

UINTAH INDIAN RESERVATION.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING.

IN RESPONSE TO SENATE RESOLUTION OF APRIL 6, 1897, COPY
OF A COMMUNICATION FROM THE COMMISSIONER OF INDIAN
AFFAIRS RELATIVE TO NEGOTIATIONS WITH THE INDIANS OF
THE UINTAH RESERVATION.

APRIL 13, 1897.—Referred to the Committee on Indian Affairs and ordered to be
printed.

DEPARTMENT OF THE INTERIOR,
Washington, April 9, 1897.

SIR: I have the honor to acknowledge the receipt of the following
resolution of the Senate, dated 6th instant:

Resolved, That the Secretary of the Interior be, and he is hereby, requested to transmit to the Senate copies of all instructions given by him or his predecessor to, and all reports made by, the Commissioners appointed under section 20 of the act entitled "An act making appropriations for current and contingent expenses of the Indian Department, and fulfilling treaty stipulations with various tribes for the fiscal year ending June 30, 1895, and for other purposes," passed August 15, 1894, which instructions or reports in any manner relate to the carrying out of the provisions of section 22 of said act requiring said Commissioners to treat with the Indians properly residing on the Uintah Indian Reservation, in Utah, for the cession of lands to the United States. Also, to inform the Senate how much, if any, of the appropriation of \$16,000 made in section 23 of said act remains unexpended.

In response thereto, I transmit herewith copy of a communication of 8th instant from the Commissioner of Indian Affairs and its inclosures, which, it is believed, contain the information desired by the Senate.

Very respectfully,

C. N. BLISS, *Secretary.*

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 8, 1897.

SIR: I have the honor to acknowledge the receipt, by Department reference the 7th instant, for immediate report, of a resolution of the Senate of the United States, of the 6th instant, as follows:

Resolved, That the Secretary of the Interior be, and he is hereby, requested to transmit to the Senate copies of all instructions given by him or his predecessor to, and

all reports made by, the Commissioners appointed under section 20 of the act entitled "An act making appropriations for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various tribes for the fiscal year ending June 30, 1895, and for other purposes," passed August 15, 1894, which instructions or reports in any manner relate to the carrying out of the provisions of section 22, of said act requiring said Commissioners to treat with the Indians properly residing on the Uintah Indian Reservation, in Utah, for the cession of lands to the United States. Also, to inform the Senate how much, if any, of the appropriation of \$16,000 made in section 23 of said act remains unexpended.

Agreeably with your directions, I respectfully submit the following: Section 20 of the act of August 15, 1894, referred to in the Senate resolution, is as follows:

That the President of the United States is hereby authorized and directed to appoint a Commission of three persons to allot, in severalty, to the Uncompahgre Indians within their reservation, in the Territory of Utah, agricultural and grazing lands, according to the treaty of eighteen hundred and eighty, as follows:

"Allotments in severalty of said lands shall be made as follows: To each head of a family one-quarter of a section, with an additional quantity of grazing land not exceeding one-quarter of a section; to each single person over eighteen years of age one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; to each orphan child under eighteen years of age, one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; to each other person under eighteen years of age, born prior to such allotment, one-eighth of a section, with a like quantity of grazing land: *Provided*, That, with the consent of said Commission, any adult Indian may select a less quantity of land, if more desirable on account of location: *And provided*, That the said Indians shall pay one dollar and twenty-five cents per acre for said lands from the fund now in the United States Treasury realized from the sale of their lands in Colorado, as provided by their contract with the Government. All necessary surveys, if any, to enable said Commission to complete the allotments shall be made under the direction of the General Land Office. Said Commissioners shall, as soon as practicable after their appointment, report to the Secretary of the Interior what portions of said reservation are unsuited or will not be required for allotments, and thereupon such portions so reported shall, by proclamation, be restored to the public domain and made subject to entry as hereinafter provided.

Section 22, also referred to in said resolution, is as follows:

That said Commission shall also negotiate and treat with the Indians properly residing upon the Uintah Indian Reservation, in the Territory of Utah, for the relinquishment to the United States of the interest of said Indians in all lands within said reservation not needed for allotment in severalty to said Indians, and, if possible, procure the consent of such Indians to such relinquishment, and for the acceptance by said Indians of allotments in severalty of lands within said reservation; and said Commissioners shall report any agreement made by them with said Indians, which agreement shall become operative only when ratified by act of Congress.

It will be observed that the scope of the resolution is confined to the provisions of section 22, "requiring said Commissioners to treat with the Indians properly residing on the Uintah Indian Reservation in Utah, for the cession of lands to the United States," except as to the information desired as to how much, if any, of the appropriation of \$16,000 made in section 23 of said act remains unexpended.

As a matter of fact, there was but very little correspondence between this office and the Commission directly relating to the negotiations with the Indians of the Uintah Reservation. It was made the first duty of the Commission to deal with the Uncompahgre Indians in accordance with the provisions of section 20 of the act. Indeed, the work of the Commission never progressed beyond that point, and about all of the correspondence had with them related to the Uncompahgres—the allotment of lands in severalty to them and the contemplated restoration to the public domain of the surplus not needed for allotment.

I inclose herewith a copy of the instructions given to the Commissioners for their guidance, dated December 7, 1894 (Exhibit A), from

which it will be seen (p. 17) that they were not expected to undertake the negotiations with the Uintah Indians until they had finished their labors with the Uncompahgres; but I have deemed it best to furnish a complete copy of the instructions and of all subsequent instructions and of the various reports of the Commission made in the field, for the reason that the affairs of the two tribes and the aims and purposes of the Government, as indicated in the act under which the Commission was appointed, were so closely associated as to lead me to the belief that the information may be useful to the Senate in the consideration of any subject having special reference to the Uintah Reservation.

No instructions were ever given to the Commission regarding negotiations with the Uintah Indians, other than is contained in the brief reference to the subject on page 17 of the general instructions of December 7, 1894. They spent more than a year with the Uncompahgres in the endeavor to induce them to take allotments, but so determined were the Indians not to take allotments with the condition that they should pay for the same at the rate of \$1.25 per acre it was deemed best to abandon the undertaking for the time, and the Commission was relieved from further duty February 4, 1896, without having approached the Uintahs upon the subject of the contemplated negotiations.

Of the \$16,000 appropriated to pay the expenses of the Commission about \$13,500 was expended. There is now a balance remaining on the books of this office of \$2,561.50.

Most of the important reports made by the Commission are published in House Doc. No. 191, Fifty-fourth Congress, first session, and as they will be much more convenient for reading than in a typewritten copy, I have thought best to inclose a copy of said document. They are marked, in red ink, Exhibits B, G, H, and K. The other reports and letters of instruction are typewritten and are marked Exhibits A, C, D, E, F, J, L, and M.

I return herewith the resolution of the Senate, and inclose a copy of this report.

Very respectfully, your obedient servant,

D. M. BROWNING, *Commissioner.*

The SECRETARY OF THE INTERIOR.

EXHIBIT A.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, December 7, 1894.

Mr. S. S. SCOTT, *Uchee, Ala.*
Mr. TIMOTHY A. BYRNES, *Atlantic City, N. J.*
Mr. WM. S. DAVIS, *Little Rock, Ark.*

GENTLEMEN: The act making appropriation for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1895 (28 Stats. L., p. 337), provides as follows, sections 20, 21, 22, and 23:

"SEC. 20. That the President of the United States is hereby authorized and directed to appoint a commission of three persons to allot, in severalty, to the Uncompahgre Indians within their reservation, in the Territory of Utah, agricultural and grazing lands according to the treaty of eighteen hundred and eighty, as follows:

"Allotments in severalty of said lands shall be made as follows: To each head of a family, one-quarter of a section, with an additional quantity of grazing land, not exceeding one-quarter of a section; to each single person over eighteen years of age, one-eighth of a section, with an additional quantity of grazing land, not exceeding one-eighth of a section; to each orphan child under eighteen years of age, one-eighth of a section, with an additional quantity of grazing land, not exceeding one-eighth

of a section; to each other person under eighteen years of age born prior to such allotment, one-eighth of a section, with a like quantity of grazing land: *Provided*, That, with the consent of said commission, any adult Indian may select a less quantity of land, if more desirable on account of location: *And provided*, That the said Indians shall pay one dollar and twenty-five cents per acre for said lands from the fund now in the United States Treasury realized from the sale of their lands in Colorado, as provided by their contract with the Government. All necessary surveys, if any, to enable said commission to complete the allotments shall be made under the direction of the General Land Office. Said commissioners shall, as soon as practicable after their appointment, report to the Secretary of the Interior what portions of said reservation are unsuited or will not be required for allotments, and thereupon such portions so reported shall, by proclamation, be restored to the public domain and made subject to entry as hereinafter provided.

