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### Certain lands of the confederated Otoe and Missouri Tribes of Indians in Nebraska and Kansas

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CERTAIN LANDS OF THE CONFEDERATED OTOE AND MISSOURIA TRIBES  
OF INDIANS IN NEBRASKA AND KANSAS.

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JULY 7, 1892.—Committed to the Committee of the Whole House on the state of the  
Union and ordered to be printed.

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Mr. KEM, from the Committee on Indian Affairs, submitted the fol-  
lowing

**REPORT:**

[To accompany S. 782.]

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

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

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

Mr. PADDOCK, from the Committee on Public Lands, submitted the following

**REPORT:**

[To accompany S. 782.]

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

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

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

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

In all cases of contest, and there were many, all questions as to actual

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

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

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

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

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

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

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

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

The (then) Commissioner's statement, as above, tended to convey the impression that there would be no public sale, but that the price to be paid was that fixed by the appraisement. Moreover, the statute made the right of purchase depend upon settlement on the lands, thereby introducing the preëemption principle in favor of settlers, which is understood to exclude the offering of tracts to the highest bidder. It would seem, therefore, that up to a short time before the date of sale the parties intending to become settlers upon the land had reason to suppose that if they could

become settlers they would be exempt from the necessity of entering into competition with others for the purchase of the lands, and it would be reasonable to suppose that they made arrangements accordingly, supposing that the appraised value would be all they would have to pay.

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

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

He further states:

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

A large number of sworn statements have been presented to the committee from reputable citizens who were present at the sale, and whose reliability is satisfactorily vouched for, describing the bad character and disreputable methods of many of the bidders, etc. Many of those making these affidavits did not purchase lands at the sale, and have no interest in them now. They appear, therefore, to be disinterested witnesses. Very brief extracts of a number of these statements are given herewith:

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

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

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

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

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

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

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

Nicholas Sharp, a resident of Gage County, Nebr., for twenty years, testifies that he attended land sale to buy land for home. Expected to



buy at appraised value, but was disappointed, as it was bid up higher than improved farms adjoining reservation were selling for.

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. R. M. Wood testifies that he attended sale. Found a mob of 4,000 people bidding in great state of excitement, and running prices up to four times appraised value of land. Did not buy.

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

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

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

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

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

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

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

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

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

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

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

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

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

144 entries paid in full at prices for which sold at public sale .....	\$223, 020. 73
188 entries, partial payments, under same rule .....	108, 095. 76
Balance due on 188 entries as above .....	278, 596. 27
Total .....	609, 712. 76

Average price per acre, about \$15.24.

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

144 entries, fully paid at public land sale prices .....	\$223, 020. 73
188 entries, partial payments on same at public sale prices .....	108, 095. 76
188 entries, balance due and unpaid on same at appraised valuation .....	82, 249. 34
	413, 365. 83

Average price per acre, about \$10.40.

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



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

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

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

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

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

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

The affidavits filed are herewith inclosed.

Very respectfully,

JOHN W. NOBLE,  
*Secretary.*

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

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

SIR: I am in receipt, by reference from you, of an "amendment intended to be proposed by Mr. Paddock to the bill (S. 782) to provide for the adjustment of certain sales of lands in the late reservation of the confederated Otoe and Missouri tribes of Indians in the States of Nebraska and Kansas," with a request for an expression of the views of this Department thereon.

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

Very respectfully,

GEO. CHANDLER,  
*Acting Secretary.*

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

# ADJUSTMENT OF CERTAIN SALES OF LANDS.

9

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

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

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

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

Very respectfully,

THOS. H. CARTER,  
Commissioner.

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

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

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

Senate bill No. 732, to which this amendment is proposed, was referred to me from the Department January 11, 1892, for report, and I made a report thereon accordingly, under date of February 1, 1892.

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

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

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

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

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

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

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

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

The said amendment is herewith returned.

