reservation, for the reason that a part only is agricultural land. The reservation has three classes of land: First, the rich bottom land lying along the Puyallup River; second, the tide flats near the mouth of the river and bordering on Commencement Bay; third, uplands which are covered with fir timber and has a gravelly soil, most of which is unfit for agricultural purposes. The tide flats, and perhaps half of this upland, is adjacent to the city of Tacoma, and would if put upon the market be used for city purposes as time advances and the city grows. The Indians only occupy and use the agricultural part, leaving un-

occupied and unused the tide flats and uplands. On account of its proximity to the city of Tacoma and to tide water, much of this unused land is highly valuable if it could be used for these purposes, but is almost entirely useless to the Indians for their personal use. On the south side of the reservation lies the town of Puyallup, within one or two miles of the boundary line. The land lying nearest to this town is very fine agricultural land, and while a part of it is used by the Indians, yet it is so near the town that if cut up into small acre lots and sold it would bring a high price and support a large population.

Now, it appears to me that the land which the Indians do not use, and in all probability never will use, should be sold to those who can and will use it. That takes all the tide flats and hill land. Then that agricultural land which borders on the town of Puyallup should be sold, as it will shortly become the suburbs of the town. By making this division about 12,779 acres would be put upon the market, and about 4,685 acres, or a little over one-fourth, would still be kept for the exclusive benefit of the Indians. Such a division is the more feasible from the fact that the land was allotted to the Indians in such a way that each received two pieces. As a rule, they were given 40 acres of agricultural land in the bottom and their other 120 acres either in the hills or on the tide flats. By this division, which is as good as I can make it, of the 167 patentees 106 get their original 40-acre tracts or fractions of the same and sell their other allowance. Sixteen of them get 40 acres more to keep of their other land, and one gets nearly 80 acres more, making 123 good farms inside the limits of the diminished reservation. Of the 61 who would be left out, or would sell all the land they have, 17 are dead and their heirs are otherwise provided for, and 19 have land that is almost unimproved, and is of no practical value to them, and live on other land anyhow, leaving but 25 who have good homes that would be unprotected. Most of these live near Puyallup. If they could not hold their own after selling at a high price, there are 17 good claims inside the diminished reservation that they could at least rent. So that the tribe as a tribe would still be well provided for and protected and the cities get as much as is needed for present purposes. I would like to suggest right here, however, that if the restrictions could be removed in such a way, that as long as the Indian should choose not to sell he would be exempt from levy, tax, or forfeiture, it would be very important that it should be done.

If this is not done, the ignorance of the Indian might be imposed upon in such a way that the land would be sold for taxes or under an execution for debt for a part only of its value, and the Indian be legally robbed of his land. It should be sold, when sold, *voluntarily*, and under proper guardianship and protection. My own idea is that it should be sold to the Government, the Indian to receive his pay in bonds with coupons attached in such a way that the principal would draw a small rate of interest, and about 4 per cent of the principal be paid annually, so that his money would last him twenty-five years. I would have this done both for the protection of the Indians and also to secure to the purchaser a good title, particularly in cases where the original patentees are dead and the heirship is uncertain.

It would also, in my judgment, be very desirable that the land should be plotted before being sold, particularly that part which will become a part of a great city, so that the streets and avenues should be laid out in conformity with the natural formations of the land, and there be a uniformity in the whole design.

Now as to the contracts:

As you are aware, the conditions in the patents are that the land is inalienable until the Territory within which the lands are situated should be formed into a State, after which the legislature of the State might remove the restrictions, but the State should not remove the restrictions without the consent of Congress. In July, 1889, we became a State, and during the winter of 1889 and 1890 the first State legislature met and passed laws.

During the summer and fall of 1889 a syndicate of real estate agents in Tacoma formed a plan to obtain possession of these lands. It was this: Under the terms of the grant the Indian has the right to lease for a term of not to exceed two years. They drew up a contract which was designed to be both a lease and a deed. By its terms the owner agreed to lease his land to these parties for the term of two years for a certain sum, which was to be paid annually in advance. This money was paid as agreed upon, but no possession was taken under the lease. This contract also contained a provision in which the Indian agreed to sell, at the end of the two years the land described for a certain sum of money, provided Congress should at that time have removed the restrictions, and this contract or agreement was to operate as a good and valid warrantee deed under those

conditions, viz, that the restrictions should be removed by Congress and the purchase money be paid. The purchase price agreed upon was far below its real value, generally from one-fourth to one-half.

To induce the Indians to sign these contracts they employed two of the most intelligent and best educated Indians, paying them well for their services, who lured them into their offices where they signed the contracts. The business was conducted secretly, and no one outside was allowed to see any of the contracts or know of their contents. Besides paying these two Indians for their services they induced them to take an interest in some of the contracts, so that they had a contingent interest in the success of the scheme. A large number of Indians were lured into the trap, and about 9,000 acres were contracted for, and about \$30,000 paid them as lease money. They then went to the legislature and got a bill passed removing the restrictions, and sent a lobbyist to Congress to engineer a bill through there legalizing the action of the legislature. So far the scheme has failed, and the two years' limit has expired with most of the contracts, but I am told that a large number of them have been renewed, for what length of time or under what conditions I do not know. The avidity with which the Indians bit at the bait, and the strong desire manifested by them to sell their land for a small price was a great surprise to me.

I submit herewith a copy of one of the contracts, also a list showing to whom the land was contracted, amount received as lease money, and price for which it was agreed to be sold.

During the past spring and summer these same parties have been paying large sums of money to the Indians, presumably as advance payments on their land. As the lease money had already been paid and no other money was due under the former contracts, it is presumed that these were renewed or new ones made, and that they have such contracts existing now as will induce them to make strenuous exertions during the coming session of Congress to have such laws passed as will make these contracts binding, and give them the land under them.

There will evidently be a hard fight in Congress next session.

During the past few weeks payments seem to have been suspended. Some notes given for land have gone to protest, and apparently the business has been wound up for the present.

Frank C. Ross has also made a number of contracts for right of way for a railroad through the reservation, a copy of which I sent to the Commissioner last spring. Since the arrival of the troops he has suspended his efforts in that direction also, and now everything is quiet.

We are now waiting every day for an order from the Secretary of War, directing the removal of the trespassers. The United States district attorney filed and argued a motion to vacate the order and dismiss the case. The judge has taken it under advisement, and has held it now two weeks with no intimation when he will render his opinion.

Some questions relating to the boundary lines of the reservation and land that had been patented to both whites and Indians were presented the Commissioner of Indian Affairs some months ago, but have not been heard from yet. Also some parties are attempting to take the land between high and low water mark, outside the meander lines in section 34, which was fully reported to the Commissioner a few weeks ago.

Very respectfully, your obedient servant,

EDWIN EELLS,  
*United States Indian Agent.*

Hon. JOHN W. NOBLE,  
*Secretary of the Interior, Washington, D. C.*

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,  
Washington, December 17, 1891.

SIR: Referring to office report of July 8, 1891, returning the final report of the Puyallup Commissioners, Messrs. Drake, Kinkead, and Harness, dated March 11, 1891, and specially to the reference contained in said office report (page 17) to the list and report furnished by United States Indian Agent Eells, of the Puyallup Agency, Washington, of lands that might be alienated, etc., I have the honor to state that under date of July 28, 1891, this office called Agent Eells's attention to errors found in his list and the need of its careful revision and correction by him, and directed him to make such revision and correction, and at the same time to estimate and report the actual cash value, in his judgment, of each particular tract the sale of which he recommends, that is to say what, in his opinion, each tract would bring if sold at public auction to the highest bidder.

On September 17, 1891, agent Eells replied and transmitted to this office a revised list\* of the Puyallup Indians, with description of the lands allotted to each, indicating by a description, also, what tracts should be retained by the Indians, and what ones might be sold, and giving an estimated value of the land within each legal subdivision, which list I have the honor to submit herewith for your information and consideration in connection with his previous list transmitted with the papers in the Puyallup Commission case.

I also transmit herewith the agent's said letter submitting the revised list to this office.

Very respectfully, your obedient servant,

R. V. BELT,  
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

UNITED STATES INDIAN SERVICE,  
Puyallup Agency, Tacoma, Wash., September 17, 1891.

SIR: In reply to your letter dated July 28, I have the honor to transmit herewith inclosed revised lists of the Puyallup Indians, with a description of the lands allotted to each, giving also description of what should be kept and what might be sold, and an estimated value of the land in each legal subdivision.

In the copy which I retained the name of Alexander McDoland is inserted instead of his wife, Mary McDoland, allotment No. 4, and I do not see how her name came to be written in the copy sent you. But the inclosed copy is certainly correct in that particular. The remarks made on the recapitulation list were hastily made and not always correct. I have omitted most of them in the inclosed list, as all that is necessary is in the other one. The other exceptions you took are, I think, plain now, or corrected.

The estimated cash value of the land is by far the most difficult part of the business. I have tried to be conservative in my values, and think I am rather under what most men would put them at, but this year land can not be sold in any considerable amount for any price. Last year it would have gone quick at my figures, and I think in any ordinary good times it would bring the prices I have mentioned. The land designated to be kept has a real value full equal to my figures. The estimates include the improvements, which in many cases are quite considerable. It is most all fine agricultural land and near a good market. That marked to be sold has more of a speculative value; most of it does not bring in any return at present, but if developed would probably be worth many times what I have valued it at. The values, however, are only approximate, which you say is what you require.

I have not got it off as soon as you directed, but have done it as soon as I could with the force at my disposal and the other work I had to do.