"SEC. 21. That the remainder of the lands on said reservation shall, upon the approval of the allotments by the Secretary of the Interior, be immediately open to entry under the homestead and mineral laws of the United States: *Provided*, That no person shall be entitled to locate more than two claims, neither to exceed ten acres, on any lands containing asphaltum, gilsonite, or like substances: *Provided*, That after three years actual and continuous residence upon agricultural lands from date of settlement the settler may, upon full payment of one dollar and fifty cents per acre, receive patent for the tract entered. If not commuted at the end of three years the settler shall pay, at the time of making final proof, the sum of one dollar and fifty cents per acre.

"SEC. 22. That said commission shall also negotiate and treat with the Indians properly residing upon the Uintah Indian Reservation, in the Territory of Utah, for the relinquishment to the United States of the interest of said Indians in all lands within said reservation not needed for allotment in severalty to said Indians and, if possible, procure the consent of such Indians to such relinquishment and for the acceptance by said Indians of allotments in severalty of lands within said reservation, and said commissioners shall report any agreement made by them with said Indians, which agreement shall become operative only when ratified by act of Congress.

"SEC. 23. That said commissioners shall receive six dollars per day each and their actual and necessary traveling and incidental expenses while on duty, and to be allowed a clerk, to be selected by them, whose compensation shall be fixed by said commissioners, subject to the approval of the Secretary of the Interior: *Provided*, That the cost of executing the provisions of this act shall not exceed the sum of sixteen thousand dollars, which sum is hereby appropriated for that purpose, out of any moneys in the Treasury not otherwise appropriated."

The President having appointed you Commissioners to make the allotments and conduct the negotiations as therein authorized, the following instructions are issued for your guidance in the important duties devolving upon you:

The first duty to engage your attention will be the allotment of lands in severalty to the Uncompahgre Utes, in accordance with the "treaty" (agreement) of 1880.

Said agreement (21 Stat. L., p. 199) provides as follows:

"* * * The Uncompahgre Utes agree to remove to and settle upon agricultural lands on Grand River, near the mouth of the Gunnison River, in Colorado, if a sufficient quantity of agricultural land shall be found there; if not, then upon such other unoccupied agricultural lands as may be found in that vicinity and in the Territory of Utah.

* * * * *

"Allotments in severalty of said lands shall be made as follows:

"To each head of a family, one-quarter of a section, with an additional quantity of grazing land not exceeding one-quarter of a section.

"To each single person over eighteen years of age, one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section.

"To each orphan child under eighteen years of age, one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; and to each other person under eighteen years now living, or who may be born prior to said allotments, one-eighth of a section, with a like quantity of grazing land.

"All allotments to be made with the advice of the commission hereinafter provided" (the Commission of 1880) "upon the selection of the Indians, heads of families selecting for their minor children, and the agents making the allotment (selection) for each orphan child."

The quantities and classes of lands, specified in the agreement to be allotted, are repeated in the act under which the allotments are now to be made; but you will observe there is a further provision in said act touching the quantity of land to be allotted, as follows:

"That, with the consent of said Commission, any adult Indian may select a less quantity of land, if more desirable on account of location."

The Uncompahgre Utes are mostly located upon a reservation in the northeastern part of Utah, adjoining the Uintah Reservation on the east and south and extending to the Colorado State line. A few are settled along the Duchesne River, within the boundaries of the Uintah Reservation, upon lands selected for the Uncompahgre band, in addition to the lands embraced in the reservation just described. The Uncompahgre Reservation proper contains about 1,933,440 acres, or 3,021 square miles.

The history of the settlement of these Indians in Utah and the establishment of the reservation occupied by them can be stated in a few words:

It appearing that a sufficient quantity of agricultural land to meet the terms of the agreement of 1880 could not be found on Grand River, in Colorado, the Indians were removed to Utah Territory and placed upon the lands now occupied by them. The Ute Commissioners, agreeably with the power conferred upon them by Congress in the act ratifying the agreement, selected for the Uncompahgres the lands in the valley of Green River for a distance of 10 miles down and 15 miles up from its junction with the White, and the lands in the valley of the White River from its junction with the Green as far east as the boundary line between Utah and Colorado, and also the lands along the Duchesne River from its junction with the Green up to a point 8 miles above the mouth of the Uintah River. These selections were approved by the Secretary of the Interior, who also directed the withholding of the same from entry or other disposition under any of the general land laws of the country.

The very general and indefinite terms necessarily employed by the Commissioners in designating the lands selected by them for the Uncompahgres rendered it desirable that more definite boundaries be established and declared, among other things, that the agent might know the extent of his jurisdiction and thus be enabled to act intelligently in dealing with intruders and in the management of his Indians, and to the end also that white settlers, cattlemen, and all others interested might be alike properly informed.

Accordingly, upon the recommendation of this office and the Department, the President, by Executive order dated January 5, 1882, set apart and withheld from sale the reservation now occupied by the Uncompahgre Utes.

The lands actually selected for the Uncompahgre Utes by the Commission of 1880, under and by virtue of the provisions of the Ute agreement and act ratifying the same, were:

"The lands in the valley of the Green River for a distance of ten miles down and fifteen miles up from its junction with the White, and the lands in the valley of the White River from its junction with the Green as far east as the boundary line between Utah and Colorado, and also the lands along the Duchesne River from its junction with the Green up to a point eight miles above the mouth of the Uintah River." (Report of Ute Commission of November 21, 1881, Annual Report Indian Office, 1881, p. 326, et. seq.)

The selection was approved by the Secretary of the Interior July 18, 1881.

Subsequently, as we have already seen, the reservation was established by Executive order.

Said order reads as follows:

"It is hereby ordered that the following tract of country, in the Territory of Utah, be, and the same is hereby, withheld from sale and set apart as a reservation for the Uncompahgre Utes, viz: Beginning at the southeast corner of township 6 south, range 25 east, Salt Lake meridian; thence west to the southwest corner of township 6 south, range 24 east; thence north along the range line to the northwest corner of said township 6 south, range 24 east; thence west along the first standard parallel south of the Salt Lake base line to a point where said standard parallel will, when extended, intersect the eastern boundary of the Uintah Indian Reservation as established by C. L. Du Bois, United States deputy surveyor, under his contract dated August 30, 1875; thence along said boundary southeasterly to the Green River; thence down the west bank of Green River to the point where the southern boundary of said Uintah Reservation, as surveyed by Du Bois, intersects said river; thence northwesterly with the southern boundary of said reservation to the point where the line between ranges 16 and 17 east of Salt Lake meridian will, when surveyed, intersect said southern boundary; thence south between said ranges 16 and 17 east Salt Lake meridian to the third standard parallel south; thence east along said third standard parallel to the eastern boundary of Utah Territory; thence north along said boundary to a point due east of the place of beginning; thence due west to the place of beginning."

The establishment of the reservation was not intended to confine the Uncompahgres strictly to the lands embraced within its boundaries, and thus deprive them of the right to settle on the lands selected for them "along the Duchesne River" within the Uintah Reservation. Chief Sapporonaro and some others of the Uncompahgres upon their removal from Colorado went at once to the Duchesne and made settlement, and it is understood that a considerable number are permanently located there.

The Uncompahgres are therefore entitled to make selections for allotments of agricultural and grazing lands anywhere within the boundaries of the Uncompahgre Reservation proper, or along the Duchesne River from its junction with the Green up to a point 8 miles above the mouth of the Uintah River, within the Uintah Reservation.