Very respectfully,

THOS. H. CARTER,  
Commissioner.

The SECRETARY OF THE INTERIOR.

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

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

This bill provides as follows, viz:

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

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

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

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

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

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

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

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

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

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

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

- "(1) When will it be open to settlement?
- "(2) Will it be sold to actual settlers only?
- "(3) Will it be sold for cash or in payments?
- "(4) What will be the price per acre?
- "(5) Will it be sold at public auction on the reservation, or at some local land office?"

In reply I have to state:

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

Very respectfully,

THOS. H. CARTER,  
*Commissioner.*

The SECRETARY OF THE INTERIOR.

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

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

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

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

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

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

[SEAL.]

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

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

The second piece of land is valued at \$6.25 per acre and lies  $3\frac{1}{4}$  miles from Barneston. It has 45 acres under cultivation; is fenced and cross fenced.

BARNESTON, NEBR., May 2nd, 1892.

To whom it may concern:

This is to certify that the following statement is made for the purpose of correcting an impression that appears to have been made by a statement of mine concerning the selling price of a certain farm on the Otoe and Missouri Reservation. It appears that I have been understood to say that the selling price of the farm in question was forty dollars (\$40) per acre, and that it was wild and unimproved land. So far as the price per acre is concerned it is correct; but as to the land being unimproved exactly the reverse is true. The farm is one of the best improved farms in this country, every foot of which is under the highest state of cultivation. It has a fine young



orchard and vineyard thereon, and is completely equipped in the matter of fences and farm buildings; furthermore, the buyer, who is a German, was partly induced to pay this unusual price on account of the farm being situated in the midst of a German colony, where his neighbors were all either his kinsmen or his countrymen, where he would live within one-half mile of a schoolhouse and within a mile of a church of his own denomination and within two miles of Barnestown, a railroad market town.

F. M. BARNES.

STATE OF NEBRASKA, *Gage County*, ss:

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

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

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

H. Y. UNDERHILL.

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

[SEAL.]

ED. S. MILLER,  
Notary Public.

STATE OF NEBRASKA, *Gage County*, ss:

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

JOSEPH BOWHAY.

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

[SEAL.]

ED. S. MILLER,  
Notary Public.

STATE OF NEBRASKA, *Gage County*, ss:

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

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

JOHN BEAL.

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

[SEAL.]

ED. S. MILLER,  
Notary Public.

STATE OF NEBRASKA, *Gage County*, ss:

Antone Pribil, being first duly sworn, deposes and says that he is the present owner and occupies for a farm and home the northwest quarter of section six (6), township one (1), range eight (8), located on the Otoe and Missouri Reservation;

the appraised value of said land was six (6) dollars per acre, and was bid off at the land sale for \$12.05 cents per acre.

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

ANTON PRIBYL.

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

[SEAL.]

ED. S. MILLER,  
Notary Public.

STATE OF NEBRASKA, *Gage County*, ss:

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

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

FRANK FISCHER.

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

[SEAL.]

ED. S. MILLER,  
Notary Public.

STATE OF NEBRASKA, *Gage County*, ss:

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

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

EDWARD ROBERTS.

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

[SEAL.]

ED. S. MILLER,  
Notary Public.

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

The appraised value of this land was seven (\$7.00) dollars per acre, and it was bid off at the land sale at fourteen (\$14.12)  $\frac{1}{2}$  dollars per acre. Twenty-five dollars per acre would be a high valuation of its present cash value; indeed, I would anticipate considerable difficulty in finding a cash buyer at these figures, while under a forced sale it would be hard to get over \$20.00 per acre. I know by reason of having kept an accurate book account that I have expended over \$2,500.00 in money improving this farm, besides my own labor and time for eight years, which has not been taken into account.

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

JAMES M. HOWE.

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

[SEAL.]

ED. S. MILLER,  
Notary Public.

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

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

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

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

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

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

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

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

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

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