The honorable Secretary of the Interior has telegraphed me for information similar to what you require, and I assume that this list is intended for his use as well. If I am mistaken, please have copies made for his use.

I would further explain that some of the land marked to be sold is also designated as homesteads. There are a number of good homes near the town of Puyallup that are outside the limits of the "diminished reservation." I have explained the reasons for doing this in my explanatory remarks at the close of one

\* The list printed herewith (*ante*) is the revised list.

of the lists. It appeared to me to be a case where the interests of a few of the Indians might reasonably be allowed to suffer, or at least be left partially unprotected, in consequence of the advantage it would be to the general public. If, however, the lands outside of the limits that the Indians still desired to retain for their homes and use could be exempt from taxation, execution, or forfeiture until *voluntarily* sold by the owner, I think it would be an important provision for their protection. Such a provision, I think, might apply to all lands outside the boundary lines of the "diminished reservation;" that is, as long as an Indian did not *choose* to sell, he should not be *forced* to sell by failure to pay taxes or improvident debts and the like. So that as long as it was the property of the Indian it would be free from forced sale as now, but when sold to be done *voluntarily* and through the proper channels, and not put in a position to be forced off at half its real value for what has done the Indians no good.

Hoping that my work so far will be satisfactory to you, I am,

Very respectfully, your obedient servant,

EDWIN EELLS,  
*United States Indian Agent.*

Hon. T. J. MORGAN,  
*Commissioner Indian Affairs, Washington, D. C.*

List of the Puyallup Indians, showing lands owned by each under original patent, with explanations.

No.	Names.	Present number in family.	Description.	S.	T.	R.	No. of acres.	Price per acre.	Remarks.
1	Mary Sloan	5	SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	1	20	3	40	\$350	Family now consists of self, white husband, grown son, his wife and child. Homestead.
2	Che-jay-lad, or John Towallad	2	SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	1	20	3	40	350	Homestead. Man and wife.
3	Jake Tai-ngh, or Charley Jacobs.	6	NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	1	20	3	40	350	Homestead.
4	Alexander McDoland	1	E. $\frac{1}{2}$ of NW. $\frac{1}{4}$ and NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	35	21	3	120	500	Might be sold.
			NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	1	20	3	40	350	Homestead.
			Lots 1, 2, and 3.	24	21	3	51.02	50	Might be sold.
5	Tenas George, or George Tichmahon.	1	NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	25	21	3	40	50	Might be sold.
			SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	1	20	3	40	350	Homestead.
			Lots 1, 2, and 3.	10	21	3	49.20	150	Might be sold.
6	William Tocanum	2	Lot 1, and NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	15	21	3	77.17	150	Might be sold.
			SW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	1	20	3	40	350	Homestead.
7	Charley Satiacum, jr	7	E. $\frac{1}{2}$ of SW. $\frac{1}{4}$ and SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	15	21	3	120	150	Might be sold.
			NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	1	20	3	40	350	Homestead.
8	Slike, or James Meeker	1	Lots 2 and 3.	16	21	3	54.93	500	Might be sold.
			SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	1	20	3	40	350	Homestead.
9	Elizabeth Kirshner	1	Lot 3.	30	21	4	6.55	50	Might be sold.
			Lots 1 and 2, and SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	31	21	4	82.12	50	Might be sold.
			Lot 1.	1	20	3	41.14	350	Homestead.
10	Old Tocanum	2	Lot 2.	1	20	3	41.40	300	Homestead.
			Lots 6 and 7.	26	21	3	35.36	500	Might be sold.
			Lots 1 and 2.	34	21	3	3.67	500	Might be sold.
			NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	35	21	3	40	500	Might be sold.
11	Tyeck Dick, or Richard Senaymah.	7	Lot 4.	27	21	3	.84	500	Might be sold.
			Lot 4.	1	20	3	41.91	350	Homestead.
			SW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	36	21	3	40	350	Might be sold.
			SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	11	20	3	40	350	To be kept.
12	Quakanum, or John Cook	2	SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	2	20	3	40	350	Homestead.
			SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	16	21	3	40	500	Might be sold.
			Lot 1.	21	21	3	40.73	1,000	Might be sold.
13	Simon Hogalcut	2	NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	22	21	3	40	500	Might be sold.
			SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	2	20	3	40	350	Homestead.
			SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	35	21	3	40	500	Might be sold.
14	Su-sal-sat-sa, or Joseph Peasup.	-----	NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	2	20	3	40	350	Homestead.
			W. $\frac{1}{2}$ of SW. $\frac{1}{4}$	15	21	3	80	200	Might be sold.
15	Sarah Smatagan	-----	NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	2	20	3	40	350	Homestead.
			NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	2	20	3	40	350	Might be sold.
16	George Jackson	7	SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	2	20	3	40	350	Might be sold.
			SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	2	20	3	40	350	Homestead.
17	Old John Stockum, or John Clowant.	2	SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	2	20	3	40	350	Do.

18	Charles Sleade	2	NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	12	20	3	40	350	Homestead.
19	James Coates	2	SW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	2	20	3	40	400	} Might be sold. { First wife dead; husband has married another woman. Rents this place and lives on present wife's place.
			NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$ , and SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	11	20	3	33.23	450	
			Lot 1	2	20	3	41.82	325	
20	John Meeker	7	E. $\frac{1}{4}$ of NE. $\frac{1}{4}$	22	21	3	80	200	} Might be sold.
			SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	23	21	3	40	200	
21	Hig-ogh-ston, or Dr. Boston	2	Lot 2	2	20	3	41.82	325	} Homestead.
22	Squally, or David Squally	6	Lot 3	2	20	3	41.81	400	
			SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	2	20	3	40	400	} All too wet for a good home.
23	Jonas Stanup	2	NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ , and lot 10	8	20	3	75.64	700	} Lot 10 is the homestead; but the patentee is an old man, and has but one son, who has 40 acres within the limits, so let it all go, as it is near Tacoma.
			E. $\frac{1}{4}$ of NE. $\frac{1}{4}$	15	20	3	80	400	
24	John Salerhanerel	2	Lots 3 and 4	3	20	3	47.62	700	} All too wet for a home, but near Tacoma and very valuable.
			S. $\frac{1}{4}$ of NE. $\frac{1}{4}$ , and lot 2	3	20	3	97.05	700	
25	Burnt Charley	2	Lot 9	3	20	3	6.40	700	} Homestead, but low and wet and near Tacoma; very valuable; let it be sold.
			NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$ , and lots 1 and 2	23	21	3	83.21	150	
			Lots 1, 2, and 3	14	21	3	50.53	150	} Might be sold.
26	Chris Laughlet	2	NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	11	20	3	40	350	} Homestead.
			W. $\frac{1}{2}$ of SE. $\frac{1}{4}$ and SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	16	21	3	120	600	
27	Julia Ha-hayh-staney	1	NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	11	20	3	40	425	} Homestead.
28	Squally Charley	2	SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	11	20	3	40	350	
			N. $\frac{1}{4}$ of SE. $\frac{1}{4}$	14	20	3	80	100	} Might be sold.
29	Napoleon Gurdon	1	NE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	11	20	3	40	450	} Homestead.
			SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	5	20	4	40	200	
			NE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ , and lots 1 and 2	8	20	4	92.73	100	} Might be sold.
30	George Legge	2	SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ , and lot 4	11	20	3	46.94	500	} Homestead.
			NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$ , and lot 3	15	20	3	74.49	500	
31	Zaccheus Sasticum	2	Lots 6, 7, and 8	11	20	3	35.82	400	} Homestead.
			Lots 11 and 12	11	20	3	39.08	350	
32	Chickamin Jack, or August Jackson		NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	12	20	3	40	350	} All of this is desirable for homesteads, but all of the family are dead, and heirs cultivate it. Keep it for the heirs, and its location requires it to be kept.
33	Lapwitch, or Joshua Quartz	2	Lot 10	11	20	3	14.76	300	} Homestead.
			Lot 13	11	20	3	36.46	300	
			Lot 3	12	20	3			
			NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	14	20	3	40	250	} Might be sold.
34	Bruce Sasticum	5	Lot 14	11	20	3	37.22	250	
			NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	14	20	3	40	150	} Timber land; might be sold.
35	Old James Sitwell	2	Lot 1	10	20	3	12.70	500	} Homestead.
			Lot 2, and SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	15	20	3	89.60	600	
36	David Bremer	6	SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	12	20	3	40	350	} Homestead.
			S. $\frac{1}{4}$ of NW. $\frac{1}{4}$ , and lots 1 and 2	25	21	3	123.78	125	
37	Jerry Meeker	5	SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	12	20	3	40	350	} Homestead.
			N. $\frac{1}{4}$ of NE. $\frac{1}{4}$	26	21	3	80	150	
38	Bob Rha-pa-she, or Big Head Bob		NE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	12	20	3	40	350	} Homestead. { All dead except the heirs, who have separate claims.
			Lot 1	9	21	3	37.89	500	
			NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	16	21	3	40	400	
39	Mrs. Peter Squally	2	NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	12	20	3	40	350	} Homestead.
40	Wequalle, or Antoine Jackson	2	SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	12	20	3	40	450	
			Lot 1, and NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	15	20	3	77.20	700	} Might be sold.

List of the Puyallup Indians, showing lands owned by each under original patent, with explanations—Continued.