Lands have been surveyed extensively in the valleys of the Green and White rivers and along the Duchesne, as shown on the accompanying map of Utah published by the General Land Office in 1893. It will be observed that these surveys extend along White River from the Green River to the Colorado State line, and from the north line of the reservation to the second standard parallel south following the general course of Green River. Just how much of this land is suitable for allotment would be difficult to say. It has been represented that the greater portion of it is little better than a barren desert. The commissioners who selected it, however, made the following report concerning its character and adaptability for allotment purposes:

"The valleys which we have selected vary from one-half to 6 miles in width. The altitude is about 48 feet. Along the Green River there is an abundance of cottonwood timber for the wants of the Indians for fencing and firewood. The bottom lands are rich, and can be easily irrigated and made available by inexperienced labor. * * * With these lands the Indians can, if they will make the effort, eventually support themselves. It will, however, require considerable time and encouragement before they will make the best use of the opportunities now open to them. * * *

"The lands immediately adjoining those designated for cultivation are not so desirable for pasturage, and especially for summer grazing, as we could desire. It is practically impossible to find within the limits of the territory from which we were authorized to make selections, any considerable quantity of good arable land immediately adjoining lands desirable for summer grazing without irrigation. The mesas or table lands immediately back from the valleys afford excellent winter grazing, and farther back in the foothills and mountains is an abundance of rich summer pasturage."

It will probably be found that much of this land can be classed as grazing land, and as each Indian is entitled to an allotment of grazing land equal in quantity to his agricultural allotment, it is hoped that with the exercise of special care and patience enough good grazing land may be found in this wide expanse of territory to fully meet the requirements, so that every Indian may have as good as the reservation affords. The chief concern should be, of course, to find suitable agricultural lands for allotment—lands that can be utilized by the allottee, and upon which he can make a living by cultivating some portion, at least, of the soil. This is of infinitely more importance than the selection of a tract for grazing, and should receive your special care and attention.

There is neither reason nor justice in allotting worthless tracts to Indians merely for the sake of dividing reservation lands in severalty. The law does not contemplate it, and it ought never to be done. True, the law gives them the right to make their own selections; but if they select unwisely, or with indifference as to what may be given them, they should be shown their mistake and encouraged and assisted in selecting lands that will be of some value to them and upon which they can establish themselves in permanent homes, with a fair prospect of becoming self-supporting.

There is said to be a very considerable area of fertile land on the Duchesne as yet unoccupied. If that be found to be the case, every acre of it should be taken in allotment, and doubtless many will prefer to take a smaller allotment of these good lands rather than to have the full quantity allowed of the poorer lands. This any adult Indian is privileged to do (with your consent) under the express terms of the act.

Upon the Uncompahgre Reservation proper some eighteen townships (approximately) have been surveyed. These embrace nearly 400,000 acres. It is estimated that not over 80,000 or 90,000 acres of agricultural land will be required to give to each Indian the full quantity to which he is entitled under the law. It would seem as though it would be possible to find the required amount within the surveyed townships and on the Duchesne, and also an equal amount of fair grazing land, which is necessary to complete the allotment.

Township plats of these surveys will be forwarded to you for use in making the allotments. The field notes of all the surveyed townships but three were sent to the Uintah and Ouray Agency, July 23, 1888, where they will doubtless be found.

The field notes of the three remaining townships will be forwarded to you with the township plats.

In making the allotments the following rules will govern:

The quantity of land to which each Indian is entitled has already been discussed.

(1) No person who is not a recognized member of the Uncompahgre tribe of Utes, or the child of such recognized member, should be permitted to take an allotment.

(2) Allotments will be made, with your advice, upon the selection of the Indians, heads of families selecting for their minor children.

(3) Selections for orphans will be made by the commission.

(4) With the consent of the commission any adult Indian may select a less quantity of land than the full quantity to which he is entitled, if more desirable on account of location.

All Indians over 18 years of age who are entitled to an allotment are included in this rule.

(5) Allotments should be made with reference to the best interests of the Indians, the choice portions of the reservation being given them.

(6) Every allotment should be distinctly marked and each allottee of sufficient age should be personally shown the boundaries of the allotment selected by him, so that he will understand exactly where the land selected lies, and pains should be taken to familiarize him with his boundary lines.

(7) The agricultural tracts given to each allottee should ordinarily be contiguous, but he may be allowed to select detached tracts, if necessary, in order to give him a proper proportion of wood or water privileges. The grazing tracts given to each allottee should be contiguous, but owing to the character of the country it may be found impossible to have them contiguous to the agricultural tracts; in which event the allottees may be allowed to select grazing lands more or less remote from their agricultural allotments. It would perhaps be a good plan to have families select their individual tracts contiguously to each other or in the same neighborhood, especially their grazing tracts.

(8) Each Indian should be allowed to select his land so as to retain improvements already made. Where the improvements of two or more Indians have been made on the same legal subdivision a provisional line should be run, dividing the lands between them, unless an arrangement can be made between them by which the tract can be given to one of them. Such arrangement, however, must be satisfactory to all the parties.

(9) White husbands of Indian women are not entitled to allotments unless they have been regularly adopted by the tribe. The children of an Indian woman, the issue of a marriage with a white man, a citizen of the United States and not a member of the tribe, contracted since August 9, 1888, are not entitled to allotments. (Department decision of May 8, 1894.)

(10) In all cases where Indian women have married Indian husbands and have children born of such marriage, and have been divorced from their husbands after the Indian custom, the mother should be allowed to select land for her minor children not under the charge of the father at the time when the allotments are being made.

(11) All lands needed by the Government for agency, school, or other purposes should be reserved from allotment. Ample provision should especially be made for school purposes.

(12) You will prepare a schedule of the allotments made, each family being grouped by itself, and the relationship of each member to the head shown in the column of remarks. When persons have both Indian and English names, each should be given, and great care taken to have the names properly spelled and very distinctly written. For the purpose of identification, the sex and age of each allottee should be given. Where an allotment or part of an allotment is allotted as grazing land, each tract should be properly designated in the column of remarks. The schedules will be made in duplicate. They should be duly certified by the three members of the Commission.

(13) A supplemental schedule properly certified should be prepared and submitted, embracing the tracts reserved for agency, school, cemetery, or other Government or tribal purposes.

(14) You will do such retracing of lines and establish or reestablish such monuments as may be found requisite, employing a surveyor and the necessary assistants, who should be Indians in all cases where practicable. For such persons you will furnish proper vouchers and subvouchers, and report the employees upon a list of regular employees. You will also employ an interpreter when necessary, and report him upon your list of regular employees.

(15) The law allows you a clerk, of your own selection, whose compensation shall be fixed by you, subject to the approval of the Secretary of the Interior.

It would seem as though the work of allotting these lands might be divided up in some way between the members of the Commission. This is a matter, however, which will have to be left largely to your good judgment and discretion. After you have familiarized yourself with the surroundings you will please report to this office your views upon that point, so that the office can instruct you if it should be found desirable to employ more than one surveying party.

REPORT ON LANDS UNSUITABLE OR NOT REQUIRED FOR ALLOTMENTS.

As heretofore seen, the law under which you are to proceed directs, in addition to the allotment work, that:

"Said Commission shall, as soon as practicable after their appointment, report to

the Secretary of the Interior what portions of said reservation are unsuited or will not be required for allotments, and thereupon such portions so reported shall, by proclamation, be restored to the public domain and made subject to entry as hereinafter provided."

It can hardly be presumed that the Commission will find it practicable to report upon this question until the allotments shall have been made, or at least until the work shall have progressed sufficiently to enable them to see the end and thus to determine what lands are unsuitable or will not be required for allotment. The rights and interests of the Indians must be regarded as paramount to all other considerations and are to be attended to first. They have the right of selection anywhere within the reservation boundaries, and that right should not be abridged or in any way interfered with by reason of any hasty or inconsiderate action on our part.

It may become necessary for the Commission to explore the reservation thoroughly in order to find sufficient land for allotment, and in that event it might be unsafe to report any portion of it as unsuitable, or not required, until such examination shall have been made.

On the other hand, the conditions may be such that you can safely report in advance of the completion of the allotments, and perhaps in the early stages of the work very considerable areas that will not be needed or that are unsuitable for allotment, in which event it would be your duty to do so. You should exercise the utmost caution, however, and carefully describe the tracts (boundaries) so reported. The lands once restored to the public domain, it would be too late to rectify mistakes on behalf of the Indians; hence the necessity for taking cautious steps.

It is not deemed necessary to further instruct you at this time upon this particular part of your duties. Much will have to be left to your good judgment and discretion, but should you require further instructions or advice upon any point, promptly report the fact to this office.

NEGOTIATIONS WITH THE INDIANS OF THE UINTAH RESERVATION.