No.	Names.	Present number in family.	Description.	S.	T.	R.	No. of acres.	Price per acre.	Remarks.
41	Henry Winger	2	SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	12	20	3	40	\$350	Homestead.
			Lots 2, 3, 4 and 5, and NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	15	21	3	127.89	125	Might be sold.
42	Joseph Swoyell	6	NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	12	20	3	40	375	Homestead.
			NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	36	21	3	40	400	Might be sold.
43	Dick Slocum	2	NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	12	20	3	40	375	Homestead.
			SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$ and lots 1 and 2	35	21	3	78.49	400	Might be sold.
44	Scago-cath, or Louis Napoleon.	2	SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	12	20	3	40	300	Is desirable to keep, as it is within the limits.
			Lot 1	13	20	3	16.09	300	Used as homestead.
			SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	23	20	3	40	75	Might be sold.
			Lot 3	7	20	4	34.90	300	Is desirable to keep, as it is within the limits.
			Lot 2	18	20	4	21.88	300	Used as homestead.
45	Squo-dup-a-Kan, or Marcellus Spat.	4	SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	12	20	3	40	300	Homestead.
			Lot 2	13	20	3	25.14	300	
			S. $\frac{1}{4}$ of NE. $\frac{1}{4}$	14	20	3	80	150	Might be sold.
46	Old John Meander	1	Lot 1	12	20	3	37.50	350	Homestead.
			E. $\frac{1}{4}$ of SW. $\frac{1}{4}$	14	20	3	80	125	Might be sold.
			NE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	23	20	3	40	75	
47	Teowamay, or George Bird	4	SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	15	21	3	40	150	
			SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$ and NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	16	21	3	80	200	Do.
			NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	12	20	3	40	350	Homestead.
48	Clap-hash, or White Eyed Bill or William McShell.	1	Lot 2	12	20	3	21.76	300	Do.
			S. $\frac{1}{4}$ of NE. $\frac{1}{4}$	23	20	3	80	75	Might be sold.
			SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	24	20	3	40	75	
49	Big Bill	3	NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	13	20	3	40	275	Homestead.
			NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	23	21	3	40	125	Might be sold.
			Lot 5	23	21	3	36.62	125	
50	William Meander	5	Lot 3	13	20	3	22.76	275	Homestead.
			SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$ and SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	13	20	3	80	150	Might be sold.
			NE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	24	20	3	40	75	
51	Jim Sitwell	1	Lot 4	13	20	3	7.63	250	Homestead.
			W. $\frac{1}{4}$ of NE. $\frac{1}{4}$ and NE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	22	21	3	120	250	Might be sold.
52	Joseph L. Young	2	NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	6	20	4	40	275	Homestead.
53	Ska-kai-ka-man, or John Craig.	3	SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	6	20	4	40	275	All desirable for homesteads.
			SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	6	20	4	40	275	
54	Manuel Danette	2	Lot 2	6	20	4	41.29	75	
			Lot 3	6	20	4	41.21	100	Might be sold.
			SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	31	21	4	40	75	
			SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	6	20	4	40	200	Homestead. This is inside the limits.
55	Mrs. Jack Scoopass	1	Lot 4	6	20	4	36.49	300	Homestead.

56	John Morris	2	Lots 6 and 7	31	21	4	43.09	50	} Not suitable for a homestead and all might be sold.
			Lots 1, 2, and 3	32	21	4	51.24	50	
57	Stillbaious, or James Stillbaious.	6	Lot 5	6	20	4	35.44	200	} Homestead.
			S. $\frac{1}{4}$ of SE. $\frac{1}{4}$	31	21	4		80	} Might be sold.
			Lot 1	6	20	4	41.36	80	
58	Charles Nichols	1	NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	7	20	4	40	200	} Homestead.
59	Joseph Winyer	3	SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	7	20	4	40	275	} Desirable for homestead.
			NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	7	20	4	40	275	
			W. $\frac{1}{4}$ of NW. $\frac{1}{4}$	23	20	3	80	75	} Might be sold.
60	Sedai tai, or John Seattle	2	SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	7	20	4	40	275	} Homestead.
			NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	23	20	3	40	80	} Might be sold.
			NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	24	20	3	40	80	
61	Tommy Thomas	2	Lot 1	7	20	4	35.16	300	} Homestead.
			NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	34	21	3	40	500	} Might be sold.
			Lots 3 and 4	34	21	3	58.66	500	
62	Hannah Hadley	2	Lot 2	7	20	4	35.04	300	} Homestead.
63	Ba-va-duse, or James Skinshrt.	3	Lot 3	7	20	4	34.84	300	} Do.
64	Thomas Roberts	2	NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	7	20	4	40	300	} Do.
65	Richard Sadelock, or Dick Zatz-lath.	2	SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	7	20	4	40	350	} Homestead.
			NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$ , and NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	31	21	4	80	50	} Might be sold
			Lot 5	31	21	4	35.83	50	
66	William H. Wilton	4	SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$ , and SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	7	20	4	80	350	} All desirable for homestead purposes.
67	Joe Taylor	8	NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	7	20	4	40	300	} Homestead.
			W. $\frac{1}{4}$ of SW. $\frac{1}{4}$	14	20	3	80	125	} Might be sold.
68	Kitsap, or George Kitsap	5	SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	8	20	4	40	250	} Homestead. Dead, and occupied by his heirs.
69	Jimmy Cross	5	SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	8	20	4	40	200	} Might be sold.
			NE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	17	20	4	40	300	} Homestead.
70	Sadelock, or George Yanegulsh.	3	SW. $\frac{1}{4}$ of SW. $\frac{1}{4}$ , and SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	8	20	4	80	250	} SW. $\frac{1}{4}$ of SW. $\frac{1}{4}$ homestead.
			SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$ , and lot 3	8	20	4	70.22	100	} All the rest might be sold.
71	Slaghan, or Skookum Paines.	2	SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	17	20	4	40	250	} Homestead.
72	Tommy Lane	6	SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	17	20	4	40	300	} Do.
			NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	17	20	4	40	200	} Desirable to keep for homesteads.
			S. $\frac{1}{4}$ of SE. $\frac{1}{4}$	8	20	4	80	100	} Might be sold.
73	Sugskit, or David Willard	4	NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	17	20	4	40	300	} Homestead.
			SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	16	20	4	40	200	} Might be sold.
74	John McLand	5	SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	17	20	4	40	300	} Homestead.
			Lots 1, 2 and 3	5	20	4	92.08	75	} Might be sold.
75	Laughlet, or Quintum Judson	2	SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	17	20	4	40	275	} Homestead.
76	Thomas Spotcain	8	NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	17	20	4	40	225	} Do.
77	Gepidue, or John Wapatoe	8	NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	17	20	4	40	250	} Do.
			SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	17	20	4	40	250	} Desirable to keep for homestead.
			SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	19	20	4	40	125	} Might be sold.
			Lot 6	19	20	4	36.48	100	} Homestead.
78	Cultus Jim, or Jonas Tuckca-num.	6	SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	17	20	4	40	150	} Homestead.
			Lots 4, 5, and 6	5	20	4	89.14	50	} Might be sold.
79	Shelwitton, or Napoleon Whatcom.	9	NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	17	20	4	40	275	} Homestead.
			SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	17	20	4	40	275	} Desirable to keep as homesteads.
			N. $\frac{1}{4}$ of SW. $\frac{1}{4}$	13	20	3	80	80	} Might be sold.
80	Edwin McLoud	6	NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	17	20	4	40	275	} Both should be kept for homestead purposes.
			SW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	17	20	4	40	275	
			W. $\frac{1}{4}$ of NW. $\frac{1}{4}$	14	20	3	80	100	} Might be sold.

List of the Puyallup Indians, showing lands owned by each under original patent, with explanations—Continued.

No.	Names.	Present number in family.	Description.	S.	T.	R.	No. of acres.	Price per acre.	Remarks.
81	Wilson Lahabet	1	NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	18	20	4	40	\$200	Homestead. Might be sold.
			Lot 1	3	20	3	45.24	500	
			Lot 5	34	21	3	37.10	500	
82	John Chinawith	2	NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$ and lot 8	18	20	4	61.29	200	Homestead.
83	John Itawis	7	SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	18	20	4	40	275	
84	Bill Petemaw	3	Lot 9	18	20	4	39.38	275	Should all be kept for homestead purposes.
			S. $\frac{1}{2}$ of NW. $\frac{1}{4}$	5	20	4	80	100	
			SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	18	20	4	40	200	
85	George Wright	6	Lot 13	18	20	4	12.33	200	Homestead.
			NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	18	20	4	40	200	
			Lot 6	18	20	4	19.80	225	
86	Richard Lyell	2	SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$ and lot 4	15	20	3	51.75	150	Should all be kept for homestead purposes. Might be sold.
			Lots 1 and 2	22	20	3	35.15	150	
			SW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	16	20	4	40	225	
87	Slagham, or John Paines	2	NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$ and NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$ and lot 4	8	20	4	117.60	75	Homestead, but is out of the line drawn. Widow and no sons, so will not need it long, so let it go notwithstanding. Might be sold.
			NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	17	20	4	40	200	
			NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and lot 1	16	20	4	67.83	60	
88	John Swan	2	Lots 1 and 2	9	20	4	30.67	60	Might be sold.
			Lot 1	18	20	4	39.44	275	
			Lot 15	11	20	3	35.10	150	
89	Tenas Bill Quatsuit, or William Toghoany	6	E. $\frac{1}{2}$ of NW. $\frac{1}{4}$	14	20	3	80	85	Is retained to make good lines. Might be sold.
			Lots 4 and 11	18	20	4	62.30	200	
			Lot 12	18	20	4	34.30	150	
90	Louis Le Claire	10	Lot 9	11	20	3	19.20	300	Homestead.
			Lots 3, 4, and 5, and NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	22	20	3	106.33	125	
			Lot 7	18	20	4	12.80	225	
91	John Cuyler	2	Lot 4 and SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	2	20	3	81.81	400	Might be sold.
			Lot 10	18	20	4	34.27	250	
			Lot 14	18	20	4	20.55	275	
92	Thomas La Fleur	2	NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ , SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$ , and lots 3 and 4.	26	21	3	129.86	450	Homestead. Do. Might be sold.
			Lot 1	19	20	4	9.74	300	
			SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	19	20	4	40	300	
93	John Hote	2	N. $\frac{1}{2}$ of NE. $\frac{1}{4}$	26	20	3	80	85	Part of the homestead, but outside the limits, so let it go. Homestead, but cut out by the limits. Might be sold.
			SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	19	20	4	40	300	
			W. $\frac{1}{2}$ of SW. $\frac{1}{4}$	24	20	3	80	85	
94	William Quadsalacup	2	NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	25	20	3	40	85	Homestead, but cut out by the limits, Might be sold.
			Lot 1	19	20	4	9.74	300	
			SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	19	20	4	40	300	
95	John Le Claire	2	SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	19	20	4	40	300	Homestead, but cut out by the limits, Might be sold.
			W. $\frac{1}{2}$ of SW. $\frac{1}{4}$	24	20	3	80	85	
			NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	25	20	3	40	85	

96	Ski-ke, or Thomas Yon- chin.	3	NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	19	20	4	40	350	Homestead, but is cut out by the limits, so let it go.
			NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$ , and lot 5	19	20	4	75.58	175	} Might be sold.
			NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	24	20	3	40	100	
97	Joseph Wannachin	1	SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	19	20	4	40	370	Homestead (dead), but is cut out by the limits, so let it go.
			NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	19	20	4	40	300	} Just as desirable for homestead, but outside the limits.
98	Richard Somatum	4	SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	19	20	4	40	275	Homestead.
			Lots 3, 4, 5, and 6	30	20	4	107.22	130	} Outside the limits, so let it go.
99	Kanaka Jim, or James Tay- lor.	2	NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	20	20	4	40	250	
			SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	24	20	3	40	100	} Might be sold; outside the limits, so let it go.
			NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$ , and lot 1	25	20	3	74.97	100	
100	Ashne, or Paul Wayallup	1	NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$ , and lots 7 and 15	20	20	4	76.54	300	} Might be sold, but is just as desirable; outside the limits.
			Lot 14	20	20	4	32.90	300	Homestead.
101	Sally Jake		Lots 2 and 5	20	20	4	32.39	280	Homestead. (dead.) Outside the limits.
102	Sarah Wannachin	1	Lots 3, 4, and 6	20	20	4	34.06	280	Homestead; outside the limits.
103	John Willahe	1	Lot 8	20	20	4	15.11	280	Do.
104	Bill Suplepton	2	Lots 9 and 10	20	20	4	36.27	280	Do.
105	Mowitch Man, or Adam Le- linton.	2	Lot 11	20	20	4	27.04	280	Do.
106	Squakson Bob	3	Lots 12 and 13	20	20	4	43.78	300	} Homestead. Outside the limits, and valuable because } near Puyallup.
			Lots 5 and 6	21	20	4	8.27	300	
107	Adap Cup, or Butcher Sam, or Samuel McShell.	2	NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	25	20	3	40	80	Might be sold.
			Lot 17	20	20	4	39.65	300	Homestead. Outside the limits.
			SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	23	20	3	40	80	Might be sold.
			NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	20	20	4	40	300	Desirable for homestead, but outside the limits.
108	James Goudy	2	NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	21	20	4	40	400	} All desirable for homestead, but adjacent to town and } valuable, so outside the limits.
			Lots 4 and 7	21	20	4	47.56	400	
			Lots 3 and 8	21	20	4	21.94	400	
109	James Boatsomish	2	Lots 2, 3, and 4	25	20	3	67.96	75	Might be sold.
			Lot 1	29	20	4	22.87	200	} Homestead not much improved, and outside the limits } and valuable because near Puyallup.
			Lot 1	30	20	4			
			Lot 5	25	20	3	75	75	Might be sold.
110	Samson Mowitch	4	Lot 2	30	20	4	32.87	280	Homestead not much improved, but outside the limits.
111	John Winyer	4	Lot 2	21	20	4	39.70	300	Homestead, but outside the limits. Husband dead.
112	Washington Skikes	4	Lot 9	31	21	4	39.82	300	} Used some as homestead, but outside the limits. Valua- } ble because being near Tacoma.
			SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	36	21	3	40	200	
			S. $\frac{1}{2}$ of SE. $\frac{1}{4}$	23	21	3	80	150	Might be sold.
113	Sally Wealpugh	5	NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$ , and NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	35	21	3	80	375	NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ used some as homestead, but all low and wet. Outside the limits, being near Tacoma.
114	Jim Laughlin	2	SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	35	21	3	40	375	Homestead, low and wet. Valuable because near Ta- coma; outside the limits.
115	Tommy Bill	2	SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ , and lot 4	22	21	3	74.25	500	Might be sold.
			SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$ , and SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	35	21	3	80	375	Used as homestead, but low and wet. Valuable, being near Tacoma; outside the limits.
116	John Slaghan	2	SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$ , and N. $\frac{1}{2}$ of SE. $\frac{1}{4}$	36	21	3	120	250	NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ used some as homestead, but not much improved, and outside the limits; being near Tacoma.
			Lot 8	31	21	4	40.22	100	All might be sold.
116	Chehalis Jim	1	SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	13	20	3	40	280	Homestead. He is dead.
			Lot 2	9	21	3	34.64	600	Might be sold.
117	Charley Satiacum	3	Lot 3	1	20	3	41.65	300	Homestead.
			NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$ , and lot 1	16	21	3	50.83	600	Might be sold.

List of the Puyallup Indians, showing lands owned by each under original patent, with explanations—Continued.

No.	Names.	Present number in family.	Description.	S.	T.	R.	No. of acres.	Price per acre.	Remarks.
118	Joe Danette		S. $\frac{1}{2}$ of SW. $\frac{1}{2}$ , and lot 4	16	21	3	100.30	\$1,000	Has a house on it, but not improved. He is dead. Is very valuable, and all might be sold. Wife married to another man, who also has a good homestead.
			Lots 1 and 2	17	21	3	29.91	1,000	
			Lot 1	20	21	3	7.25	1,000	
			Lot 4	21	21	3	25.21	1,000	
119	Samson Zawheus		Lots 2 and 3	21	21	3	78.66	750	Might be sold. He is dead.
120	George Johnson		Lots 1 and 2	22	21	3	65.76	750	Do.
121	Johnny Simon	3	SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	1	20	3	40	300	Homestead.
			S. $\frac{1}{2}$ of SE. $\frac{1}{2}$	15	21	3	80	150	Might be sold.
122	Sam Squatahan	4	N. $\frac{1}{2}$ of SE. $\frac{1}{2}$ , and lot 3	22	21	3	95.87	650	Not improved. He is dead. Might be sold.
123	Joe Fredrick	8	SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	35	21	3	40	400	Homestead, but too low and wet to be desirable, and might be sold.
			SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ , and lots 3 and 4	23	21	3	83.71	110	Might be sold.
124	Peter John	3	SW. $\frac{1}{4}$	23	21	3	160	175	Not improved and might be sold. He is dead.
125	Joseph Kilsh-Kanim		Lots 1, 2, and 3	27	21	3	60.25	750	Do.
126	George Cushner	4	N. $\frac{1}{2}$ of NW. $\frac{1}{2}$	26	21	3	80	250	Not improved and might be sold.
127	Charley Seadshut	6	SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$ , and lots 1 and 2	26	21	3	94.21	625	Not improved much and not very desirable for home. Might be sold. Valuable because near Tacoma.
128	Frank Santiago	1	Lots 8, 9, and 12	26	21	3	72.37	525	Wet and low, not improved.
			Lot 5	26	21	3	10.92	525	{All might be sold.
129	Jimmy Homatgood	4	Lots 10 and 11	26	21	3	34.08	500	Homestead; small improvements. Near Tacoma, to so might be sold.
			W. $\frac{1}{2}$ and SE. $\frac{1}{4}$ of SW. $\frac{1}{2}$	25	21	3	120	350	Might be sold.
130	Bill Meeker	1	SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	25	21	3	40	140	Do.
			NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	1	20	3	40	300	Homestead.
131	George Jacobs		NE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	7	20	4	40	280	Do.
			SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	25	21	3	40	100	Might be sold.
132	Peter Spot	5	SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	1	20	3	40	300	Homestead.
			Lot 5	25	21	3	36.14	90	Might be sold.
133	U-kain chap, or Lame Bob	1	SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$ , and lots 1, 2, 3, 4, 5, and 6	36	21	3	150.36	500	Not much improved and might be sold. He is dead.
134	Jim Squakanim	5	SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$ and NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$ , and lots 7 and 8	36	21	3	117.30	425	Might be sold.
			NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	6	20	4	40	280	Homestead.
135	Joe Young	4	N. $\frac{1}{2}$ of SW. $\frac{1}{2}$ and SW. $\frac{1}{4}$ of SW. $\frac{1}{2}$	35	21	3	120	500	{Too wet for use as homestead and all might be sold.
			SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	34	21	3	40	400	{Valuable because near Tacoma.
136	Kitty Kautz		SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	36	21	3	40	300	Might be sold.
			SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	6	20	4	40	300	Homestead.
137	George Skelmen	3	S. $\frac{1}{2}$ of NE. $\frac{1}{2}$ and NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	6	20	4	120	100	Might be sold.
			NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	20	20	4	40	280	Homestead, but outside the limits and valuable because near Puyallup, and so might be sold.