As already shown, the further duty is required of you of conducting negotiations with the Indians properly residing on the Uintah Reservation for the surrender of such portions of their reservation as may not be needed for allotments, etc., but as it will be some time before you can turn your attention to that work the issuance of the necessary instructions for your guidance in that matter will be deferred for the present.

Mr. Scott is hereby designated as chairman of the Commission. Mr. Davis has already been designated as disbursing agent, and required to give bond in the penal sum of \$5,000. When he shall have filed his bond as disbursing officer, special instructions will be given him for his guidance in preparing and rendering his accounts in order that they may conform strictly to the regulations of the Department governing such matters.

Your compensation is fixed by law at \$6 per day, each, and your actual and necessary traveling and incidental expenses while on duty.

Under no circumstances should the cost of executing the provisions of the act, including the compensation of the Commission, exceed the sum appropriated, viz, \$16,000.

You will, from time to time, inform this office of the progress of your work, and upon completion of your labors submit full report thereof.

Upon receipt of the instructions, Commissioners Scott and Davis will proceed, without delay, to the Uintah and Ouray Agency, Utah, where they will be joined by Commissioner Byrnes, who is now there. You will then enter at once upon the discharge of the duties assigned you.

Very respectfully,

D. M. BROWNING, *Commissioner.*

Approved December 8, 1894.

HOKE SMITH, *Secretary.*

EXHIBIT B.

DEPARTMENT OF THE INTERIOR,
COMMISSION FOR ALLOTMENT OF LANDS TO INDIANS IN UTAH,
Fort Duchesne, January 8, 1895.

SIR: The undersigned, Messrs. Scott and Davis, Ute Indian Commissioners, with Mr. Edelin, clerk, reached this place on the morning of the 21st ultimo. They found Mr. Byrnes, the other Commissioner, whose name is also underwritten, here awaiting them. A meeting of the Commission was held on the following day, and the Commissioner of Indian Affairs was promptly advised of its organization and that it was in the field marked out for its future operations.

The ground was covered with snow, and until within the last few days snow has fallen almost every day or night since. The weather, too, has been at times intensely cold, the mercury in the thermometer at the post frequently sinking as low as zero, and now and then from 10° to 20° below that point. Outdoor work on the part of the Commission has been almost entirely impracticable, and indeed it is feared at this writing—the thermometer registering 24° below zero—that much of this kind of work will continue to be so until the coming in of spring. All, however, that can be done to facilitate the object had in view by the appointment of the Commission in preparing for field work, when the time arrives for it, has been done and will continue to be done faithfully and energetically.

The Commission has had morning and afternoon meetings daily and has made honest efforts to arrive at a full comprehension of the very grave, delicate, and responsible duties with which it has been charged by the Government. It has read and reread, weighed, considered, and discussed, the law approved August 15, 1894, under which it was organized; the instructions, dated the 7th ultimo, furnished for its guidance; the Ute Indian treaties of 1873 and 1880, and the acts of Congress ratifying the same; and all other public documents intrusted to it, or which could be reached, referring to the business in hand, with the view of obtaining a clear understanding of the whole matter, in order that it might be ready not only to reply promptly and intelligently to every question on the subject propounded to it by the Indians, but be enabled to push the work to completion at the earliest practicable moment.

As a further preliminary movement in the direction suggested, it was resolved by the Commission to detail Commissioner Byrnes, who by long official association with the Uncompahgre Utes had secured their friendship and confidence, to visit the Ouray Agency and by informal conference with their chiefs and head men ascertain what was their understanding of the agreement entered into by them in conjunction with the other leading men of the confederated band of Utes at Washington City and subsequently ratified by them as part of said confederated band in a vote of three-fourths of the whole male adult population, and known as the agreement of 1880. This step was taken because, in communicating with Major Randlett, of the United States Army and acting agent for both the Uncompahgre and Uintah Utes, it was learned that there was much dissatisfaction among the former by reason of the failure on the part of the commissioners selected to treat with them under the act of 1880 to strictly carry out their instructions in removing them from their old reservation in Colorado; and again, because of the provision in the law of August 15, 1894—the one under which the present commission acts—requiring them to pay \$1.25 per acre out of their annuity funds for the lands to be allotted to them.

It may be well to state that Major Randlett understands these Indians well—he is most emphatically their friend, as they are without an exception his friends—and that he has embodied the foregoing facts in a letter to the Commissioner, dated the 24th ultimo and received the 7th instant, which communication was at once referred to the Commissioner of Indian Affairs.

Commissioner Byrnes, in pursuance of the resolution referred to, proceeded to the Ouray Agency. The time and character of his work there is fully made known in the following subreport:

FORT DUCHESNE, UTAH, *January 7, 1895.*

The UTE INDIAN COMMISSION.

GENTLEMEN: Pursuant to resolution dated December 31, 1894, I left this place on Friday last at 1 o'clock p. m. for the Ouray Agency and arrived there at 5 o'clock p. m. The following day, Saturday, January 5, being issue day, the Indians were present in large numbers. The chiefs and head men were all present. They had no knowledge of my being at the agency at that time. I carefully concealed the object of my visit, and concluded that it would be best to have all the Indians assemble at one time and state to them in each other's presence the object of my mission, so that I could be fully understood by all.

I concluded that this would be a better mode of procedure than questioning them separately. I therefore gave notice that all the male adult Indians should meet me at the agency office at 3 o'clock in the afternoon; that I desired to talk with them. Promptly at that hour 125 adult Indians, with Charley Alhandra, the interpreter, had assembled at the office and notified me by the interpreter that they were ready to hear me talk. I invited Mr. John McAndrews, chief herder at this agency, who understands the Ute language, and Mr. Howard I. Brother, the clerk in charge of the agency, to be present as witnesses to the proceedings. I then asked the Indians for the information required. They seemed to be very much astonished at the questions I asked. It seemed that I had taken them by surprise. However, they quickly responded as follows, which I noted down at the time: They said that they never agreed to come to this country, but were promised that they should remain in Colorado and be settled on the Grand River, near the mouth of the Gunnison, where they were promised they should be given houses and farms and helped to live like the whites. They said that they never agreed to pay \$1.25 an acre for the lands they

were to receive in exchange for the reservation in Colorado, and they never heard of such agreement until now; that the whites about here have lately been telling them about this, but they did not believe it until I told them that it was so. They seemed much surprised at this, and asked me to have the Commission write to Washington and tell him this was wrong, and ask Washington to have them treated right.

All the Indians present were signers of the treaty of 1880. All the chiefs and headmen were present. Among those who were present and whose names I recollected are the following, which names I took down rapidly as they passed out:

Charley Chavanah.	Ash ta.	Gus.
Red Moon.	Ignacio.	Galota.
Charley Alhandra.	Wyasket.	Wee ma mooch.
Eggleston.	Ac cut ti pe noots.	Piah.
Quo nah ag.	New cow ree.	Arrappo.
Guo na tach.	Wass.	Atchee.
Snaps.	Little Jim.	Tom.
Henry Wilson.	Yon a gats.	Wa rat za.
Wap pa nah.	Pantalane.	Wa pe ratz.
Elk.	Arrive.	Yah pootz.
Chick i too Cohoe.	Pow a chitz.	Char oo.
Buckskin Jim.	Kan op atch.	Wap pe nas.
Fenno.	Johnson Smith.	Jack Johnson.
My yore.		

Having attended to the duties required of me, I returned to Fort Duchesne the next day, Sunday, 6th instant.

Respectfully submitted.