138	Jimmy Williams	3	SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	1	20	3	40	300	Homestead.
139	John B. Sherlafue	3	Lots 6 and 7	6	20	4	70.48	300	Homestead. (All should be kept.)
			NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	36	21	3	40	100	Might be sold.
140	Ungen Kautz	3	SW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	5	20	4	40	250	Do.
			NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	8	20	4	40	250	Homestead.
141	Augustus Kautz	4	N. $\frac{1}{4}$ of SW. $\frac{1}{4}$	5	20	4	80	250	Might be sold.
142	Tom Thompson	3	NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	12	20	3	40	300	Homestead.
			NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	36	21	3	40	280	Might be sold.
143	Johnny Sahn	3	E. $\frac{1}{4}$ of NE. $\frac{1}{4}$	7	20	4	80	280	Homestead. All should be kept.
			Lots 3 and 4 and NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	25	21	3	82.01	100	Might be sold.
144	Ed. Dick	7	NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	8	20	4	40	280	Homestead.
			Lots 1 and 2	30	21	4	42.93	60	Might be sold.
			Lots 3 and 4	31	21	4	80	60	Might be sold.
145	Old Peasup	2	SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$ and lot 5	13	20	3	49.13	280	Homestead.
			SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	23	20	3	40	80	Might be sold.
			NE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and lot 2	26	20	3	59.60	80	Might be sold.
146	Peter Stanup	3	SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$ and NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	13	20	3	80	300	Half homestead. Rest might be sold.
			E. $\frac{1}{4}$ of SE. $\frac{1}{4}$	15	20	3	80	350	Might be sold.
147	Daniel Webster		Lot 6	13	20	3	18.72	325	Might be sold.
			Lot 3	19	20	4	12.15	325	Might be sold.
			Lot 5	18	20	4	20.91	280	Do.
148	Mrs. Charley Snaharl		Lot 5	18	20	4	80	290	Half homestead, but outside the limits; so might be sold.
149	Jonn Halton	2	SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	16	20	4	80	290	Do.
150	John Simon	1	SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	16	20	4	80	290	Do.
151	Old Kitsap		Lots 2, 3, and 4	16	20	4	43.65	250	Might be sold.
			Lot 1	21	20	4	8.86	250	Might be sold.
152	David Squatahan	3	S. $\frac{1}{4}$ of SE. $\frac{1}{4}$	14	20	3	80	100	Not improved and might be sold.
			SW. $\frac{1}{4}$ of SW. $\frac{1}{4}$	13	20	3	40	100	Not improved and might be sold.
153	Johnny McCal	2	NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	13	20	3	40	200	Low and wet and might be sold.
154	Billy Wilson	2	SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	13	20	3	40	200	Might be sold; wet and low.
			SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	18	20	4	40	200	Homestead not much improved, and outside the limits near Puyallup.
155	William Jack		SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	23	20	3	80	90	Might all be sold. He is dead. Not improved.
			N. $\frac{1}{4}$ of SE. $\frac{1}{4}$	23	20	3	80	90	Might all be sold. He is dead. Not improved.
156	Peter Kumpquass	1	SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and S. $\frac{1}{4}$ of NE. $\frac{1}{4}$	24	20	3	120	90	Might all be sold. He is dead. Not improved.
			Lot 4	19	20	4	34.90	150	Might all be sold. He is dead. Not improved.
157	Paul Wynaco	1	N. $\frac{1}{4}$ of NE. $\frac{1}{4}$	24	20	3	80	125	Might all be sold. Not improved.
158	Jacky Smokalem	7	E. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and Lot 3	19	20	4	114.70	280	NE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ Homestead, but outside the limits near Puyallup. Might be sold.
			SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	25	20	3	40	75	Might be sold.
159	Milton Fisher		NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$ and Lot 2	19	20	4	58.01	290	Homestead. He is dead. Outside the limits.
160	Tom Chadsahom	8	Lot 1	20	20	4	37.75	280	Homestead.
161	Laught Judson	2	NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$ and lot 1	23	20	3	77.70	60	Might be sold. All timber land.
			Lot 1	26	20	3	16.76	60	Might be sold. All timber land.
162	Henry Taylor	5	E. $\frac{1}{4}$ of SW. $\frac{1}{4}$ and W. $\frac{1}{4}$ of SE. $\frac{1}{4}$	24	20	3	160.00	95	Not improved. Might all be sold.
163	James Swan Taylor	2	S. $\frac{1}{4}$ of NE. $\frac{1}{4}$ and NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ and lots 3 and 4	26	20	3	147.92	80	Not improved. Might all be sold.
164	Johnny Mowitch		E. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	25	20	3	120.00	60	Timber land, not improved. Might all be sold.
			Lot 16	20	20	4	29.53	200	Timber land, not improved. Might all be sold.
165	Peter Satunder	1	NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$	25	21	3	40.00	175	Timber land, not improved. Might all be sold.
166	Jimmy Mowitch	5	SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	13	20	3	40.00	280	Homestead.
			NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	23	20	3	40.00	70	Might be sold.

## RECAPITULATION.

Number of acres each would have to keep and be allowed to sell.

[With explanatory notes.]

No. of patent.	Would keep.			Could sell.		
	Acres.	Price per acre.	Amount.	Acres.	Price per acre.	Amount.
1	40	\$350.00	\$14,000.00			
2	40	350.00	14,000.00			
3	40	350.00	14,000.00	120	\$500.00	\$60,000.00
4	40	350.00	14,000.00	91.02	50.00	4,551.00
5	40	350.00	14,000.00	123.37	150.00	18,955.50
6	40	350.00	14,000.00	120	150.00	18,000.00
7	40	350.00	14,000.00	54.93	500.00	27,485.00
8	40	350.00	14,000.00	88.67	50.00	4,433.50
9	41.14	350.00	14,439.00			
10	41.40	300.00	12,420.00	79.87	500.00	39,935.00
11	81.91	350.00	28,668.50	40	350.00	14,000.00
12	40	350.00	14,000.00	80	500.00	40,000.00
				40.73	1,000.00	40,730.00
13	40	350.00	14,000.00	40	500.00	20,000.00
14	40	350.00	14,000.00	80	200.00	16,000.00
15	40	350.00	14,000.00	40	350.00	14,000.00
16	40	350.00	14,000.00			
17	40	350.00	14,000.00			
18	40	350.00	14,000.00			
19	33.23	450.00	14,953.50	120	400.00	48,000.00
20	41.82	350.00	14,637.00	120	200.00	24,000.00
21	41.82	325.00	13,591.50			
22				81.81	400.00	32,724.00
23				75.64	700.00	52,948.00
				80	400.00	32,000.00
24				144.67	700.00	101,269.00
25				6.40	700.00	4,480.00
				133.74	150.00	20,061.00
26	40	350.00	14,000.00	120	600.00	72,000.00
27	40	425.00	17,000.00			
28	40	350.00	14,000.00	80	100.00	8,000.00
29	40	450.00	18,000.00	40	200.00	8,000.00
				92.73	100.00	9,273.00
30	46.94	500.00	23,470.00	74.49	500.00	37,245.00
31	35.82	400.00	14,328.00			
32	79.08	350.00	27,678.00			
33	51.22	300.00	15,366.00	40	250.00	10,000.00
34	37.22	250.00	9,305.00	40	150.00	6,000.00
35	12.70	500.00	6,350.00	89.60	600.00	53,760.00
36	40	350.00	14,000.00	123.78	125.00	15,472.50
37	40	350.00	14,000.00	80	150.00	12,000.00
38	40	350.00	14,000.00	37.89	500.00	18,945.00
				40	400.00	16,000.00
39	40	350.00	14,000.00			
40	40	450.00	18,000.00	77.20	700.00	54,040.00
41	40	350.00	14,000.00	127.89	125.00	15,986.25
42	40	375.00	15,000.00	40	400.00	16,000.00
43	40	375.00	15,000.00	78.49	400.00	31,396.00
44	112.87	300.00	33,861.00	40	75.00	3,000.00
45	65.14	300.00	19,542.00	80	150.00	12,000.00
46	37.50	350.00	13,125.00	80	125.00	10,000.00
				40	75.00	3,000.00
47	40	350.00	14,000.00	80	200.00	16,000.00
				40	150.00	6,000.00
48	21.76	300.00	6,528.00	120	75.00	9,000.00
49	40	275.00	11,000.00	76.62	125.00	9,577.50
50	22.76	275.00	6,259.00	80	150.00	12,000.00
				40	75.00	3,000.00
51	7.63	250.00	1,907.50	120	250.00	30,000.00
52	40	275.00	11,000.00			
53	80	275.00	22,000.00			
54	40	200.00	8,000.00	81.29	75.00	6,096.75
				41.21	100.00	4,121.00
55	36.49	300.00	10,947.00			
56				94.33	50.00	4,716.50
57	35.44	300.00	10,632.00	121.36	80.00	9,708.80
58	40	200.00	8,000.00			
59	80	275.00	22,000.00	80	75.00	6,000.00
60	40	275.00	11,000.00	80	80.00	6,400.00
61	35.16	300.00	10,548.00	98.66	500.00	49,330.00
62	35.04	300.00	10,512.00			
63	34.84	300.00	10,452.00			
64	40	300.00	12,000.00			
65	40	350.00	14,000.00			
66	80	350.00	28,000.00	115.83	50.00	5,791.50
67	40	300.00	12,000.00	80	125.00	10,000.00
68	40	250.00	10,000.00			
69	40	300.00	12,000.00	40	200.00	8,000.00

Number of acres each would have to keep and be allowed to sell—Continued.

No. of patent.	Would keep.			Could sell.		
	Acres.	Price per acre.	Amount.	Acres.	Price per acre.	Amount.
70	40	\$250.00	\$10,000.00	40	\$250.00	\$10,000.00
71	40	250.00	10,000.00	70.22	100.00	7,022.00
72	40	300.00	12,000.00	80	100.00	8,000.00
73	40	300.00	12,000.00	40	200.00	8,000.00
74	40	300.00	12,000.00	92.08	75.00	6,906.00
75	40	275.00	11,000.00			
76	40	225.00	9,000.00			
77	80	250.00	20,000.00	40	125.00	5,000.00
78	40	150.00	6,000.00	36.43	100.00	3,643.00
79	80	275.00	22,000.00	89.34	50.00	4,467.00
80	80	275.00	22,000.00	80	80.00	6,400.00
81	40	200.00	8,000.00	80	100.00	8,000.00
82	61.29	200.00	12,258.00	82.34	500.00	41,170.00
83	79.38	275.00	21,829.00	80	100.00	8,000.00
84	52.33	200.00	10,466.00			
85	40	200.00	8,000.00	86.90	150.00	13,035.00
86	19.80	225.00	4,455.00	40.00	225.00	9,000.00
87	40	200.00	8,000.00	117.60	75.00	8,820.00
88	39.44	275.00	10,846.00	98.50	60.00	5,910.00
89	35.10	150.00	5,265.00	80.00	85.00	6,800.00
90	28.14	200.00	5,628.00	34.16	200.00	6,832.00
91	19.20	300.00	5,760.00	34.30	150.00	5,145.00
92	12.80	225.00	2,880.00	106.33	125.00	13,291.25
93	34.27	250.00	8,567.50	81.81	400.00	32,724.00
94	20.55	275.00	5,651.25	129.86	450.00	58,437.00
95				98.74	300.00	2,962.00
96				40	300.00	12,000.00
97				80	85.00	6,800.00
98				40	300.00	12,000.00
99				120	85.00	10,200.00
100				40	350.00	14,000.00
101				75.58	175.00	13,226.50
102				40	100.00	4,000.00
103				40	370.00	14,800.00
104				40	300.00	12,000.00
105				40	275.00	11,000.00
106				107.22	130.00	13,938.60
107				40	250.00	10,000.00
108				114.97	100.00	11,497.00
109				109.44	300.00	32,832.00
110				32.35	280.00	9,058.00
111				34.06	280.00	9,536.80
112				15.11	280.00	4,230.80
113				30.27	280.00	10,155.60
114				27.04	280.00	7,571.20
115				52.06	300.00	15,615.00
116				49	80.00	3,920.00
117				79.65	300.00	23,895.00
118				40	80.00	3,200.00
119				109.50	400.00	43,800.00
120				83.71	75.00	5,152.25
121				22.87	200.00	4,574.00
122				32.87	280.00	9,203.60
123				38.79	308.00	11,910.00
124				79.82	200.00	15,964.00
125				80	150.00	12,000.00
126				80	375.00	30,000.00
127				40	375.00	15,000.00
128				74.25	500.00	37,125.00
129				80	375.00	30,000.00
130				120	250.00	30,000.00
131				40.22	100.00	4,022.00
132	40	280.00	11,200.00	34.64	600.00	20,784.00
133	41.65	300.00	12,495.00	59.83	600.00	30,498.00
134				162.67	1,000.00	162,670.00
135				78.66	750.00	58,995.00
136				65.76	750.00	49,320.00
137	40	300.00	12,000.00	89	150.00	13,350.00
138				95.87	650.00	62,335.50
139				40	400.00	16,000.00
140				83.71	110.00	9,208.10
141				160	175.00	28,000.00
142				60.25	750.00	45,187.50
143				80	250.00	20,000.00
144				94.21	625.00	58,881.25
145				88.29	525.00	43,727.25

Number of acres each would have to keep and be allowed to sell—Continued.

No. of patent.	Would keep.			Could sell.		
	Acres.	Price per acre.	Amount.	Acres.	Price per acre.	Amount.
129				34.08	\$500.00	\$17,040.00
130	40	\$300.00	\$12,000.00	120	350.00	42,000.00
131	40	280.00	11,200.00	40	140.00	5,600.00
132	40	300.00	12,000.00	40	100.00	4,000.00
133				36.14	90.00	3,252.60
134	40	280.00	11,200.00	150.36	500.00	75,180.00
135				117.30	425.00	49,852.50
136	40	300.00	12,000.00	120	500.00	60,000.00
137				40	400.00	16,000.00
138	40	300.00	12,000.00	40	300.00	12,000.00
139	70.48	300.00	21,144.00	120	100.00	12,000.00
140	40	250.00	10,000.00	40	280.00	11,200.00
141				80	250.00	20,000.00
142	40	300.00	12,000.00	40	280.00	11,200.00
143	80	280.00	22,400.00	82.01	100.00	8,201.00
144	40	280.00	11,200.00	122.93	60.00	7,375.80
145	49.13	280.00	13,756.40	99.60	80.00	7,968.00
146	40	300.00	12,000.00	40	300.00	12,000.00
147	30.87	325.00	10,032.75	80	350.00	28,000.00
148	20.91	280.00	5,854.80			
149				80	290.00	23,200.00
150				80	280.00	22,400.00
151				52.51	250.00	13,127.50
152				120	100.00	12,000.00
153				40	200.00	8,000.00
154				80	200.00	16,000.00
155				160	90.00	14,400.00
156				120	90.00	10,800.00
157				34.90	150.00	5,235.00
158				80	125.00	10,000.00
159				114.70	280.00	32,116.00
160				40.00	75.00	3,000.00
161				58.01	200.00	11,602.00
162				37.75	280.00	10,570.00
163				94.46	60.00	5,667.60
164				160	95.00	15,200.00
165				147.92	80.00	11,833.60
166				120	60.00	7,200.00
167				29.53	200.00	5,906.00
168				40	175.00	7,000.00
169	40	280.00	11,200.00	40	70.00	2,800.00
	4,684.27		1,419,224.70	12,778.45		3,322,184.50

From this schedule you will see that out of the 167 original allottees 106 would still hold their original homes, and 15 of the remainder would hold double quantity, making allowance for 120 homes. About 40 of the original patentees have died, so that there is enough for all yet—if they can buy and sell among themselves, or if not, then rent. Of the 61 who have no homes reserved 18 are dead, 18 are old and dependent or idle and worthless, so that they are not able to work a farm much, leaving only 25 strong men to be provided for. A part of these would be able to protect themselves perhaps. At least there seems to me to be abundant provision for all who need in the land reserved within the limits indicated and yet plenty of room given for Tacoma and Puyallup to grow all they are likely to.

The following is a description of the boundary line inclosing that part of the reservation on which I think it would be best that the restrictions should still remain.

Commencing at the corner common to sections 10, 11, 14, and 15 in township 20 north, range 3 east; thence running east  $1\frac{1}{2}$  miles to the corner common to sections 11, 12, 13, and 14; thence south one-half mile on line between sections 13 and 14; thence east  $1\frac{1}{2}$  miles; thence south one-fourth mile; thence east one-fourth mile; thence south one-fourth mile to half-mile stake between sections 18 and 19, township 20 north, range 4 east: thence east  $1\frac{1}{2}$  miles to corner common to sections 16, 17, 20, and 21; thence north 1 mile to northeast corner section 17; thence west three-fourths mile; thence north 1 mile; thence west one-fourth mile to northeast corner section 7; thence north one-fourth mile; thence west one-fourth mile; thence north one-fourth mile; thence west one-fourth

mile, to center of section 8; thence north one-fourth mile; thence west one-fourth mile; thence north one-fourth mile; thence west on township line 12 miles to half-mile stake between sections 2 and 35; thence south 1 mile through center of section 2 to half-mile stake, between sections 2 and 11; thence west on line between 2 and 11, and 3 and 10 to center of Puyallup River; thence in a northwesterly direction down the middle of the main channel of said river to the point where the northwest boundary line of the Puyallup Reservation crosses said river; thence southwesterly, southeasterly, and again southwesterly along the western boundary of the Puyallup Reservation and school farm to the point where said boundary line crosses the line between sections 10 and 15; thence east to place of beginning.

List of Indian allottees who have contracted to sell their land, with the amount received thereon, to whom contracted, number of acres sold, and amount to be paid for the whole tract.