T. A. BYRNES, *Commissioner.*

No comment is required here upon the foregoing subreport of Commissioner Byrnes. It is quoted for the benefit of the Indian Office, which will give it such consideration as it deserves. The commission, however, beg leave, in this connection, to call attention to the third section of the act of 1880 ratifying the Washington agreement. That section reads as follows:

"SEC. 3. That the Secretary of the Interior be, and he is hereby, authorized to cause to be surveyed, under the direction of said commissioners, a sufficient quantity of land in the vicinities named in said agreement to secure the settlement in severalty of said Indians as therein provided. And upon the completion of said survey and enumeration herein required the said commissioners shall cause allotments of lands to be made to each and all of the said Indians, in quantity and character as set forth in the agreement above mentioned, and whenever the report and proceedings of said commissioners, as required by this act, are approved by the President of the United States, he shall cause patents to issue to each and every allottee for the lands so allotted, with the same conditions, restrictions, and limitations mentioned therein as are provided in said agreement; and all the lands not so allotted, the title to which is, by the said agreement of the confederated bands of the Ute Indians and this acceptance by the United States, released and conveyed to the United States, shall be held and deemed to be public lands of the United States and subject to disposal under the laws providing for the disposal of the public lands, at the same price and on the same terms as other lands of like character, except as provided in this act: *Provided*, That none of said lands, whether mineral or otherwise, shall be liable to entry and settlement under the provisions of the homestead law, but shall be subject to cash entry only in accordance with existing law; and when sold the proceeds of said sale shall be first sacredly applied to reimbursing the United States for all sums paid out or set apart under this act by the Government for the benefit of said Indians, and then to be applied in payment for the lands at one dollar and twenty-five cents per acre, which may be ceded to them by the United States outside of their reservation, in pursuance of this agreement. And the remainder, if any, shall be deposited in the Treasury, as now provided by law for the benefit of the said Indians, in the proportion hereinbefore stated, and the interest thereon shall be distributed annually to them in the same manner as the funds provided for in this act: *Provided further*, That the subdivisions upon which are located improvements to be appraised, as provided for in section two of this act, shall be offered to the highest bidder at public sale, after published notice of at least thirty days by the Secretary of the Interior, and the same shall be absolutely reserved from occupation or claim until so sold."

Now, it is not at all surprising that ignorant Indians like the Uncompahgres should have supposed that a reservation which, according to law, it is true, is only theirs for temporary occupancy was given them just as the Uintah Reservation had been given to a brother band of Utes in their immediate neighborhood. The nice distinction between the modes by which the two reservations were established they

would hardly be able to draw or understand. And it is still less surprising, in the light of that fact, that they should have been unable fully to comprehend the scope of the section which has just been quoted, especially as all the information they could get with regard to it had to reach them through the imperfect and uncertain medium of an interpreter.

But there is no wish, of course, to discuss the question of right in this paper. That has been settled. The question which is now presented to the Government, and to which is expected a favorable answer, is purely one of policy. Is it best for the Government and best for these Indians that the latter should be made to pay \$1.25 per acre for the lands that are to be allotted to them by the present Commission? In suggesting a reply to that question, the Commission begs most respectfully to say, first, that in its opinion, based not only upon the report of Commissioner Byrnes, but upon statements made to it by Major Handlett and other reliable parties in the vicinity of these agencies, it will be no easy matter to induce the Uncomphres to accept of allotments of lands upon the terms indicated.

It begs to say further that, on account of this difficulty, joined with the possible and perhaps probable misunderstanding on the part of these Indians of the full meaning of that third section, it would, in its humble judgment, be better for the Government to waive all right to the \$1.25 per acre, and let them have the lands to be allotted to them free of all compensation whatever; and it makes this respectful suggestion the more readily because it is satisfied that the present Government of the United States, with a knowledge of all the facts of the case, could not and would not allow even the smell of harsh dealing toward these Indians, who have shown themselves so willing heretofore to accede to its demands and comply with its wishes, to hang for an instant about its garments. This position of the Commission is in harmony with that of both of the committees on Indian Affairs in Congress, as is evident from their reports made—that of the Senate committee May 29, and that of the House committee April 4, 1894. From the former report are taken the subjoined paragraphs:

“Amend section 1 by adding after the word ‘location,’ in line 22—

“*And provided further,* That the stipulation contained in the treaty with the Ute Indians, ratified by act of Congress June 15, 1880, whereby the said Indians are obligated to pay for the lands allotted to them in severalty, be, and the same is hereby, waived by the United States, and the allotments provided for by this act shall be made without any price to be paid or charge to be made against any funds to the credit of the Indians.’

“The reason for recommending this amendment,” the committee goes on very forcibly to remark, “is that an effort to enforce the stipulation of the treaty of 1880 at this date would doubtless cause irritation on the part of the Indians, and might provoke resistance. While under the terms of that treaty a charge of \$1.25 per acre might be made against the funds of the Indians for the areas allotted to them, the fact remains that this obligation is very imperfectly, if at all, appreciated by the Indians, and that they have from their long residence upon their present reservation acquired a conviction that the lands belong to them.

“In the twelve or fourteen years which have elapsed since the removal of the bands from their aboriginal seat in Colorado a new generation has come into the active management of tribal affairs, and to many of the band the treaty of 1880 is only a tradition, while occupancy of the Utah Reservation is a present fact. It is obviously quite natural, however unreasonable, that the Indians should feel themselves entitled to hold the existing reservation and should object to making payment for the fraction of that reservation which they will be allowed to retain. Under these circumstances, it is submitted that it is a wiser policy to waive the right of the Government to payment for the lands allotted than to incur the friction, delay, and possible strife which might follow an effort to enforce the letter of the treaty.”

The Commission has been sent here to do a particular work, and to that end the duty has been imposed upon it to communicate to the Government all facts that it may gather affecting the success of the undertaking. This duty it is now attempting in part to discharge; and in connection with that duty, and from the facts herebefore given, it has no hesitation in respectfully asking the Commissioner of Indian Affairs, and through him the Secretary of the Interior, to request Congress to amend the act of August 15, 1894, by which these Indians are required to pay the treaty-stipulated price of \$1.25 per acre for the lands which may be allotted to them in accordance with its provisions.

If the Government should decide against waiving this right, the Commission, undismayed by the grave and manifold difficulties of the situation, will do its best, as indeed it is now doing, in the line of its sworn duty, to induce these Indians to take homes and try to make of themselves a useful and self-supporting people. But it is to be hoped, and in truth it is believed, that the Government will consent to the waiver suggested. Should it do so, it will smooth the way for the Commission

to make arrangements to provide these Indians with lands upon which they can live and prosper; in a word, become in a few years settled, contented, thriving, as much so as any of their aboriginal brethren within the limits of the United States. There is no exaggeration in this statement. One has but to see these Indians, note their intelligence, their love of home and family, when they have a home and family, their peaceful and industrious habits and their splendid physique, to be convinced of the truth of what is here claimed for them.

Respectfully submitted.

S. S. SCOTT,
T. A. BYRNES,
WM. S. DAVIS,
Ute Indian Commission.

Hon. D. M. BROWNING,
Commissioner of Indian Affairs, Washington, D. C.

EXHIBIT C.

DEPARTMENT OF THE INTERIOR,
COMMISSION FOR ALLOTMENT OF LANDS TO INDIANS IN UTAH,
Fort Duchesne, Utah, January 26, 1895.

SIR: The undersigned, in a report to the Indian Office, dated the 8th instant, stated that the present Commission had been sent here to do a particular work, and to that end the duty had been imposed upon it of communicating to the Government all facts that it might gather affecting the success of the undertaking. The report in question was made with the view of discharging, as far as possible, that duty. The present report, it should be said, is in the same line.

While the weather, since the arrival of the Commission here, has been so intensely cold and the ground so deeply covered with snow, as to interfere, to a great extent, with the field work of the Commission, it has not prevented such an investigation of the situation as might indicate the requisite steps to be taken in order to carry out most readily and in full the beneficent designs of the Government toward the Uncompahgre Indians.

As has been suggested, no general exploration of the lands of the Uncompahgre Reservation could, under the circumstances, be made. There are, however, lands to be allotted to these Indians known to be highly productive and upon which all necessary water for irrigation can be turned. It is to these that the attention of the commission has been directed as the lands which would no doubt form the first object of allotment. The valley lands here referred to, varying from a quarter of a mile to 2 miles in width (the latter, however, of rare occurrence), commence at a point on the Du Chesne River, 8 miles above the mouth of the Uintah, and extend down the former on both sides to its junction with the Green, 15 miles below. Irrigating ditches have already been constructed, mainly by the labor of Indians and employees at the agency under the supervision of Major Randlett, the energetic and indefatigable acting agent of Uncompahgres and Uintahs, by which the larger part of these lands can be provided with water for cropping purposes. Indeed, houses have been built for Uncompahgre Indians on parts of these lands, and many acres of them were cultivated during the last season from which fair crops of wheat, oats, etc., were gathered.