No. of allotment.	To whom contracted.	No. of acres.	Amount received.	Total to be paid
3	Meeker.....	80	\$400.00	\$8,000.00
	Parker.....	40	200.00	8,000.00
5	Manning.....	20	300.00	3,000.00
	Wallace.....	120	300.00	6,400.00
6	do.....	130	300.00	6,000.00
7	do.....	(*)	140.00	(+)
	Ross.....	20	100.00	1,500.00
10	do.....	79.87	150.00	12,275.00
12	Wallace.....	120	200.00	8,000.00
13	Ross.....	40	300.00	4,000.00
	Ole Wrolson.....	40	105.00	4,200.00
	Manning.....	20	200.00	3,000.00
14	Wallace.....			
15	Ross.....	40	200.00	5,000.00
19	do.....	60	600.00	9,000.00
20	Wallace.....	120	500.00	9,600.00
21	J. Young.....	20	50.00	2,000.00
22	Ross.....	81.81	300.00	8,000.00
24	do.....	106.07	450.00	16,005.00
25	Wallace.....		200.00	(+)
26	do.....	120	400.00	\$8,000.00
	Manning.....	20	250.00	4,000.00
30	Ross.....	40	350.00	3,000.00
34	C. T. Uhlman.....			
35	Kenny.....	89.60	250.00	
38	Wallace.....	77	150.00	7,700.00
41	do.....	120	250.00	6,000.00
	Joe Stewart.....	8	100.00	800.00
	Manning.....	20	400.00	4,000.00
43	Ross.....	78.49	300.00	1,275.00
44	Joe Fredrick.....	20	25.00	2,000.00
45	C. T. Uhlman.....	31.14	100.00	1,857.00
46	F. D. & Wallace.....	120	400.00	9,000.00
47	Wallace.....	100	200.00	6,000.00
	do.....	20	50.00	1,500.00
49	do.....	80	155.50	3,075.00
51	do.....	120	300.00	7,000.00
53	Ross.....	40	200.00	3,000.00
54	do.....	150	440.00	7,500.00
56	do.....	75	400.00	4,950.00
57	F. D. & Wallace.....	80	300.00	6,800.00
58	Louis Le Claire.....	100	20.00	2,000.00
59	Wallace.....	120	80.00	4,800.00
	Manning.....	20	200.00	4,000.00
	J. D. Light.....	20	200.00	4,000.00
61	P. C. Stanup.....	98.16	500.00	10,116.00
65	Patrick.....	115	500.00	8,625.00
67	Ross.....	80	400.00	
70	do.....	70.22	140.00	2,688.80
74	do.....	92.08	200.00	6,445.60
77	Willis & Manning.....	76.48	500.00	7,648.00
78	Dr. Curtis.....	120	700.00	12,900.50
79	Wallace.....			
80	do.....	80	125.00	7,000.00
81	Ross.....	82.28	150.00	8,534.00
88	Hoska.....	40	500.00	4,000.00
	F. F. & Wallace.....	71	400.00	8,125.00
89	Jos. Alexander.....	40	100.00	800.00
	David Squally.....	20	40.00	700.00
90	Ross.....	106.33	150.00	8,000.00
91	P. C. Stanup.....	81.81	450.00	8,000.00
93	Ross.....	129.86	129.00	10,715.00
94	Manning.....	80	400.00	6,000.00

\*2 fractions. †\$50 per acre.

List of Indian allottees who have contracted to sell their land, etc.—Continued.

No. of allotment.	To whom contracted.	No. of acres.	Amount received.	Total to be paid.
95	Ross	80	\$150.00	\$3,200.00
	Ross, Charley	40	50.00	2,000.00
99	Wallace			
106	do			
110	do			
112	do	80	200.00	6,000.00
	Manning	40	400.00	8,000.00
113	Ross	20	150.00	3,000.00
115	Wallace	40	200.00	3,000.00
	Ross	40	200.00	6,000.00
116	do	80.22	300.00	6,162.50
	Manning	20	150.00	2,000.00
	Ole Wrolson	40	300.00	4,000.00
116½	David Squally		300.00	600.00
117	Ross	50.83	200.00	3,640.00
118	do	162.67	287.50	12,000.00
119	Wallace	40	80.00	
120	do	80	84.00	4,000.00
121	Charley Jake	40	200.00	4,000.00
	Wallace	80		4,000.00
122	do	80	300.00	4,000.00
123	Ross	40	100.00	5,100.00
	Wallace	84	84.75	4,200.00
124	do	160	400.00	8,000.00
125	do	40		2,400.00
126	do	40	100.00	2,000.00
	Ross	40	50.00	2,000.00
127	do	75.12	74.00	4,583.00
128	do	83.29	300.00	8,479.00
129	do	120	330.00	7,320.00
	do	9		1,000.00
130	do	40	100.00	2,100.00
132	do	36.14	100.00	1,857.00
	Manning	20	200.00	4,000.00
133	Ross	112.01	400.00	11,400.00
134	do	117.30	250.00	12,000.00
135	do	160	500.00	16,000.00
138	C. W. Merrill	20	150.00	4,000.00
139				
141	Manning	80	800.00	20,000.00
143	Ross	82.01	122.50	6,150.00
	Manning	40	400.00	8,000.00
145	Louis Le Claire	120	500.00	2,000.00
152	Wallace	80	125.00	4,000.00
153	R. B. Mullan	40	200.00	4,000.00
155	Ross	80	310.00	4,800.00
157	Johnny Boatman	80	220.00	8,000.00
158	Ole Wrolson			
159	Patrick & Evans	13	250.00	800.00
160	Ross	20	200.00	2,500.00
161	Wallace	94.46	150.00	3,798.40
162	Ross			(*)
163	Wallace			
164	do	120	120.00	4,800.00
165	F. D. & Wallace	40	200.00	6,000.00

\*\$40 per acre.

The above are the reports as given by the Indians, and are incomplete and only approximately correct. I think the Commission saw most of the contracts and got it more correctly. The principal operators were Hugh C. Wallace, son-in-law of Chief Justice Fuller and F. C. Ross, both of Tacoma.

#### COPY OF CONTRACT.

This indenture witnesseth: That Frank C. Ross, a bachelor, of Tacoma, Pierce County, Washington Territory, party of the first part, for and in consideration of the sum of one dollar (\$1.00), in coin of the United States of America, to him in hand paid by Joe Fredrick and Minnie Fredrick, his wife, of Pierce County, Washington Territory, parties of the second part, has granted, bargained, and sold, and by these presents does grant, bargain, sell, and convey unto the said parties of the second part, and to their heirs and assigns, for two years from the date hereof the following described premises, situate, lying, and being in the

county of King, Territory of Washington, to wit: The south half of the southwest quarter of the northeast quarter of section thirty-five (35), township twenty-one (21) north, range three (3) east of the Willamette Meridian, Washington Territory.

This instrument and conveyance is continued in force after two years, and is made absolute on the further consideration of two thousand five hundred dollars (\$2,500), which shall be due and payable by the grantees to the grantor under this instrument within ninety days after the approval hereinafter provided for. The intention being that this indenture is and shall be binding on the grantor herein, his heirs, executors, administrators, assigns, and legal representatives forever, and that it conveys to the grantees herein, their heirs, executors, administrators, assigns, and legal representatives forever the herein above mentioned land and real estate, and that the same is hereby granted, bargained, sold, and conveyed by this instrument for all time; and this indenture shall operate as a deed of absolute conveyance in fee simple of said above-described real estate and property by the grantor herein, his heirs, executors, administrators, assigns, and legal representatives, to the grantees herein, their heirs, executors, administrators, assigns, and legal representatives, without any farther writing, upon approval of the same in accordance with the terms of article six of the treaty of the Omahas so far as the same may be applicable; said treaty bearing date March 16, 1854.

To have and to hold the said premises with their appurtenances, unto the said parties of the second part, their heirs and assigns, forever, and I, the said party of the first part, do hereby covenant to and with the said parties of the second part, their heirs and assigns, that I am the owner in fee simple of said premises, that they are free from all incumbrances, and that I will *warrant and defend* the same from all lawful claims whatsoever.

Witness my hand and seal this — day of November, A. D. one thousand eight hundred and eighty-nine.

FRANK C. ROSS. [SEAL.]

Witness:

C. A. E. NAUBERT,  
W. B. KENNEY.

TERRITORY OF WASHINGTON, *County of Pierce, ss:*

This certifies that on this — day of November, in the year of our Lord one thousand eight hundred and eighty-nine, before me, a notary public, in and for Pierce County, Washington Territory, personally appeared the within-named Frank C. Ross, whose name is subscribed to the foregoing instrument as a party thereto, personally known to me to be the individual described in, and who executed the within deed, and he acknowledged the same to be his free and voluntary act and deed.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,  
*Washington, August 24, 1888.*

SIR: By section 1 of the act of Congress approved July 2, 1864 (13 Stat., 365), entitled "An act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget Sound, on the Pacific coast," the Northern Pacific Railroad Company was authorized and empowered to construct and maintain a continuous railroad and telegraph line, with the appurtenances, "beginning at a point on Lake Superior, in the State of Minnesota or Wisconsin, thence westerly by the most eligible railroad route, as shall be determined by said company, within the territory of the United States, on a line north of the forty-fifth degree of latitude to some point on Puget Sound, with a branch via the valley of the Columbia River, to a point at or near Portland, in the State of Oregon, leaving the main trunk line at the most suitable place, not more than three hundred miles from its western terminus." \* \* \*

Section 2 of said act granted to said railroad company a right of way for the construction of said railroad and telegraph line to the extent of 200 feet in width on each side of said railroad, where it might pass through the public domain, including all necessary ground for station buildings, workshops, depots, machine shops, etc.

The same section also provided that the United States should extinguish as rapidly as might be consistent with public policy and the welfare of the Indians,

the Indian titles to all lands falling under the operation of the act, and acquired in the donation to the road named in the act.

By an agreement dated November 21, 1876 (on file in this office), made between J. W. Sprague, general superintendent of the Pacific Division of the Northern Pacific Railroad Company, on behalf of said company, and R. H. Milroy, then agent in charge of the Puyallup Indian Reservation, on behalf of the Indians occupying the same, after reciting "that said railroad company being desirous of locating and constructing a branch line of road from New Tacoma to the Puyallup coal fields, which said branch line must pass through said reservation, and the right of way through said reservation being desired for the permanent location and construction of said branch line"—said Sprague agreed, on behalf of said railroad company, and did thereby bind the same, in consideration of the Indians of said reservation through their chiefs and head men giving their consent to said right of way, to certain stipulations therein contained, principal amongst which were:

"(1) That the railroad company should pay reasonably for all damages that may be occasioned to improvements on said reservation by the construction and permanent right of way of said branch line through said reservation.