It should also be said that the lands on both sides of the mouth of the Uintah, extending up about 4 miles to this post and a little higher on the eastern side of the river, have been supplied with water, and were cultivated, at least in part, last year with good results. Major Randlett is now making arrangements for the construction of ten more houses upon these valley lands for Uncompahgre Indians who want to turn their attention to farming. The lands upon these rivers already provided with irrigating ditches are sufficient under the law of agricultural allotment to accommodate on an average, little and big, not less than 175 Indians; but as the lands in question are fine and lie in bodies convenient to this post, the schoolhouse, and the agency, the Indians in selecting from them for permanent settlement will be satisfied to take smaller quantities than are allowed them under the law. In that event at least one-fourth of the Uncompahgres can be located here. And if the land south of the Du Chesne but above the 8-mile limit can be gotten by negotiation with the Uintahs for the Uncompahgres, where an irrigating ditch was commenced by Major Randlett but the work suspended for lack of funds, an area of very fine agricultural land will be obtained sufficiently large, with the lands already mentioned, for the settlement in a reasonably compact body of at least one-third, perhaps one-half, of the entire Uncompahgre band.

These Indians, especially the leading ones, are anxious to get on these lands, and are daily soliciting Major Randlett to build them houses. A few thousand dollars

expended by him, under the direction of the Commissioner of Indian Affairs, in putting up houses on these lands would work wonders in the way of benefit to these Indians. The effect of such expenditure would be to fix the Indians who might take these houses firmly to the lands, and start them resolutely to tilling the soil. But this is not all. Their action would stir up and incite others to do the same thing, so that even those most disposed to the old wandering and thriftless life of the savage would be won over, and, it may be said, forced and kept in the path of civilization. In this way, too, the allotment of lands to them in severalty would be made much easier, and what is more to the purpose, the allotment would be of greater moment and significance when made. An allotment of land to an Indian, however clearly defined may be the boundaries and however well he may be made to understand them, would not cause him to look upon the lands as his home—as land upon which he was to live and labor for a support—if he were not given with it a house. As long as he is left to live in a tepee or tent, which he can take down and remove from place to place without trouble, he is at all times ready to go, and when he is tempted by some more inviting locality he goes.

There are at least 100 Indian families among the Uncompahgres asking to be put on these lands. In building the houses for their accommodation, Major Randlett, as the acting agent for the Uncompahgres and Uintahs, can secure the help, not only of the Indians, but of the employees at the agencies. On this account, and for the further reason of his being a pushing and rapid worker, as well as a man of thorough business capacity, the direct cost to the Government of the building of these houses would be light. He thinks that by the help referred to and by the use of material and certain other instrumentalities which he has under his control he can put up these houses, with comfortable rooms and chimneys, at a cost not exceeding \$150 each—perhaps at a cost somewhere between that amount and \$100—and that if the money for the purpose can be obtained soon, he will be able to have them ready for the occupancy of the Indians by spring and start them actively at work in farming during the coming season.

In this connection, the Commission begs most respectfully to call the attention of the Department to the concluding part of section 2 of the act approved June 15, 1880, ratifying the Ute Indian treaty, in which it is said that the Commissioners appointed under that act, "shall locate the agencies for the Southern Utes and the Uncompahgre Utes, shall furnish an estimate of the number of houses required, the cost of each," etc., and to the second item of appropriation in section 9 of same act, which reads: "For the cost of removal and settlement of the Utes, surveying their lands, building houses, establishing schools, building mills and agency buildings, purchasing stock, agricultural implements, and so forth, as provided in said agreement, and in this act, the sum of three hundred and fifty thousand dollars."

Respectfully submitted.

S. S. SCOTT,
WM. S. DAVIS,
T. N. BYRNES,
Ute Indian Commission.

Hon. D. M. BROWNING,
Commissioner of Indian Affairs, Washington, D. C.

EXHIBIT D.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 4, 1895.

SIR: Referring to your special report of January 8, 1895, as to the progress of your work, I have to advise you that under date of January 26, 1895, I submitted a copy thereof, together with Major Randlett's report to you, to the Secretary of the Interior, with the recommendation that they be transmitted to the Senate Committee on Indian Affairs with request that a section be added to the Indian appropriation bill for the next fiscal year, the effect of which would be to relieve the Uncompahgres from the payment for their allotments required under the act of August 15, 1894.

I do not know whether there is any chance of obtaining this legislation, but you will be able to assure the Indians that you have done all in your power to relieve them of this requirement, and that this office has cooperated with you in the matter.

Very respectfully,

D. M. BROWNING, *Commissioner.*

Hon. S. S. SCOTT,
Chairman Ute Commission, Fort Duchesne, Utah.

EXHIBIT E.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 13, 1895.

SIR: I am in receipt of your communication dated January 25, 1895, in which you refer to the location of the Uncompahgres upon allotments, and say that if the lands south of the Duchesne up to the 8-mile limit can be gained by negotiations with the Uintahs for the Uncompahgres, an area of very fine agricultural lands will be opened sufficiently large, with the lands before mentioned by you, for the settlement in a compact body of at least one-third and perhaps one-half of the entire Uncompahgre bands.

In reply I have to advise you that it is not deemed expedient to negotiate with the Uintahs for any further lands for the use of the Uncompahgres. Such negotiations might lead to serious complications, and in any event could not become effective until ratified by Congress, which would require one or more years. It will be necessary to locate the Uncompahgres within their reservation proper, and within "the lands along the Duchesne River from its junction with the Green up to a point 8 miles above the mouth of the Uintah River."

Your recommendations as to building houses for the Uncompahgres, etc., will form the subject of another communication.

Very respectfully,

D. M. BROWNING,
Commissioner.

Hon. S. S. SCOTT,
Chairman of the Ute Commission, Fort Duchesne, Utah.

EXHIBIT F.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 15, 1895.

GENTLEMEN: The Secretary of the Interior is desirous of knowing how soon a report may reasonably be expected from you as to "what portions of said reservation (Uncompahgre) are unsuited or will not be required for allotments," as contemplated by section 20 of the act of August 15, 1894, under which you are operating.

Without modifying my instructions to you of December 7, 1894, which were submitted to the Secretary and by him approved, it is desired that you will give early consideration to this particular matter. In those instructions, after impressing upon you the importance of first securing the Indians in the right of selection of lands for allotments, etc., I suggested that you might find the conditions such as to warrant you in reporting in advance of the completion of the allotments, and perhaps in the early stages of the work, very considerable areas that will not be needed for allotment, and in that event it would be your duty to do so.

For the information of the Secretary, I wish you would report to me as soon as possible what the present outlook is for the rendition of a report by the Commission as to what portions of the Uncompahgre Reservation are unsuited or will not be required for allotments to the Indians.

Referring now to your special report of January 8, 1895, I regret to say that the efforts of this office to secure legislation by Congress to relieve the Uncompahgres from the payment of \$1.25 per acre for their allotments, under the act of August 15, 1895, proved unsuccessful. I have not learned the cause of the failure of Congress to act in the matter, whether it was through lack of time or objection to the measure. It ought not, however, to stand in the way of the successful prosecution of your labors, and it will not prevent this office from urging the matter upon the attention of the next Congress, which you are at liberty to tell the Indians if you think it prudent to do so.

Very respectfully,

D. M. BROWNING,
Commissioner.

Messrs. SCOTT, DAVIS, AND BYRNES,
Ute Indian Commissioners, Fort Duchesne, Utah.

EXHIBIT G.

DEPARTMENT OF THE INTERIOR,
COMMISSION FOR ALLOTMENT OF LANDS TO INDIANS IN UTAH,
Fort Duchesne, Utah, May 6, 1895.

SIR: In your letter of March 15, 1895, you expressed the hope that the Ute Indian Commissioners would be able, for the information of the Secretary of the Interior,

to report to you at an early day "what portions of the Uncompahgre Reservation are unsuited or will not be required for allotment to the Indians." In response to that communication the undersigned immediately (March 22, 1895) informed you that as soon as the weather would admit of a personal inspection by them of the reservation the desired information would be promptly furnished you.

By reference to the map of Utah published by the General Land Office in 1893—a copy of which was furnished the undersigned by the Indian Office—it will be seen that the Uncompahgre Reservation proper is divided by the Green River, which enters near the middle of the northern border and passes out at southwestern corner, leaving on the western side of that stream two inconsiderable triangles, separated from each other by the southeastern slip or tongue of the Uintah Reservation, which, running down on both sides of the Duchesne River, touches the Green at or about the confluence of the two streams. From the same map it will be further perceived that the main body of the Uncompahgre Reservation, which lies east of the Green River, is divided into what may be termed northern and southern parts by the White River, which, entering from Colorado and flowing west, empties into the Green not far from the mouth of the Duchesne on the opposite side.

After a thorough exploration of this country east of the Green, which embraces about 1,800,000 acres of the 2,000,000 acres that make up the entire reservation, the undersigned do not hesitate to say that there is no arable land upon it suitable for Indian allotment except about 10,000 acres of bottom land extending 10 or 12 miles up the White on both sides from its mouth. This statement is somewhat in conflict with what is set forth in the report of the commissioners who settled the Uncompahgre Indians here in 1881, a clause of which is embodied in the instructions given to this commission. The whole paragraph from which the clause is taken reads as follows: "The valleys which we have selected vary from one-half to 6 miles in width. The altitude is about 48 feet. Along the Green River there is an abundance of cottonwood timber for the wants of the Indians for fencing and firewood. The bottom lands are rich and can be easily irrigated and made available by inexperienced labor. Situated as they are between the agency of the White River and the agency of the Uintah, they have hitherto been practically unoccupied because of the supposed danger in living between these two bands of Indians and along the trail from one agency to the other. Mr. Saddler has now an improved ranch in the valley of the White River, 5 or 6 miles from the agency, upon which he has this year raised a splendid crop of wheat, corn, potatoes, and other vegetables. With these lands the Indians can, if they will make the effort, eventually support themselves. It will, however, require considerable time and encouragement before they will make the best use of the opportunities now open to them."

What is here said when applied to the valley of the Duchesne and that of the White is just, but will not do when applied to any of the valley lands, great or small, of the Green. The altitude of the Green River bottoms at certain seasons of the year may indeed be 48 feet, perhaps more, but when the undersigned a few days ago crossed that river the altitude was scarcely 3 feet, and before the lapse of many days the altitude will no doubt be nothing at all, for every foot of these Green River bottoms, according to the testimony of old inhabitants, whether whites or Indians, is flooded during the spring of each year.

The Green River bottoms, it is true, where the land has not been injured by water standing upon it during the season of vegetation, can be utilized for grazing purposes, and certain Indians are now making use of them or parts of them in that way; but that they could ever be made available "by inexperienced labor" is one of those grave mistakes into which agents of the Government have not unfrequently fallen when dealing with Indians.

That portion of the reservation explored, embracing, as before said, all the land east of Green River, and both above and below the White, is, with the exception of the valley of the White (about 10,000 acres) and the valley of the Green (unsuited for agricultural purposes), a desert—above, a desert of shifting sand, scantily supplied with a stunted growth of sage and grease wood and destitute of water after leaving these rivers until Badland Creek is reached, near the northern boundary of the reservation; and below, a desert, too, but instead of shifting sand one of hard gravel and sheets of rock, seamed and fissured, along which in every direction are crags, precipices, and piles of bowlders terribly broken and shattered, and thrown together in every conceivable shape and size. This rocky waste, however, is relieved by several small streams running north, which, by the aid of the vegetation that increases in richness and variety as the country in successive rolls rises to mountainous ranges on and beyond the southern border of the reservation, form about the only good pasture lands to be found for these Uncompahgre Indians.

It is evident from what has been said that the undersigned are satisfied that none of the reservation east of Green River, except the valley of the White, is suitable for agricultural allotment. They therefore suggest that all the northeastern portion, between (not including) the bottom lands of the two mentioned rivers, might be

taken up by the Government and thrown open to settlement. They, however, do not make a similar suggestion with regard to the lands south of the White, for the reason that, although unsuited to agricultural allotment like the former, these lands, unlike the former, are well watered, furnish good pasturage, and being extensively used by the Indians for grazing purposes should be saved to them until all allotments are completed.

In the drawing hereto attached that part of the reservation which in the previous statement is suggested as comprising all the land that it would be prudent in the judgment of the Commission to segregate just at this time is inclosed in red lines.

The undersigned beg to say in conclusion that they were materially assisted in the working of exploring the reservation by Mr. John McAndrews, one of the clever employees at the Ouray Agency, who by long service with the Uncompahgre Indians has become well acquainted with every part of their present country.

Respectfully submitted.

S. S. SCOTT,
T. A. BYRNES,
WM. S. DAVIS,
Ute Indian Commission.

Hon. D. M. BROWNING,
Commissioner of Indian Affairs, Washington, D. C.

EXHIBIT H.

DEPARTMENT OF THE INTERIOR,
COMMISSION FOR ALLOTMENT OF LANDS TO INDIANS IN UTAH,
Fort Duchesne, Utah, December 21, 1895.

SIR: You will please pardon the statement, by way of introduction, of a few facts well known to the Indian Office, as it is simply made in order that all which follows in the main body of this report may be clearly understood.

By the treaty of 1880 with the confederated bands of Ute Indians in Colorado the whole of their reservation in that State, containing over 10,000,000 acres, was ceded to the United States for \$1,250,000, or about 12½ cents per acre, which was about the price per acre received by them for the block of nearly 4,000,000 acres previously cut out of the reservation in the cession under what is known as the Brunot treaty of 1873; and said bands, except the Southern Utes, who were otherwise provided for, agreed to take allotments of lands in severalty, paying for the same \$1.25 per acre, on the Grand River, near the mouth of the Gunnison, if a sufficiency of land for the purpose could be had there; if not, the residue were to be supplied with lands at the stipulated price over the line in Utah.

The Commission, acting under this agreement, located none of these Indians near the mouth of the Gunnison, but carried all of them to Utah—the White Rivers into the Uintah Reservation and the Uncompahgres to land on the Green, White, and Duchesne rivers, near the mouths of the two last-named streams. No lands were allotted to any of these Indians by that commission. Subsequently, to wit, January 5, 1882, the lands upon which the Uncompahgres were placed, with certain parts of the adjacent country, embracing about 2,000,000 acres, were set apart as a reservation for them by Executive proclamation.

By the Indian appropriation act approved August 15, 1894, it was provided, among other things, that the requisite steps should be taken to allot lands in severalty to these Uncompahgre Indians according to the terms of the treaty of 1880. The present Commission appointed under this law have met with grave difficulties in the attempt to carry out its provisions. Along with the effort to induce the Uncompahgre Indians to accept of lands in severalty, it was, of course, necessary to find lands suitable for them to take among those especially set apart for the purpose. There were over 1,000 Uncompahgre Indians to be supplied.

Upon investigation it was discovered and so reported to the Indian Office that the lands of the White and Green rivers on the reservation (except a few thousand acres near the mouth of the former), which were supposed by the Commission of 1880 to be susceptible of "easy irrigation" and adapted to "cultivation by inexperienced labor," were wholly unfitted for the purpose, as, with the exception given, there were no bottoms that amounted to much on the White, and the bottoms of the Green were subject to periodic overflows. It should be said now that subsequent investigation by an army officer and an accomplished civil engineer has shown that even the exception heretofore given of the few thousand acres at the mouth of the White was incorrect, as the difficulty of reaching the main channel of the river, especially on the south side, where most of the best arable land is found, with a canal high enough up the stream to bring irrigating water to the surface of the bottoms below, with the heavy expense that would attend the work, renders the acceptance of even

these bottoms for agricultural allotments to Indians improper and unwise. So it may be affirmed that while certain parts of the Uncompahgre Reservation proper are suitable for grazing allotment, none of it east of Green River, and but little of it, comparatively speaking, west of that stream, is fitted for agricultural allotment to Indians.

But there are several thousand acres subject to agricultural allotment to these Uncompahgre Indians, and perfectly adapted to the purpose in every respect, on both sides of the Duchesne River, extending from its mouth to a point 8 miles above its confluence with the Uintah. These lands are extremely rich, well wooded in places, are not subject to overflow, and can readily be irrigated—parts of them, indeed, have already been irrigated—as will appear hereafter. It is rather difficult to indicate with any certainty how many acres can be secured here for the purpose suggested, perhaps enough to furnish agricultural allotments to two or three hundred Indians. Above the 8-mile limit, however, on the Duchesne, say, for 12 or 15 miles, on the south side to the place where the elevated mesa first strikes the river, extends an area of rich bottom, varying from a half mile to 2 miles in width, that can be brought under cultivation with little trouble, and which, with certain lands in the immediate vicinity on the north side, and with the lands on the lower Duchesne referred to, would be sufficient to supply farms and homes in rather a compact body to the entire Uncompahgre band. But this land being above the 8-mile limit belongs to the Uintahs and can only be secured by negotiation with them. No difficulty as to its purchase on reasonable terms is anticipated, as the Uintahs are very friendly with the Uncompahgres and would be glad no doubt to have them on their reservation.