"(2) To construct at some convenient point upon said branch line within the limits of said reservation, where it will be of the most benefit to the same, a switch, in connection with a side track of practicable length, with the right to said Indians to have a warehouse or depot constructed adjoining said side track, at which the passing trains of cars on said branch line will stop for the shipment of passengers and freight."

By memorandum in writing, dated November 23, 1876 (also on file in this office), signed by the chiefs and headmen of the Puyallup tribe of Indians, consent was given on behalf of said tribe of Indians to a permanent right of way to the Northern Pacific Railroad Company, for the construction of a branch line through the Puyallup Reservation, upon the terms and conditions named and set forth in said agreement of November 21, 1876, above mentioned.

Said last-mentioned agreement was approved by the Commissioner of Indian Affairs December 14, 1876, and by the Secretary of the Interior April 13, 1877, and a copy, as approved, was transmitted to Agent Milroy April 16, 1877.

Regarding the performance of the stipulations of this agreement the present agent (Eells), in a letter to this office dated July 9, 1887, writes:

"I find a memorandum of the damages agreed upon between said officials on file here, amounting to \$848.55, upon which is a note in Gen. Milroy's handwriting to the effect that it had all been paid to the claimants. I also find a copy of a letter from Gen. Sprague to Gen. Milroy stating that he had arranged amicably for all damages for right of way, and further agreeing to build a suitable post-and-rail fence through the school farm. This also was done. The switch and side track has been built and kept up, but no warehouse has been erected, although one would be convenient now, and if it is agreed by the company to build it, one should now be erected."

By letter of May 7, 1887, the president of the Northern Pacific Railroad Company applied to the Department for permission to construct a spur of road, 1,225 feet long by 400 wide, through the western part of the Puyallup Reservation, near the north line of section 10, township 20 north, range 3 east, of the Willamette meridian, as shown on the map therewith transmitted; the proposed spur being (as stated in the application) part of a plan for furnishing, for the public convenience, such additional railroad facilities at the city of Tacoma as will be required by the increase of business at that point, arising from the approaching completion of the Cascade branch of the Northern Pacific Railroad.

Upon examination of the map by this office it was found that the proposed spur ran entirely through the reservation school-farm lands, the quantity of ground required for its construction being 11.36 acres.

May 23, 1887, the application was referred to the resident agent (Eells) for report as to whether the proposed spur interfered with any Indian improvements, and for any reason why the map should not be approved.

June 1, 1887, Agent Eells replied that the proposed spur would run directly through the school meadow where the hay is cut for the school, and recommended that the company be allowed a right of way for a distance of 1,225 feet as indicated on the map, with a width of 60 feet only, on the following conditions:

"First. They should, before commencing work, erect a good lawful fence on both sides of the track, so as to protect the field in which it runs from stock.

"Second. They should put in a waste gate to allow the water to escape where

the road should cross the track, and at the same time keep out the salt water from coming in during the high tide.

"Third. They should put in gates on each side of the track, and make a crossway so as to allow the hauling of the hay and produce from across the track to the buildings.

"Fourth. They should pay for the land so taken at the rate of \$700 per acre, the market price of the land so used at the present time."

June 22, 1887, these terms and conditions were accepted by the railroad company in a letter of that date, addressed by Robert Harris, esq., president of the company, to this office.

Agent Eells having suggested in his report of June 1, 1887, that the present would be a favorable time for adjusting any unsettled questions in regard to the right of way for the branch road (soon to become a part of the main trans-continental road), obtained under the agreement of 1876, above mentioned, and recommending that the width of said right of way be defined, and certain conditions, to be thereafter suggested, imposed upon the company, he was, by office letter of the 29th of June, 1887, directed to examine and fully report on the situation, with such suggestions for the additional protection of the Indians as he might deem necessary and expedient, for the further consideration and action of this office.

July 9, 1887, Agent Eells replied as follows:

"The additional suggestions which I had in mind and which I had intended to suggest were that the width of the right of way should be defined to be 60 feet. I do not see that any width is stated in the original agreement; also that the road should be fenced as requested in my letter of October last. And lastly, when the road was first built there was a large drift in the river near the road, which threw the current of the river against the bank and endangered the roadway as well as the school farm. The company removed this drift for their own as well as the Indians' protection.

"During the last winter a drift was found there again and the current is again washing against the bank. I called the attention of the superintendent of the road to the fact and asked him to remove it, and he declined to do so, on the ground that it was of more danger to the school farm than to the road. This is true—that is, that it will damage the farm before it does the road, but will very soon come to the road and cut into it unless something is soon done. It would be comparatively small cost, with an engine on the track, to remove it now, but if left long will increase so as to be much more formidable and expensive to move. I wanted to have the company remove it. The only other matter I have to suggest is that the fence gates and water gate should not only be put up but kept up at the expense of the company.

"To recapitulate, the other or additional protection that it seems to me it would be advisable for the Indians to have would be: (a) the defining the width of the right of way for the road (Cascade Branch) to be 60 feet; (b) the fencing the track on both sides with, I think, two additional cattle-guards where the wagon road crosses the railroad; (c) the removal of the drift, which is just below the ferry, and protecting the opposite banks from the wash of the current in some way, both for the railroad company's protection and that of the school farm; (d) the erection of the warehouse as specified in the original agreement; (e) the through train from the east has refused to stop and leave passengers at this flag station. I presume, however, that this is a violation of the agreement by the subordinate officers of the company, which will be remedied on application."

These requirements were duly submitted for the company's consideration by official letter of September 2, 1887, and were accepted in President Harris' reply dated January 13, 1888, except as to the right of way, the width of which the company requested should be 100 feet, being as little as it was practicable to use.

Reference of this question to Agent Eells elicited a reply, under date of February 29 last, that there appeared to be no insuperable obstacle in the way of the company's having a right of way of 100 feet wide—or 40 feet additional to that already in use—for its main line, provided the Indians were properly compensated, under the direction of the Secretary of the Interior, for all additional land taken, and for whatever improvements might be damaged or otherwise affected by reason of such increased width of right of way.

To this proposition the Northern Pacific Railroad Company, by letter of President Harris to this office, dated June 14 last, has also assented.

Accompanying this report will be found certified maps filed in this office by said railroad company, showing the definite location of the main line, 100 feet in width, and of the proposed spur, 60 feet in width, on the Puyallup Reservation.

Since the foregoing history was prepared I have received the following, by telegraph, from Agent Eells, dated Tacoma, Wash., August 9:

"North Pacific Railroad Company ask permission to construct the spur through reservation farm. Are negotiations concluded so that I can allow it?"

No reply has been made to said telegram, and I have the honor to request instructions for the guidance of this office in the premises.

In view of the fact that it has been deemed necessary to obtain authority of Congress for the right of way of said railroad wherever it has been located and constructed through an Indian reservation, except in the case of its right of way through the Puyallup Reservation hereinbefore referred to (agreement of November 21, 1876), and in further view of the position taken by you in the case of the Milwaukee, Lake Shore and Western Railroad, as set forth in Department letter to this office of April 20, 1888, I would respectfully submit whether the right to construct the proposed spur, for which application is now made, should not be obtained from Congress.

It does not appear that the agreement of November 21, 1876, by which said company's branch road (now main line) was located and constructed through the Puyallup Reservation was ever ratified or even submitted to Congress for approval, in view of which I would further submit whether said agreement does not require ratification to give it validity.

Authority of Congress was obtained for the right of way of said railroad through the Crow Reservation, in Montana (act July 10, 1882; 22 Stat., 157), the Flathead or Jocko Reservation, also in Montana (act July 4, 1884; 23 Stat., 89), and a bill (S. 1211) was before the Forty-ninth Congress providing for right of way for said railroad through the Yakima Reservation, in Washington Territory, upon which no final action was reached.

Very respectfully, your obedient servant,

A. B. UPSHAW,  
*Acting Commissioner.*

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, *September 1, 1888.*

Respectfully referred to the Commissioner General Land Office for report whether the present line or branch of the Northern Pacific Railroad lying within the Puyallup Indian Reservation, in Washington Territory, is a part of the line authorized by Congress in laws covering that line of railroad.

H. L. MULBROW,  
*First Assistant Secretary.*

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
*Washington, D. C., September 11, 1888.*

SIR: I am in receipt, through reference by the First Assistant Secretary, on the 1st instant, of a letter, dated the 24th ultimo, from the Acting Commissioner of Indian Affairs, relative to the right of way of the Northern Pacific Railroad Company through the Puyallup Indian Reservation.

I am instructed to report "whether the present line or branch of the Northern Pacific Railroad lying within the Puyallup Indian Reservation, in Washington Territory, is a part of the line authorized by Congress in laws covering that line of railroad."

In reply, I have the honor to report that the line referred to is a part of the branch line of the Northern Pacific Railroad authorized by the act of July, 1864. (13 Stat., 365), as amended by joint resolution of May 31, 1870 (16 Stat., 378).

The 25-mile section of said company's constructed road, extending from Tacoma to South Prairie, Washington Territory, passing through the reservation in question, was accepted by the President October 7, 1884.

The Commissioner's letter is herewith returned.

I am sir, very respectfully, your obedient servant,

S. M. STOCKSLAGER,  
*Commissioner.*

Hon. WM. F. VILAS,  
*Secretary of the Interior.*