The lands referred to on the Duchesne, lying between its junction with the Green and the eight-mile limit above the mouth of the Uintah, are the ones to which the attention of the Commission has been especially directed, as being the only lands available for agricultural allotment to the Uncompahgre Indians under the law of August 15, 1894. Before taking any steps for the allotment of these lands there were serious difficulties to be met and removed by the Commission. About fifteen years have elapsed since the treaty of 1880. A new generation of Indians now largely make up and control the Uncompahgre band; and to them the treaty is merely a tradition. During the twelve or more years that they have been occupying the reservation they have been accustomed to use it as their property, and the idea thus formed of its being such has been still further strengthened by their knowledge of the ownership, on the part of their brothers, the Uintah Utes, of the reservation close by. And besides, the older living Uncompahgre Indians who signed the treaty claim that they did not agree to pay for the lands which might be allotted to them in severalty, \$1.25 per acre, but that the lands were to be given them in part payment for the better lands which they had so reluctantly relinquished in Colorado.

The contention of these Indians against this payment, so persistently and decidedly made in all talks had between them and the Commission, seems really to spring from honest opinions and impressions. Arguing upon the hypothesis of good faith in Government agents when dealing with them, the Commission has attempted to show in previous reports that the channel of communication was no doubt the cause of disagreement in the matter—that the agents either failed to make themselves understood by the interpreters or that the interpreters failed to make themselves understood by the Indians, and cases were cited in which one or the other of these things evidently occurred in previous negotiations with these very Indians. For these reasons, and others set forth in those reports, the Commission urged a waiver on the part of the Government of the right to exact this sum of \$1.25 per acre in the prosecution of the work of allotment.

Another point that should be mentioned in connection with this matter of waiver and the good policy of its being made is the difference between the price received by these Indians for their lands in Colorado and that which is claimed of them for the lands under the contemplated settlement, along with the difficulty of making any satisfactory explanation of the subject to such a people. As has been stated, they received for their lands in Colorado only about 12½ cents per acre. Now, they say, they are called upon to pay \$1.25 per acre—just ten times as much—for lands to live on here in Utah, where they never wanted to come. If their wishes, they continue, had been consulted at all, they would have taken their allotments on the Grand River near the mouth of the Gunnison, as the treaty of 1880 provided. It is not pretended to intimate that the above is the proper way to regard the transaction in all of its parts, but simply to indicate that such is the way these Indians look at it, and it is by no means easy to satisfy them of the justice and rightfulness of the proposed action on the part of the Government.

These Uncompahgre Indians had to be dealt with very cautiously by the Commission. They have been distrustful of it from the beginning. The fires of this distrust have been kept burning, it is believed, by the talk of persons who have no love for the Indian, and perhaps no love for anything save mischief.

The Commission has sought by all due methods to overcome this feeling—has striven to satisfy these Indians that the Government is their friend and is working in every way for their benefit and advancement. Any other course than one of conservatism and conciliation under the circumstances would have been likely to produce trouble, and the trouble might have become widespread.

The Uncompahgres are the leading and controlling band of the Ute Indians. Their influence with the other bands is great. While trouble with them would have certainly broken down their growing interest in schools and farming operations, and have set them many years back in the march of civilization, it might have so extended as to produce in the other bands the same evil effects; indeed, it might have gone even further and culminated in an outrage that could only have been put down after the sacrifice of many lives and the expenditure of more treasure than a half dozen such reservations are worth. But whether any undue pushing of the work of allotment might have been followed by such disastrous results or not, it would, as before said, undoubtedly have had a damaging effect upon the civilization of the Uncompahgres and, what is not likely to be regarded, would have rendered any attempt in the near future at negotiation with the Uintahs looking to their acceptance of lands in severalty and the release of any part of their reservation an impossibility.

The Commission having, therefore, found it impracticable to induce the Uncompahgres to take the proposed allotments of lands upon the stipulated terms, decided for the grave reasons heretofore suggested to stand to the policy of getting the leading Indians of the band to accept lands for farming purposes, so situated and in such quantities—regular subdivisions of sections—as would make subsequent allotment to them easy, should Congress in its wisdom determine to let them have the lands without the payment of the \$1.25 per acre so strenuously objected to by them. The Commission could only work in this way through the agent for these Indians. As agent he had the right to locate them upon lands for purposes of cultivation, etc. His cooperation in the matter has been cheerful, energetic, thorough, and has been followed by most beneficial results. Already, under the arrangement, many farms have been opened on the Duchesne River, well fenced with wire and cedar posts, having necessary ditches for irrigation, and good, comfortable houses, all occupied by Uncompahgre families who are working to advantage and profit.

Steps have also been taken to provide a canal for a body of land on the south side of the lower Duchesne, containing about 4,000 acres, which, when houses and fences for it are constructed, will accommodate many other families of this band that are ready and waiting to take possession, so that, as before intimated, when these Indians can be induced to accept allotments, a large part of them will be able to receive the same from lands on which they have already been settled and engaged in cultivating. It should also be stated here that the Uintahs are also being prepared for severalty allotment, when the time shall come for negotiating with them, by the settling of many of this band upon well-watered and well-improved farms, with excellent dwelling houses, in the large and fertile valley of the Uintah River.

Respectfully submitted.

S. S. SCOTT,
T. A. BYRNES,
Ute Indian Commission.

Hon. D. M. BROWNING,
Commissioner of Indian Affairs, Washington, D. C.

EXHIBIT J.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, December 10, 1895.

SIR: I desire you to furnish me as soon as practicable an estimate of the work thus far accomplished by your Commission and an estimate of the time required to complete allotments to the Uncompahgres, including the preparation of the schedules and other necessary papers.

In this connection your attention is called to the fact that the appropriation for the entire work of the Commission is \$16,000, and that its expenditure in no event can exceed that amount.

From the books of this office it appears that there will be an unexpended balance at the end of this quarter of some \$2,900. It is possible, however, that there may be some items of expenditure not yet known to this office. You will keep yourself fully advised as to the total amount of expenditures, and when you are able to inform yourself as to the time when the appropriation will be exhausted, making allowance for the payment of expenses of the Commissioners in returning to their homes, advise this office.

Very respectfully,

D. M. BROWNING,
Commissioner.

Hon. S. S. SCOTT,
Chairman Ute Commission, Uintah and Ouray Agency, White Rocks, Utah.

EXHIBIT K.

DEPARTMENT OF THE INTERIOR,
 COMMISSION FOR ALLOTMENT OF LANDS TO INDIANS IN UTAH,
Fort Duchesne, Utah, December 23, 1895.

SIR: When your letter of the 10th instant was received I had just prepared a report with regard to the whole Uncompahgre situation here that furnishes the information desired in the first clause. The report is herewith forwarded.

With regard to the second and last clause, permit me to state that from an examination of the books it appears that, with the Commission as at present constituted, the funds of the appropriation will not be exhausted, allowing, as you suggest, for payment of expenses of the Commission in returning home, until the 25th day of May next.

Very respectfully,

S. S. SCOTT,
Chairman Ute Indian Commission.

Hon. D. M. BROWNING,
Commissioner of Indian Affairs, Washington, D. C.

EXHIBIT L.

DEPARTMENT OF THE INTERIOR,
Washington, February 4, 1896.

SIR: The work of the Uncompahgre Indian Commission, of which you are chairman, will be discontinued for the present. You are, therefore, furloughed from date of receipt of this letter, which please acknowledge at once.

Very respectfully,

HOKE SMITH, *Secretary.*

Mr. SUTTON S. SCOTT.
 (Through the Commissioner of Indian Affairs.)

EXHIBIT M.

DEPARTMENT OF THE INTERIOR,
Washington, February 4, 1896.

SIR: The work of the Uncompahgre Indian Commission, of which you are a member, will be discontinued for the present. You are, therefore, furloughed from date of receipt of this letter, which please acknowledge at once.

Very respectfully,

HOKE SMITH, *Secretary.*

Mr. TIMOTHY A. BYRNES.
 (Through the Commissioner of Indian Affairs.)